

Court No. - 35

Case :- WRIT - A No. - 20506 of 2023

Petitioner :- Amit Tomar

Respondent :- Registrar General High Court Of Judicature At Allahabad And 2 Others

Counsel for Petitioner :- Bijendra Kumar Mishra

Counsel for Respondent :- Dhananjay Awasthi, Ashish Mishra

Hon'ble Vikas Budhwar, J.

1. The present case has been nominated to this Court by the order of Hon'ble the Acting Chief Justice.

2. The instructions filed today by Sri Ashish Mishra is taken on record.

3. Heard Sri Bijendra Kumar Mishra, learned counsel for the writ petitioner as well as Sri Ashish Mishra, learned counsel for respondents No. 1 and 2 and Sri F.A. Ansari, learned counsel for respondent No. 3.

4. The case of the writ petitioner is that an advertisement was published bearing No.://01/Sub.Court/Category 'C' Clerical Cadre/2022 dated 30 October, 2022 referable to The Uttar Pradesh Civil Court Staff Centralized Recruitment Rules, 2023 for the post of Junior Assistant and Paid Apprentice. As per the advertisement as many as 819 vacancies for Junior Assistant (Category C) (various comparable posts) in the Pay Scale of Rs. 5200-20200 Grade Pay 2000 and 202 vacancies for Paid Apprentice in the Grade Pay of Rs. 5200-20200 Grade Pay 1900 (fixed) was notified.

5. So far as the reservation is concerned, in Chapter 3 of the advertisement provided that the reservation was vertical and horizontal both and insofar as the horizontal reservation is concerned for ex-serviceman percentage of reservation was 5%. The writ petitioner claims to have applied under unreserved ex-serviceman category for both the posts. It is the case of the writ petitioner that though as per the advertisement in question 5% reservation was provided for ex-serviceman but the same was not adhered to resulting to the fact that the writ petitioner being an ex-serviceman was denied his legitimate claim for being accorded

appointment against any of both the posts.

6. Prayer in the present petition is for writ, order or direction in the nature of mandamus commanding the respondents to give selection to the petitioner on the post of Junior Assistant Group C post in pursuance of examination conducted under the Uttar Pradesh Civil Court Staff Centralized Recruitment Rules, 2022-23 and to further command the respondents to comply with horizontal reservation policy while granting benefit to the writ petitioner.

7. Today, when the matter has been taken up, Sri Ashish Mishra, learned counsel for the High Court has produced before this Court certain documents which pertain to the present selection. According to him, the entire selection for the said post relating to Uttar Pradesh Civil Court Centralized Staff Recruitment Rules, 2022-23 is to be regulated under the Uttar Pradesh State District Court Service Rules, 2013 wherein sub-rule (2) of Rule 8 provides for reservation of the appointment and insofar as reservation is concerned for the applicability of the rules every Judgeship shall be treated one unit. He submits that in view of the said rule, in case, there are minimum 20 vacancies available in total, then 5% will amount to one, thus, the condition precedent for granting reservation under ex-serviceman category would only arise once the vacancy is 20 in the District Judgeship which is to be treated a single unit.

8. The learned counsel for the High Court has also produced before this Court a chart being the horizontal reservation vacancy report of Junior Assistant of all Districts according to which barring District Judgeship, Aligarh the advertised vacancy is below 20 as whereas in District Judgeship Aligarh the total vacancies were 27, thus, when the reservation policy stands applied then under ex-serviceman category relating to 5% only one vacancy would arise. He further submits, on the basis of the instructions so filed before this Court, that the last cut of mark for ex-serviceman was 74 and since the writ petitioner who has secured 54 marks, thus, he was not accorded appointment in that regard. He submits that one Gyan Chandra Yadav secured marks commensurate to the cut of marks, thus, he was accorded placement.

9. Sri Ansari, learned counsel who appears for the third respondent has supported the argument of Sri Mishra, learned counsel who appears for the High Court.

10. I have heard the learned counsel for the parties and perused the record carefully.

11. It is not in dispute that the reservation policy is to be applied as per sub-rule (2) of Rule 8 of the Uttar Pradesh State District Court Service Rules, 2013 wherein each District with respect to reservation is to be treated as a separate unit. Since in all the District Judgeships through out the State of U.P. except Aligarh the vacancy position was below 20, thus, the reservation could not have been applied while according benefit to 5% under ex-serviceman in the case of District Judgeship, Aligarh there are 27 vacancies advertised and taking 5% for ex-serviceman only one vacancy stood arisen against which the other incumbent has been selected owing to the fact that the writ petitioner had only secured 54 marks which was much below the cut of marks being 74.

12. Since there is no challenge to the said rules and further it is not disputed that the writ petitioner only secured 54 marks, thus, in the opinion of the Court in view of the reservation policy in vogue, the writ petitioner is not liable to be accorded any benefit by this Court.

13. Accordingly, the writ petition is dismissed.

Order Date :- 14.12.2023

Rajesh