

Ram Niwas Vs. State

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Court : Rajasthan

Decided On : Dec-10-1990

Reported in : 1990(2)WLN439

Judge : A.K. Mathur, J.

Appeal No. : S.B. Civil/Writ Petition No. 2597 of 1989

Appellant : Ram Niwas

Respondent : State

Judgement :

A.K. Mathur, J.

1. Petitioner by this writ petition has Prayed that the order Anx. 8 dated 24th May 1989 may be declared illegal by which petitioner's candidature and result of the Rajasthan State & Subordinate Services Direct Recruitment by Combined. Competitive Examination had been conceited. Petitioner appeared in the combined competitive examination of State Subordinate Services in the year 1987 and as per item 10 of form he submitted that he has appeared in combined competitive examination for State and Subordinate Services in the year 1981 & 1982. Therefore certain correspndence transpired and ultimately it was found that petitioner has also appeared earlier in the Subordinate Service Examination in 1978 but he did not disclose this fact in the application in the competitive

examination held in the year 1987 was cancelled. The learned Counsel for the petitioner submitted that under the Rajasthan State & Subordinate Services (Direct Recruitment by Combined Competitive Examinations) Rules, 1962 hereinafter referred to as Rules of 1962 Clause (4) of Sub-rule (2) of Rule 4 permits three chances. Learned Counsel submitted that as per entry No. 10 in the form only information asked was that whether that petitioner has appeared in the combined competitive examination for State and Subordinate Services or not and he faithfully filled those columns that he appeared in 1981 and 1982. But no information was asked from the petitioner that whether he appeared in the Subordinate Services Examination or not. As against this, learned Counsel for the respondent Mr. J.P. Joshi submitted that the petitioner was supposed to have disclosed this information regarding appearance of the petitioner in examination for Subordinate Services.

2. I have considered the rival submissions and perused the record. As per clause (4) of Sub-rule (2) of Rule 4, the incumbent cannot avail more than three chances. So far as Clause (4) is concerned it reads as under:

(iv) Chances in the Examination-He shall not be allowed to avail of more than three chances under this rule.

This clause clearly lays down that the candidate shall not be permitted to avail more than three chances in the Rajasthan State & Subordinate Services Combined Competitive Examination. But no specific query was made from petitioner that whether he appeared or failed in the Subordinate Services Examination. For better appreciation of the controversy item 10 of form is reproduced as under:

10. D;k vk;skx }kjk jkT; Isok;s vkj- , - ,l- bR;kfn yh xbZ jktLFkku jkT; ,oa dze la- o'kZ jkasy ua0 Js.kh ijh{kklkekU; dsUnz v/khuLFk Isok, la;qDr izfr;ksxh] 1 1981 ijh{kk es vki igys dHkh cSBs gS 2 1982;fn gka rks ijh{kk dk o'kZ o 3jksy uacj rFkk ijh{kk dsUnz dk uke fy[ks-lkFk gh bu ijh{kkvks dh c vf/kLFk Isok, vkj- Vh- ,l- bR;kfnvad rkfydkvks dk dze la- o'kZ jkasy ua0 Js.kh ijh{kkIR; izfr izfr;ka Hksts-lkekU; dsUnz1 19812 1982

Now if item No. 10 is strictly construed, it transpires that the incumbent was only required to answer if he has appeared in the State and Subordinate Services Combined Examination and not separate Subordinate Services Examination. There was no specific information sought from the candidate that whether he appeared in the Subordinate Service Examination or not. In this context the information supplied by the petitioner that he appeared in 1981 & 1982 Combined Competitive Examination is sufficient and it cannot be said that the petitioner deliberately concealed the fact of his availing the chance in the Subordinate Service Examination. If the item No. 10 as reproduced above if strictly construed then the petitioner was well within his right to inform the respondents that he availed two chances. There was no specific query regarding appearance in the examination in Subordinate Services independently. Therefore, it was not necessary for the petitioner to have volunteered this information. In this view taken by the Commission is not correct.

3. In the result, I allow the writ petition and quash the order-dated 24.S.89 No. Order as to costs.

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