

Court No. - 18

Case :- WRIT - A No. - 503 of 2024

Petitioner :- Arvind Kumar Rai

Respondent :- Union Of India Thru. Secy. Ministry Of Railways, New Delhi And 4 Others

Counsel for Petitioner :- Amrendra Nath Tripathi

Counsel for Respondent :- A.S.G.I.

Hon'ble Manish Kumar,J.

Heard.

This Court earlier has passed an order dated 30.01.2024 which is quoted hereinbelow:-

"The present writ petition has been preferred for quashing of the impugned order dated 18.05.2023 passed by respondent no. 3, consequential order dated 26.06.2023 passed by respondent no. 5 and the impugned order dated 07.07.2023 passed by respondent no. 4 regarding determination of vacancies under Rule 72 of the Railway Protection Force Rules, 1987.

Learned counsel for the petitioner has submitted that services of the petitioner are governed by Railway Protection Force Rules, 1987 which has been amended and notified by Gazette Notification Dated 15/20.07.2021 (hereinafter referred to as 'the amended Rules, 2021').

It is further submitted that the respondents may declare the result any time in pursuance of the selection made contrary to the amended Rules, 2021 which is not disputed by learned D.S.G.I.

Sri S.B. Pandey, learned D.S.G.I. prays for and is granted two days' time to seek instructions in the matter.

List this case on 02.02.2024, as fresh.

Till the next date of listing, respondents are restrained from declaring the results."

In compliance of the order dated 30.01.2024, learned Deputy Solicitor General of India assisted by Sri Varun Pandey, learned counsel for the respondents on the basis of the instructions received has submitted that the selection for the purposes of promotion on the post of Sub Inspector is as per Schedule IV under Rule 25 of the Railway Protection Force Rules, 1987 (hereinafter referred to as the Rules, 1987) amended in the year 2021 wherein it has been provided that 50 per cent post of Sub Inspectors will be filled up by direct recruitment and 50 per cent posts have further been bifurcated in the ratio of 30 per cent which is to be filled up amongst the Assistant Sub Inspectors as per their seniority by following the procedure as per Rule 70 of the Rules, 1987 amended in 2021 and 20 per cent posts are to be filled up as per Rule 72 by holding the Limited Departmental Competitive Examination

(hereinafter referred to as the L.D.C.E.) and there is no contravention of the Rules in making selection/promotion as alleged in the present writ petition.

It is further submitted that the petitioner has no locus to challenge the present writ petition as he is neither the person aggrieved nor affected as far as 20 per cent seats which is to be filled up after holding L.D.C.E. for the reason that the persons who are eligible and entitled to participate in the L.D.C.E. as per Schedule IV of the Rules, 1987 amended in the year 2021 under 20 per cent seats filled up by promotion in accordance with Rule 72, the requirement is that the Constables, Head Constables and Assistant Sub Inspectors are not more than 45 years of age on the date of notification whereas the petitioner is 56 years of age i.e. he is over-aged and is not eligible to participate in the said examination for the purpose of promotion.

On the other hand, learned counsel for the petitioner has submitted that the learned Deputy Solicitor General of India in his argument has informed this Court that there are 292 vacant posts which are to be filled as per Rule 72 under 20 per cent post reserved is not a correct instruction received by him, as by order dated 07.07.2023, the post which is to be filled up under Rule 72 shown as 14 posts which are available and prior to that, on 01.06.2022, the post available which is to be filled under Rule 72 shown as 8.

In reply thereto, learned Deputy Solicitor General of India has submitted that the post which has been shown by learned counsel for the petitioner is for Gorakhpur zone only and there are about 17 zones in India and the post which has been informed is available in all over India not the zone wise as such.

After hearing learned counsel for the parties, going through the record of the case, the statement given by the Deputy Solicitor General of India on the basis of instructions received, it is found that the selection is going on as per the amended Rules, 2021 as per bifurcation in the ratio of 30:20 and not in the ratio of 50:50 as alleged in the present petition and the petitioner is not eligible to participate in the L.D.C.E. being over aged.

In view of above, the present writ petition is **dismissed**.

Interim order dated 30.01.2024 stands vacated.

Order Date :- 2.2.2024

Nitesh