

State of Rajasthan

Vs

Hitendra Kumar

(SuJata V. Manohar, M. Jagannadha Rao JJ)

01.08.1997

ORDER

1. Leave granted.

2. Heard both sides. In the Advertisement No.1 of 1992 which was issued on 9.6.92 it was stated that the application form must reach the office of the Zila Parishad, Dungarpur latest by 5.00 p.m. on 29.6.92. The prescribed qualifications for the post required, inter alia practical/technical qualifications of B.S.T.C. or its equivalent, recognised by the State Government. The last paragraph of the advertisement stated that no certificates/marks-sheet will be accepted after the receipt of application forms in the office.

3. The respondent did not possess the, requisite technical qualification on 29.6.92 which was the last date for submitting application. He had appeared for the B.Ed. examination but the results were not declared on 29.6.92. The results were declared only on 6.8.92. The interviews for the advertised posts were held from 1st of September, 1992 onwards.

4. The respondent was not called for an interview since on the date of receipt of his application, he did not possess any technical qualification. On 1.9.92 he, filed a writ petition in the High Court of Rajasthan and obtained an interim order requiring the appellant to call him for an interview. Pursuant to this interim order, he was interviewed and thereafter, on the basis of the directions which the respondent obtained from the High Court, he was included in the list of selected candidates. He was appointed thereafter on a provisional basis subject to the outcome of this writ petition. According to the respondent he has now been confirmed.

5. The writ petition was dismissed by a Single Judge of the High Court by his order dated 17.7.95, holding that the cut-off date for ascertaining the eligibility of the respondent under the said advertisement was the last date prescribed for submission of the application i.e. 29.6.92. On 5.2.96 the services of the respondent were discontinued. The respondent filed an appeal before the Division Bench of the High Court which has been allowed. The present appeal is from the decision of the Division Bench.

6. Looking to the clear terms of the advertisement which we have referred to above, the respondent was not eligible for consideration. It is submitted by the respondent before us that since he has been continued and has now been confirmed we should not disturb his appointment. He has requested that his case should be sympathetically. The fact however, remains that the appellants have taken the correct stand right from the beginning. The respondent's application was not considered and he was not called for an interview. It was on account of interim orders which were obtained by the

respondent that he was given appointment and continued. He was aware that his appointment was subject to the outcome of his petition. One cannot, therefore, take too sympathetic a view of the situation in which the respondent finds himself. A cut-off date by which all the requirements relating to qualifications have to be met, cannot be ignored in an individual case. There may be other, persons who would have applied had they known that the date of acquiring qualifications was flexible. They may not have applied because they did not possess the requisite qualification on the prescribed date. Relaxing the prescribed requirements in the case of one individual may, therefore, cause injustice to others.

7. In the premises, the respondent was not eligible for consideration. We, therefore, allow the appeal, set aside the impugned order of the High Court and dismiss the writ petition order by the respondent. There shall be no order as to costs.