

Somdutt Sharma Vs. State

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Court : Rajasthan

Decided On : Feb-27-2002

Reported in : 2002(5)WLC392

Judge : Arun Madan, J.

Acts : Rajasthan Administrative and Allied Services Rules, 1999 - Rule 20(2)

Appeal No. : S.B. Civil Writ Petition No. 1426 of 2002

Appellant : Somdutt Sharma

Respondent : State

Advocate for Pet/Ap. : Manish Bhandari, Adv.

Disposition : Petition dismissed

Judgement :

Madan, J.

1. The case of the petitioner in short is that on the basis of his eligibility he applied for appointment in the cadre of Rajasthan Administrative and Allied Services for selection pursuant to the advertisement issued by RPSC dated 10.5.1999.

2. From the bare perusal of the advertisement, it is revealed that number of posts were advertised in the administrative as well as allied services for being filled up

through the selection process. The petitioner was called for written examination in which he participated and thereafter called for interview vide Annexure-2 and after holding the interview, the RPSC prepared a merit list not only for the post of RAS but also for allied services including the services to the Rajasthan Tehsildar Services vide Annexure.3.

3. The result of the aforesaid combined examination was declared as per which the name of the petitioner was amongst the successful candidates but he was not given appointment. The law is well settled that merely on the basis of empanelment, one does not get a vested right for appointment on a particular post applied for by a candidate, while right of consideration cannot be disputed subject to fulfillment of eligibility criteria for appointment for a particular post. The reliance has been placed by the learned counsel for the petitioner of Rule 20(2) of the Rules, 1999 as framed by the RPSC. Rule 20(2) of the Rajasthan Administrative and Allied Service Rules of 1999 stipulates, as under :-

'If a person, selected under Sub-rule (1) above and appointed to a Post/Service concerned in accordance with the relevant Service Rules against the vacancies of a particular year for which the Combined Competitive Examination was conducted by the Commission in accordance with these rules, does not join on the post offered to him/her or has resigned or expired in any subsequent year, in that event the said vacancy shall be treated as fresh vacancy.'

4. It is not the case of the petitioner that he should have been given appointment in view of non joining of a particular candidate who has been declared successful in the combined competitive examination conducted by the Commission as regards merit position over him/her or having resigned but, rather he has challenged the validity of the rule which has been framed by the RPSC not only in excess of his jurisdiction but even contrary to the directions of the Govt. as well as the directions of the Hon'ble Supreme Court in the matter of Executive Engineer Association v. State of Gujarat (1), wherein, the apex court held that wait list is linked with the selection or examination for which it is prepared. A wait list prepared in the examination conducted by the Commission does not give a vested right in favour of the petitioner.

5. Be that as it may, it is not the petitioner's contention that his case was placed in the wait list by the respondents on the basis of the examination conducted by the Commission but rather his case is that since he fulfilled the eligibility criteria and having been called for interview and having qualified examination, thereafter he was not given appointment was not proper and justified.

6. In view of the above stated position, I am of the considered view that it is not open to the petitioner to challenge the validity of Rule 20(2) of the Rules of 1999 for the reason that mere empanelment of a candidate does not give a vested right for appointment on a particular post since the petitioner's candidature was duly considered by the respondents though not given the appointment.

7. I am fortified in my aforesaid observation from the judgment of the Apex Court in the matter of Union of India and ors. v. N.R. Banerjee and ors. (2), wherein, the apex court held, as under :-

'In Union Territory of Chandigarh v. Dilbagh Singh, it was held that the mere fact that a candidate's name finds a place in the select list as a selected candidate for appointment to a post, does not confer on him/her an indefeasible right to be appointed in such post in the absence of any specified rule entitling him to such appointment. In State of Bihar v. Secretariat Asstt. Successful Examinees Union 1986 it was held that a person who is selected and empanelled does not on account of empanelment alone acquire any indefeasible right to appointment. Empanelment is, at the best, a condition of eligibility for the purposes of appointment and that by itself does not amount to selection or creation of a vested right to appointment unless relevant rules state to the contrary.'

8. As a result of the above discussion, I find no merit in the contentions advanced by the learned counsel for the petitioner. The writ petition consequently is dismissed in limine.