



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 11237/2024

1. Rajeev Sidana S/o Shri Kishan Sidana, Aged About 44 Years, R/o 36, C Block, Karanpur, Shrikaranpur, Ganganagar, Rajasthan.
2. Asha Rani D/o Shri Kanhaiya Lal Rathore, Aged About 50 Years, R/o Khede Ganesh Ji Road, Near Kabeer Aashram, Rangabaadi, Kota, Rajasthan.

----Petitioners

Versus

1. State Of Rajasthan, Through Its Secretary, Medical, Health And Family Welfare Department Government Of Rajasthan, Secretariat, Jaipur.
2. Director, (Public Health), Directorate Medical, Health And Family Welfare Services, Rajasthan, Jaipur Rajasthan.
3. Registrar, Rajasthan University Of Health Sciences, Sector-18, Kumbha Marg, Pratapgarh, Jaipur, Rajasthan.
4. Coordinator, Medical Officer And Dental Recruitment-2024 Rajasthan University Of Health And Sciences, Sector-18, Kumbha Marg, Pratapgarh, Jaipur, Rajasthan.

----Respondents

For Petitioner(s) : Mr. VLS Rajpurohit (through VC)
For Respondent(s) : Mr. N.S. Rajpurohit, AAG with
Ms. Anita Rajpurohit &
Mr. Sher Singh Rathore

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Order

REPORTABLE

05/08/2024

1. Heard learned counsel for the petitioners.
2. The present writ petition has been filed with the following prayer:-

"i. By an appropriate writ order or direction, the respondents may kindly be directed to grant maximum 30% bonus marks to the petitioners in the recruitment process for the post of Medical Officer (Dental) in pursuance to notification no.48809/2024 dated 06.03.2024 (Annexure-5) and grant the appointment to the petitioners on the post of Medical Officer (Dental) if petitioners come to the merit, after granting 30% bonus marks, with all consequential benefits."

3. Learned counsel for the petitioners submits that the respondents have issued a Notification dated 06.03.2024 for appointment on the post of Medical Officer (Dental). In the said Notification, no provision for grant of bonus marks is prescribed for filling up the post of Medical Officer (Dental). He further submits that petitioners are serving in the respondent-Department in different capacities for a considerable long period and, therefore, they are entitled to get the bonus marks for the period of services rendered by them. Learned counsel for the petitioners submits that not providing for grant of bonus marks in the present recruitment process is discriminatory vis-a-vis other notification in which the State generally prescribes the grant of bonus marks for the services rendered by the candidates. He, therefore, prays that the writ petition may be allowed and the petitioners may be granted 30% bonus marks while considering their candidature for appointment on the post of Medical Officer (Dental).

4. Per contra, learned Additional Advocate General vehemently opposes the submissions made by the counsel for the petitioners and submits that in the notification issued by the State Government, there is no provision for grant of bonus marks to the candidates who have served as Medical Officer (Dental) in



different organizations or in the Department of the State of Rajasthan.

5. Learned Additional Advocate General further submits that there are no rules which prescribe for grant of bonus marks. He submits that it is within the domain of the State Government whether to grant the bonus marks for the services rendered by the candidates on a particular post or not, considering the nature of services for which the recruitment is to be made. Since the State Government in the present case has not considered it feasible to grant bonus marks for the experience of working on the post of Medical Officer (Dental), thus, the same has not been provided in the present notification. He, therefore, prays that the writ petition may be dismissed.

6. I have considered the submissions made at the Bar and have gone through the relevant record of the case.

7. The petitioners have prayed for grant of bonus marks on the services rendered by them on the post of Medical Officer (Dental) in the State Government on the ground that the Notification does not prescribe for grant of bonus marks which is prescribed in the other recruitment process.

8. On the query of the Court, the learned counsel for the petitioners fairly submitted that although there are no rules for grant of bonus marks in the present recruitment, but the State Government, in Notification issued for recruitment on other posts generally prescribes grant of bonus marks for the services rendered by candidates, therefore, not providing the same in the present recruitment process is clearly discriminatory.

9. It is a settled proposition of law that it is well within the domain of the State Government to prescribe the eligibility conditions of a candidate for recruitment on a particular post and it is also within the domain of the State Government to frame the rules for the same. If the State Government has chosen not to provide any bonus marks for the services rendered by persons like petitioners on the post of Medical Officer (Dental), then the same cannot be held to be discriminatory simply on the ground that in other recruitment processes, the State Government generally provides for grant of bonus marks. It is the policy decision of the State Government to grant or not to grant the bonus marks in a particular recruitment and the same cannot be interfered with unless it is demonstrably capricious or arbitrary.

10. Hon'ble the Supreme Court in the case of ***Krishnan Kakkanth Vs. Government of Kerala & Ors. reported in (1997) 9 SCC 495*** has observed thus:

"36. To ascertain unreasonableness and arbitrariness in the context of Article 14 of the Constitution, it is not necessary to enter upon any exercise for finding out the wisdom in the policy decision of the State Government. It is immaterial whether a better or more comprehensive policy decision could have been taken. It is equally immaterial if it can be demonstrated that the policy decision is unwise and is likely to defeat the purpose for which such decision has been taken. Unless the policy decision is demonstrably capricious or arbitrary and not informed by any reason whatsoever or it suffers from the vice of discrimination or infringes any statute or provisions of the Constitution, the policy decision cannot be struck down. It should be borne in mind that except for the limited purpose of testing a public policy in the context of illegality and unconstitutionality, courts should avoid "embarking on uncharted ocean of public policy."



11. A three-Judge Bench of Hon'ble the Supreme Court in ***Sher Singh and Ors. Vs. Union of India & Ors. reported in (1995) 6 SCC 515*** had observed thus:

"As a matter of fact the courts would be slow in interfering with matters of government policy except where it is shown that the decision is unfair, mala fide or contrary to any statutory directions."

12. Further, it is noted that in the case of ***Satya Dev Bhagaur & Ors. Vs. The State of Rajasthan & Ors. (Civil Appeal No.1422/2022)***, Hon'ble the Supreme Court has held as under:-

"22. We are in complete agreement with the aforesaid observations of the Division Bench. We find that the policy of the State of Rajasthan to restrict the benefit of bonus marks only to such employees who have worked under different organizations in the State of Rajasthan and to employees working under the NHM/NRHM schemes in the State of Rajasthan, cannot be said to be arbitrary."

13. In the present case, since the rules also does not prescribe for grant of bonus marks, therefore, no illegality has been committed by the State Government by not providing the bonus marks in the present recruitment process. In the opinion of this Court, the writ petition is bereft of merit and no madamus can be issued to the respondents for grant of 30% bonus marks in the present recruitment for the post of Medical Officer (Dental).

14. The writ petition is, therefore, dismissed.

15. Stay petition as well as other pending applications, if any, shall stand disposed of.

(VINIT KUMAR MATHUR),J