

Vijay Laxmi @APPELLANT@Hash State of Rajasthan & Ors.

Court: Rajasthan High Court (Jodhpur Bench)

Date of Decision: Aug. 9, 2018

Hon'ble Judges: DR. PUSHPENDRA SINGH BHATI, J

Bench: Single Bench

Advocate: Ramesh Kumar Prajapat, Manish Patel

Final Decision: Disposed Off

Judgement

1. Counsel for the parties are in agreement that the controversy involved in this petition has been adjudicated earlier by this Court in Roopa Ram

Meghwal & Ors. Vs. State of Rajasthan & Ors. (S.B. Civil Writ Petition No.10050/2018 decided on 25.7.2018), the judgment whereof reads follows :

1. The petitioners have preferred this writ petition for the following reliefs :-

(a) by an appropriate writ, order or direction, the respondents may kindly be directed to treat the petitioners eligible on the basis of their

qualification of B.Ed and B.Com with Computer Application as one of the subject and provide them appointment on the post of LDC in pursuance of

recruitment advertisement 2013 if they are otherwise found eligible.

(b) by an appropriate writ, order or direction, the respondents may kindly be directed to consider the qualification of Computer Application obtained

during their Graduation/B.Ed. and provide them appointment on the post of LDC in pursuance of the recruitment advertisement-2013.

(c) by an appropriate writ, order or direction, the respondents

may kindly be directed to not to deny appointment to the petitioners on the ground that the qualification of Computer Application obtained during his

Graduation/B.Ed are not valid for appointment on the post of LDC.

(d) by an appropriate writ, order or direction, the petitioners may kindly be afforded appointment on the post of Lower Division Clerk in pursuance of

advertisement dated 14.2.2013, if otherwise they stand in merit with all consequential benefits.

(e) Any other appropriate writ, order or direction which this Hon'ble Court may deem just and proper in the facts and circumstances of the case may

kindly be passed in favour of the petitioner.

(f) Writ petition filed by the petitioner may kindly be allowed with costs.

2. The petitioners herein participated in recruitment process for the post of LDC in pursuance of advertisement dated 14.2.2013. They were having

P.G. Diploma in Computer Application (PGDCA) in Computer Application and were also having a valid B.Ed degree in Computer Application.

Counsel for the petitioners have shown mark-sheet of B.Ed Examination-2009, which reflects subject of Computer Education. As per learned counsel

for the petitioner, appointment, should have been given to the petitioners on their own merit in view of Division Bench judgment of this Court in

Pinal Singh Ranawat (Miss) Vs. State of Rajasthan & Ors. (D.B. Civil Writ Petition No.2781/2014 decided on 01.8.2016), which reads as under :-

As per provisions of the Rajasthan Statistical Subordinate Service Rules, 1971 (hereinafter referred to as 'the Rules of 1971'), the Director-cum-

officiating Deputy Secretary, Department of Directorate of Economics and Statistics, invited applications from eligible candidates to be considered for

appointment to the post of Computer. The petitioner, considering herself eligible to hold the post of Computer, submitted an application in the

prescribed proforma as per the notification dated 19.6.2013. Suffice to mention that the petitioner possess Bachelors Degree in Science for the

subjects of Computer, Mathematics and Statistics. She is also having a Degree of Masters in Science in the subject of Statistics. The petitioner faced

the process of selection and was called for to face interview on 7.10.2013. She was also declared entitled to be called for counselling, however, as per

document Annx.8, she was declared disqualified being lacking requisite qualificational eligibility. Being aggrieved by the same she has preferred the

instant petition for writ. As per the petitioner, she is having requisite qualification but the respondents rejected her candidature erroneously. It is

submitted that under the Rules of 1971, the educational eligibility prescribed to be considered for appointment to the post of Computer, is that

Certificate of RS-CIT course conducted by the Rajasthan Knowledge Corporation Limited or any other certificate awarded by a competent authority

declared equivalent to the above certificate by the Department of Information, Technology and Communication, Government of Rajasthan. The

petitioner is having a qualification higher than the prescribed one, therefore, no reason was available to reject her candidature.

Per contra, as per the respondents, the qualification available with the petitioner is not the qualification prescribed under the Rules, hence, her

candidature was rightly rejected by the authority competent.

In rejoinder to the reply, the petitioner has placed on record a letter dated 30.5.2013 issued by the competent authority of the Government of Rajasthan

Accordingly, the writ petition is allowed. The petitioner is declared entitled to be considered for appointment to the post of Computer under the

Rajasthan Statistical Subordinate Service Rules, 1971. The respondents are directed to consider candidature of the petitioner for the purpose of

appointment to the post of Computer as a consequent to the process of selection initiated under the notification/advertisement dated 19.6.2013 and if

she is otherwise eligible, appointment be accorded to her with all consequential benefits except the actual payment of salary and other running

monetary benefits.

No order to costs. $\hat{\sim}$

Counsel for the petitioners have referred to another Division Bench judgment of this Court (Jaipur Bench) in Shivom Gupta Vs. State of Rajasthan &

Anr. (D.B. Civil Special Appeal No.1177/2016, decided on 03.05.2017), which reads as follows :-

1. The decision of Principal Seat at Jodhpur in D.B. CWP No.2781/2014 decided on 1.8.2016 reads as under:-

As per provisions of the Rajasthan Statistical Subordinate Service Rules, 1971 (hereinafter referred to as 'the Rules of 1971'), the Director-cum-

officiating Deputy Secretary, Department of Directorate of Economics and Statistics, invited applications from eligible candidates to be considered for

appointment to the post of Computer. The petitioner, considering herself eligible to hold the post of Computer, submitted an application in the

prescribed proforma as per the notification dated 19.6.2013. Suffice to mention that the petitioner possess Bachelors Degree in Science for the

subjects of Computer, Mathematics and Statistics. She is also having a Degree of Masters in Science in the subject of Statistics. The petitioner faced

the process of selection and was called for to face interview on 7.10.2013. She was also declared - 2 - entitled to be called for counselling, however,

as per document Annx.8, she was declared disqualified being lacking requisite qualificational eligibility. Being aggrieved by the same she has preferred

the instant petition for writ. As per the petitioner, she is having requisite qualification but the respondents rejected her candidature erroneously. It is

submitted that under the Rules of 1971, the educational eligibility prescribed to be considered for appointment to the post of Computer, is that $\hat{\sim}$

Certificate of RS-CIT course conducted by the Rajasthan Knowledge Corporation Limited or any other certificate awarded by a competent authority

declared equivalent to the above certificate by the Department of Information, Technology and Communication, Government of Rajasthan $\hat{\sim}$. The

petitioner is having a qualification higher than the prescribed one, therefore, no reason was available to reject her candidature. Per contra, as per the

respondents, the qualification available with the petitioner is not the qualification prescribed under the Rules, hence, her candidature was rightly

rejected by the authority competent. In rejoinder to the reply, the petitioner has placed on record a letter dated 30.5.2013 issued by the competent

authority of the Government of Rajasthan declaring the certificate of RS-CIT equivalent to the qualification of the degree/diploma issued by a

university established by law or an institution recognised by the - 3 Government of Rajasthan in the subjects of Computer Science/Computer

Application/Information Technology. Though a sur-rejoinder was filed on behalf of the State of Rajasthan, but nothing has been said about equivalence

given under the letter dated 30.5.2013. The letter aforesaid reads as under:-

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In light of the order dated 30.5.2013, we are of the view that the petitioner is eligible to be considered for appointment to the post of Computer as per

the Rules of 1971 being having a degree in Computer Science from a university established by law. Accordingly, the writ petition is allowed. The

petitioner is declared entitled to be considered for appointment to the post of Computer under the Rajasthan Statistical Subordinate Service Rules,

1971. The respondents are directed to consider candidature of the petitioner for the purpose of appointment to the post of Computer as a consequent

to the process of selection initiated under the notification/advertisement dated 19.6.2013 and if she is otherwise eligible, appointment be accorded to

her with all consequential benefits except the actual payment of salary and other running monetary benefits. No order to costs. (KAILASH

CHANDRA

2. In that view of the matter, the decision in appeal no.2781/2014 will govern the present case. Since SLP against the same has been dismissed.

3. All applications (1720/2017, 24495/2017) and appeal are allowed to the aforesaid extent.

The stay application also stands disposed of.

3. Counsel for the respondents, however, has refuted the same by showing judgment of this Jaipur Bench of this Court in Sandeep Kumar Vs. State of

Rajasthan & Ors. (S.B. Civil Writ Petition No.8031/2014 decided on 23.02.2016), relevant portion of which reads as follows :

"It is true that petitioners secured much more marks than cutoff marks of their respective categories but they did not possess requisite

qualification for appointment on that post as it was the condition for appointment that a candidate must have possessed requisite qualification. The

educational qualification prescribed was Graduation with Mathematics or Statistics or Geography from recognized University or Degree/Diploma in

Computer Science/ Computer application/Information Technology from any University established under the Indian Law or Institution recognized from

the State Government. Petitioners were having Graduation degree, in which Computer Application was one of the optional subjects, but they did not

possess other additional qualifications mentioned in Column No.5 of the Advertisement and as per the Rules of 1971 and Rules of 2012. They were

not having separate duly recognized Certificates/Diplomas/ Degrees in Computer knowledge as per the Rules. The B.A./B.Sc.

degrees of petitioners have rightly not been treated equivalent to requisite qualifications of Computer knowledge. Petitioners were not having another

compulsory qualification of computer knowledge viz., Certificate/ Diploma/Degree as per the Rules. A coordinate bench of this court at its Principal

Seat, Jodhpur, vide order dated 03.07.2014 in S.B. Civil Writ

Petition No.1895/2014, Lalit Kumar Vs. State and Another, which was a similar case, has held that a candidate is required to possess Graduation

degree with Mathematics, Statistics or Economics subject along-with qualification of Computer. The petitioners did their Graduation in which

Computer was merely one of the optional subjects, therefore, obviously it cannot be said that they are eligible for the post in question. In view of the

above, writ petitions fail and same are dismissed. Stay applications, filed therewith, are also dismissed.

4. After hearing learned counsel for the parties and perusing record, this Court is of the opinion that the claim of petitioners on the ground of having

Computer Education as a part of his B.Ed degree-2009 as well as PGDCA in Computer Application is fully valid in light of the aforesaid precedent

laws.

5. With these observations, the writ petition is allowed. The respondents are directed to consider candidature of the petitioners for appointment on the

post of LDC in pursuance of advertisement dated 14.2.2013 while treating them to be having a valid qualification of Computer Application obtained in

Graduation/ B.Ed and provide them appointment on the post of LDC if they are otherwise eligible and meritorious within a period of 60 days from

today.

2. In view of aforequoted judgment, this writ petition is disposed of with a direction to the respondents to consider candidature of the petitioner for

appointment on the post of LDC in pursuance of advertisement dated 14.2.2013 while treating him to be having a valid qualification of Computer

Application obtained in Graduation/ B.Ed and on positive consideration if the petitioner is found eligible and meritorious, then he shall be given

appointment on the post of LDC within a period of 60 days from today. Such consideration shall be subject to availability of vacancies for the post in-

question.