

Sita Ram Saini

Vs

State of Rajasthan and Another

Civil Appeal No. 8677 of 1997

(G. N. Ray, G. B. Pattanaik JJ)

08.12.1997

ORDER

1. Leave granted.

2. Heard learned counsel for the parties. The appellant was a candidate for appointment to the post of a Teacher, Grade III (Sanskrit). He has not been selected by the respondents on the ground that the average marks obtained by him in the qualifying examination was less than 52.3% which was the lowest average on the basis of which appointments had been given. It, however, appears that the appellant has passed Praveshika and also Upadhyay examinations being equivalent to Higher Secondary and he has also passed the Shastri examination being equivalent to B. Ed. examination. The Note under clause (b) of Rule 6 of the relevant rules indicates that for calculating the percentage of the marks in case of more than one examination passed by a candidate, the percentage of the higher marks obtained in the examinations passed by such candidate shall be taken into account. The appellant obtained 36% marks in the Upadhyay examination but in the Praveshika examination he obtained 43.63%. Hence, the marks in Praveshika examination being higher according to Note under clause (b) of Rule 6, the said higher marks should be taken into account for calculating the percentage. If such higher marks obtained in Praveshika examination is considered along with the marks obtained in Shastri examination being 61.60%, the appellant must be held to have obtained an average of 52.6% marks. Therefore, if the appointments had been given on the basis of lowest average marks of 52.3%, the appellant was entitled to be appointed having secured higher percentage than 52.3%.

3. We, therefore, allow this appeal by setting aside the impugned order passed by the High Court and direct to give the appellant an appointment to the post of Teacher, Grade III in Sanskrit.

4. Let such appointment be given within six weeks from today. The appeal is accordingly disposed of.