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Court : Rajasthan

Decided On : May-03-1991

Reported in : 1991WLN(UC)110

Judge : J.R. Chopra, J.

Appeal No. : S.B. Civil Writ Petition No. 636 of 1991

Appellant : Ramesh Kumar Agarwal

Respondent : State of Rajasthan

Judgement :

J.R. Chopra, J.

1. This writ petition has been filed by the petitioner Shri Ramesh Kumar Agarwal, who is a handicapped person seeking relief that he should be employed against the quota of physically handicapped persons in Rajasthan Administrative Service and all other allied Services keeping inview the provisions of Rule 4 of the Rajasthan Employment of Physically Handicapped Rules, 1976. It has further been prayed that during the pendency of this writ petition, if any order is passed by the respondents adversely affecting rights of the petitioner, the same may be declared illegal and be quashed and any other appropriate relief may be granted to him.

2. The facts necessary to be noticed for the disposal of this writ petition briefly stated are that the Govt. of Rajasthan advertised certain posts of RAS, RPS and other State and allied services and subordinate services. A combined competitive examination was held by the RPSC in the year 1979. The result of which was declared by the RPSC on 20.8.1980. The merit list of candidates for RAS and RPS was published in list-A dated 20.8.1980. The Petitioner's name does not figure in that list because he did not secure over all 50% marks. The result of other allied State Services i.e. Rajasthan Accounts Service, Rajasthan Insurance Service, Rajasthan Co-operative Service, Rajasthan Industries Service, Rajasthan Labour Welfare Service and Rajasthan Commercial Taxes Service was also declared on the same day vide list-B considering total posts to be filled numbering 202. The result for the subordinate Services of the State was declared on the same day i.e. 20.8.1980 vide list-C. The total number of posts for which the result was declared were 480. They pertain to Rajasthan Tehsildar Service, Rajasthan Labour Service, Rajasthan Cooperative Service, Rajasthan Excise Service, Rajasthan Industries Service. The petitioner's name figures in list-B at S. No. 202.

3. The contention of Samdariya, the learned Counsel appearing for the petitioner is that as the petitioner did not secure 50% marks, he is not entitled to be adjusted against the vacancies of RAS and RPS. Moreover, a Division Bench of this Court in State of Rajasthan v. Suraj Pd. Chaturvedi D.B. Special Appeal No. 149 of 1981, decided on 8.11.1985 has held that no reservation for handicapped persons is possible in RAS and, therefore, even on that account, the petitioner is not entitled to be adjusted against the vacancies of RAS. He has not applied for RAS. His preference does not contain selection for RPS. Thus, he can be adjusted against lists B and C. There are 202 post which were to be filled according to list-B published on 20.8.1980 pertaining to Rajasthan Accounts Service, Rajasthan Insurance Service, Rajasthan Cooperative Service, Rajasthan Industries Service, Rajasthan Labour and Welfare Service and Rajasthan Commercial Taxes Service.

4. Although, in para 4 of the writ petition, the petitioner has claimed that he gave his preference in the following manner:

1. Rajasthan Administrative Service.

2. Rajasthan Accounts Service.

3. Rajasthan State Insurance Service.

4. Rajasthan Commercial Taxes Service.

5. Rajasthan Industries Service.

6. Rajasthan Labour Welfare Service.

but the contention of Mr. Pareek is that according to application form which was submitted by the petitioner to the RPSC, his preference were as under:

1. Rajasthan Admininstrative Service.

2. Rajasthan Labour Welfare Service.

3. Rajasthan Industries Service.

4. Rajasthan Cooperative Service.

5. Rajasthan Accounts Service.

6. Rajasthan Commercial Taxes Service.

These preferences which he has given in his application form will be the effective preferences which will be considered by the State Govt. while giving him employment. The preferences which he has given in para 4 of the writ petition cannot be accepted in view of the contention of the respondents in para 4 of the reply.

5. Be that as it may, 202 posts of State Service other than RAS and RPS as mentioned in list-B were to be filled up and, therefore, the petitioner has a right to be appointed against these posts keeping in view his merit as also on account of the fact that he has also a right to be adjusted against the quota of handicapped persons. The Division Bench of this Court in State of Rajasthan's case (supra) has specifically upheld 2% reservations for handicapped persons in State Services except RAS. That ratio was increased to 3% in the year 1981 but this selection

which took place prior to the year 1981 the petitioner is only entitled to 2% quota rather than 3% quota for handicapped persons. If the petitioner cannot be adjusted against 202 posts on according to Rules then he should be adjusted against the posts of list-C. In this respect, it has been the contention of Mr. Pareek, the learned Addl. Govt. Advocate that the petitioner was offered appointment on the post of Labour Inspector keeping in view his preference but he has declined that offer.

6. Mr. Samdariya has submitted that a labour Inspector has to travel a lot and, therefore, the petitioner being a handicapped persons has declined that offer. Keeping in view these facts and circumstances of this case, I am inclined to take a compassionate view and hold that the petitioner is entitled to be considered for all other posts of list C relating to subordinate services except the post of Labour Inspector.

7. In the result, that writ petition is allowed and the respondents are directed to consider the case of the petitioner for appointment against 202 posts of list B for State Services except RAS and RPS keeping in view his merit are 2% reserved quota for physically handicapped persons. If the petitioner cannot be adjusted against 202 posts of List-B was permits count then he should be adjusted against the posts of list-C pertaining to State Subordinate Services except the post of Labour Inspector. He is entitled to be appointed from the year 1981. For the period, he has not rendered his services, he will not be paid salary but as soon as he is appointed, he will be fixed in the pay keeping in view all increments which he would have earned and the revision of the pay scales which have come into force in between 1981 to 1991. He will be assigned seniority keeping in view his date of appointment in the year 1980 when who are junior to him & with all other persons who have been appointed in pursuance of this selection were appointeding. It will be the responsibility of the petitioner to submit the copy of the judgment to the concerned authority within a period of seven days from to day and the appointment order will be offered to him by the concerned authority within two months from the date, the copy of this order is supplied to the concerned authority by the petitioner.

8. In the circumstances of this case, there will be no order as to costs of this writ petition.

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