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Court : Rajasthan

Decided On : Jan-02-1978

Reported in : 1978WLN(UC)119

Judge : D.P. Gupta, J.

Appeal No. : S.B. Civil Writ Petition No. 393 of 1973

Appellant : Khubilal

Respondent : State of Rajasthan

Disposition : Petition dismissed

Judgement :

D.P. Gupta, J.

1. The petitioner was appointed as a Prosecuting Sub Inspector in the police department of the State of Rajasthan on June 6, 1955. Selection for promotions to the post of Prosecuting Inspector took place in the year 1972 & the petitioner was one of the candidates eligible for promotion to the aforesaid posts of Prosecuting Inspectors. The petitioner was successful at the qualifying examination for promotion held under Rule 26 of the Rajasthan Police Subordinate Service Rules, 1966 (hereinafter referred to as 'the Rules'). There after, he was interviewed and his record of service was also considered by the committee, constituted for making

selections in accordance with the provisions of Rule 24 of the Rules. Under Sub-rule (2) of Rule 24 of the Rules, the committee was enjoined to prepare a list of suitable candidates who secured 45/- marks in record and interview as a whole and 50/- marks in the total aggregate of written test, outdoor examination and the record and interview. As the petitioner was not able to obtain 50/- marks in the total aggregate, his name was eliminated. A list of ten persons, who were successful at the aforesaid selection on account of the fact that they obtained the requisite marks, as specified in Sub-rule (1) of Rule 24, in the written test and parade and outdoor test and the aggregate thereof and then also in the record and interview and in the total aggregate, as required by the provision of Sub-rule (2) of Rule 24, was prepared by the Selection Committee and was forwarded to the Inspector General of Police, Rajasthan. There upon the ten suitable candidates were sent for the Promotion Cadre Course.

2. The first contention of the learned Counsel for the petitioner is that no seniority list was prepared in respect of the cadre of Prosecuting Sub-Inspectors for promotion to the posts of Prosecuting Inspectors. It is not in dispute that no State-wide seniority list has been prepared of all the Prosecuting Inspectors, although range-wise seniority lists did exist. But no prejudice appears to have been caused to the petitioner on account of the absence of a state-wide seniority list. As a matter of fact, the procedure for selection for promotion to the posts of Prosecuting Inspector is prescribed in Rules 24 and 26 of the Rules. A qualifying examination is held at which every person holding the post of a Prosecuting Sub-Inspector and who is a Law Graduate or has passed the Prosecutor's examination from a recognised University and who has at least three years' continuous service as a Prosecuting Sub-Inspector is entitled to appear. The qualifying examination consists of two parts, of which the first part comprises of a written test which consists of three papers. The second part of the qualifying examination consists of parade and other outdoor tests. Those persons who obtain 40/- marks in the written test and 35/- marks in parade and other outdoor tests and also obtain 45/- marks in the aggregate are considered to be successful at the qualifying examination. There after, a list containing the name of persons not exceeding five times the number of vacancies, out of the senior most members of the service, who have passed the qualifying examination is to be prepared by the Selection

Committee constituted for the purpose. The Committee there after is required to consider the record of service of the persons included in the list prepared in accordance with Sub-rule (1) of Rule of 24 and also to interview them, and then prepare a list containing the names of suitable candidates, who secured 45/- marks in record and interview as a whole and 50/- marks in the total aggregate of written test, outdoor examination and record and interview, upto twice the number of vacancies. The candidates, whose names are, thus, recommended by the Selection Committee under Sub-rule (2) of Rule 24, are required to undergo the Promotion Cadre Course. The names of those candidates who successfully complete the promotion cadre course are then to be placed on the approved list for promotion in order of seniority.

3. Now, in the 1972 selection for promotions to the posts of Prosecuting Inspectors' the petitioner was successful in obtaining the minimum number of marks in the written test, parade and outdoor examination and also in the record and interview, yet he was unsuccessful as he failed to obtain the requisite 50% marks in the total aggregate, as required by Sub-rule (2) of Rule 24. The respondents have placed before me the record of the aforesaid selection and the proceedings of the Selection Committee. It appears from a perusal of the record placed before me that 47 candidates appeared in the written test for the posts of Prosecuting Inspectors, of whom 4 failed to obtain the minimum 40/- marks required under Sub-rule (1) of Rule 24 for selection. Out of the remaining candidates, two failed to appear at the parade and out-door test, while five others failed to secure the minimum 45/- marks in the aggregate of written test, parade and outdoor tests. Thus, only 36 persons were called for interview and out of them, 19 persons failed to secure the minimum marks prescribed for interview and record while 7 persons, including the petitioner, failed to secure 50/- marks of the total aggregate of written test, outdoor, record and interview. Thus, 26 persons were eliminated in this process and only 10 persons were successful, who were included in the list recommended by the Selection Committee under Sub-rule (2) of Rule 24. It is, therefore, quite apparent that the petitioner did not suffer on account of the failure of the concerned authorities to prepare a State wide seniority list of the Prosecuting Sub Inspectors, as his name was eliminated from the list prepared under Sub-rule (2) of Rule 24 because of the fact that he failed to secure

the minimum 50/- marks in the total aggregate. From a perusal of the record, it appears that the name of the petitioner was not eliminated because of the absence of a seniority list but on account of his being unsuccessful in obtaining the requisite minimum marks in the total aggregate, as prescribed in Sub-rule (2) of Rule 24 of the Rules.

4. The other contention advanced by the learned Counsel for the petitioner is that 36 persons should not have been allowed to appear for interview but only 25 senior most persons should have been called for that purpose. The argument proceeds on the basis that when the selection committee prepared a list of persons under Sub-rule

(2) of Rule 24, it should have included therein the names of successful candidates to the extent of twice the number of vacancies and as a list of 10 persons was prepared as a result of 1972 selections, the petitioner has presumed that there were five vacancies for the posts of Prosecuting Inspectors. It must be observed that, this argument has no factual basis. After a perusal of the record which has been produced before me by the respondents, it is clear that the list of ten persons was prepared by the Selection Committee under Sub-rule (2), of Rule 24 not because there were only five vacancies in the rank of Prosecuting Inspectors in existence at the relevant time but solely on account of the fact that only ten persons could secure the minimum number of marks as prescribed by Sub-rule

(2) of Rule 24. I have already mentioned above that out of 47 candidates who appeared, four were unsuccessful at the written test, while seven others were eliminated at the stage of qualifying examination as two did not appear in the outdoor test and other five failed to secure the 45% marks in the aggregate of written test, parade and outdoor test. Of the remaining 36 candidates, 19 were eliminated in interview and record, while 7 others failed to secure 50% marks in the total aggregate of written test, outdoor examination, record and interview. It is true that if the number of successful candidates would have been more, then the Selection Committee would have been required to prepare a list of candidates upto twice the number of vacancies. But if only 10 persons were successful and the Selection Committee prepared a list of all the ten successful candidates, it cannot

be presumed that there were only five vacancies in existence at the relevant time. Even if the number of vacancies at the relevant time in the rank of Prosecuting Inspectors might be 10 or more, yet if the number of persons, who were successful in the qualifying examination, as well as in the record and interview and also in obtaining 50% marks in the total aggregate, was not more than ten then the Selection Committee would be obliged to prepare the list containing the names of the ten successful candidates only. The argument of the learned Counsel that only 25 persons should have been interviewed is based merely on the presumption that there were five vacancies and Sub-rule

(1) of Rule 24 of the Rules requires that out of the candidates successful at the qualifying examination, a list containing names not exceeding five times the number of vacancies should be prepared. I have already observed above that there is no basis for making any presumption that the number of vacancies in the rank of Prosecution that the number of vacancies in the rank of Prosecuting Inspectors at the relevant time were only five. The very fact that the Selection Committee called as many as 36 persons for interview clearly shows that there were at least eight vacancies in the rank of Prosecuting Inspectors and if more than 16 persons would have been successful in the entire process of selection, then the Selection Committee could have prepared a list of all the sixteen successful candidates in order of seniority as required under Sub-rule

(2) of Rule

24. But as only ten persons could ultimately succeed in the entire process of Selection, including the written test, parade and outdoor test, record and interview and were also able to obtain 50% marks in the total aggregate, the Selection Committee was justified in preparing the list of all the ten successful candidates. The petitioner's name could not find place in the list prepared by the Selection Committee for promotion to the rank of Prosecuting Inspectors because of the fact that he failed to secure 50% marks in the total aggregate. The record shows that he obtained only 121 marks out of 250 marks in the total aggregate of written test, parade and outdoor test and record and interview and being unsuccessful in obtaining the requisite 50% marks in the total aggregate, the petitioner cannot

urge that he should have been promoted or that the Selection of the respondents No. 3 to 12 be quashed. The question of inter se seniority would have been relevant only if the petitioner would have been successful in obtaining the requisite minimum marks in the entire process of selection as prescribed in Sub-rules

(1) and

(2) or Rule 24 of the Rules. When the petitioner failed to obtain the minimum marks requisite under Sub-rule

(2) of Rule 24, how could he claim that he should be promoted on the post of Prosecuting Inspector or that those who have been successful in the entire process of selection should not be so promoted

5. In view of the above discussion, I find no substance in the writ petition and the same is dismissed. In the circumstances of the case, the parties are left to bear their own costs.

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