

SUPREME COURT OF INDIA

Jitendra Kumar Kumhar & Anr.

Vs.

State of Rajasthan & Ors.

C.A.No.1398 of 2006

(B.N.Agrawal and G.S.Singhvi,JJ.)

30.01.2008

ORDER

With Civil Appeal Nos.1400/2006,1426/2006,1427/2006,4907/2006 and 1399/2006 Civil Appeal Nos.1398/2006, 1400/2006, 1426/2006, 1427/2006 and 1399/2006

1. The applications for intervention in Civil Appeal No.1426 of 2006 are allowed and the applicants are permitted to be impleaded as appellants. Heard learned counsel for the parties. The question which fell for decision of the High Court was whether the appellants of these appeals were eligible for consideration for the post of Laboratory Technicians in terms of Rule 11 of the Rajasthan Medical and Health Subordinate Service Rules, 1965, (hereinafter referred to as 'the Rules') read with Schedule apprehended thereto, according to which hundred percent of the posts of Laboratory Technicians have got to be filled up by direct recruitment and the eligibility for consideration for the said post is that a person must pass out secondary school examination and undergo nine months training from an institute recognised by the Government. In the present case, undisputedly, all the appellants have passed out secondary school examination and they have undergone nine months training not only from the institutes recognised by the Government but from the Government hospitals itself. This being the position, we have no difficulty in holding that the appellants were eligible for the posts of Laboratory Technicians and the High Court was not justified in holding otherwise.

2. Accordingly, the appeals are allowed, impugned orders are set aside and it is held that the appellants are eligible for consideration for the post of Laboratory Technicians. Undisputedly, prior to the filing of the writ petitions, no advertisement was issued for filling up the posts of Laboratory Technicians. This being the position, it is directed that the appellants shall be considered for appointment on the posts of Laboratory Technicians, whenever the same are advertised and if it is so advertised, they can apply for the same. If they are otherwise found suitable, appointment shall not be refused merely because they have crossed the upper age limit in which eventuality age bar in relation to these appellants shall be relaxed. Civil Appeal No.4907 of 2006:

3. Heard learned counsel for the parties.

4. In our view, the High Court has not committed any error in refusing to condone the delay. The appeal, accordingly, fails and the same is dismissed.