HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 3851/2024

Suman Kumari D/o Shri Bahadur Singh, Aged About 31 Years, R/o Ward No.9, Sonthali, Nawalgarh, District Jhunjhunu, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Ayush, Homeopathic, Uninani Department, Secretariat, Jaipur, Rajasthan.
2. Director, Ayurved Department, Government Of Rajasthan, Ajmer, Rajasthan.
3. Dr. Sarvepalli Radhakrishnan Rajasthan Ayurved University, Through Registrar.

----Respondents

For Petitioner(s) : Mr. Pramod Kumar Saini
For Respondent(s) : Mr. Bhuwnesh Sharma, AAG with Ms. Malti, AGC
Mr. Vishesh Sharma for Mr. Y.C. Sharma

HON'BLE MR. JUSTICE GANESH RAM MEENA

Judgment / Order

04/04/2024

1. The instant writ petition has been filed by the petitioner with the prayer to issue direction to the respondents to consider the candidature of the petitioner for appointment on the Post of Compounder/Nurse Junior Grade Non-TSP in pursuant to the advertisement dated 06.10.2023.

2. Counsel for the petitioner submits that the petitioner submitted online application form on 01.11.2023, being an eligible candidate as per the terms and conditions of the advertisement.

Counsel further submits that the petitioner has not been called for the document verification alongwith other candidates for the reason that in the online application form submitted by her, she did not make entries in regard to B.Sc. qualification. Counsel also submits that while submitting the online application form, the petitioner inadvertently or by an human error could not make entries on the portal in regard to the details of B.Sc. qualification. He further submits that this being an human error, the respondents be directed to allow the petitioner to make entries in the online application form in regard to B.Sc. qualification and further be directed to consider the candidature of the petitioner for recruitment to the Post of Compounder/Nurse Junior Grade Non-TSP.

3. Mr. Bhuwnesh Sharma, AAG assisted by Ms. Malti, AGC appearing for respondent Nos.1 & 2 and Mr. Vishesh Sharma, Adv. appearing for respondent No.3, which is the recruiting agency, submit that while issuing the said advertisement, specific instructions were mentioned for the candidates, including the instructions that a candidate must fill up the online application form by incorporating all the required entries. Counsels further submit that because of non submitting the details in regard to the qualification etc. or because of incorrect entries made in the online application form, the application is liable to be rejected for which the candidate himself/herself is responsible. Counsels further submit that the process of due document verification has already been completed on 11.03.2024. It is also submitted that there are other 312 candidates of whose candidature has not been considered by the respondents for the said recruitment. Counsel

also submits that in case any of the candidates is allowed to make entries or correction/ amendment in the online application form at this stage, the other candidates may also approach the Court, which will adversely hamper the recruitment process. The respondents are under obligation to complete the recruitment process at its earliest in the public interest.

4. Considered the submissions made by counsels appearing for their respective parties.

5. The facts borne out from the pleadings are that the respondents issued an advertisement dated 03.10.2023 for inviting online application forms from the eligible candidates for recruitment to the Post of Compounder/Nurse Junior Grade. The petitioner submitted online application form on 01.11.2023 and in the column of educational qualification, she made entries in regard to the secondary examination and senior secondary examination but she did not mention the details in regard to the qualification of Bachelor of Science (B.Sc.). As per the advertisement, the criteria for selection is the marks secured by the candidates in B.Sc. examination and the bonus marks to the credit of the candidates. In the advertisement, the specific instructions have also been mentioned for the candidates for submitting online application form. The said instructions are quoted as under:-

> "अति महत्वपूर्ण बिन्दु/नोट :–
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> 1. अभ्यर्थी Online Application Form में अपना वही मोबाईल नम्बर व ई–मेल आई.डी. अंकित करें जिस पर वह दस्तावेज सत्यापन इत्यादि संबंधी भावी सूचना SMS & E-Mail के माध्यम से चाहता है। ऑनलाईन आवेदन में अंकित मोबाईल नम्बर व ई–मेल आई.डी. बदलने/बन्द होने / नेटवर्क समस्या होने पर सूचनाएं प्राप्त नहीं होने पर अभ्यर्थी की स्वयं की जिम्मेदारी होगी।
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> 2. आवेदक अपना ऑनलाईन आवेदन–पत्र ध्यानपूर्वक भरें। आवेदक अपना ऑनलाईन आवेदन–पत्र अन्तिम रूप से भरने से पूर्व उसकी समस्त प्रविष्टियों से आश्वस्त हो लें कि सभी प्रविष्टियां सही–सही भरी गई है। आवेदक द्वारा आवेदन में भरी गई प्रविष्टियों को ही सही मानकर डा0 सर्वपल्ली राधाकृष्णन राजस्थान आयुर्वेद विश्वविद्यालय, जोधपुर द्वारा आगे की कार्यवाही की जायेगी।

3. अभ्यर्थी द्वारा निर्धारित समय सीमा में आवेदन की अन्तिम दिनांक का इन्तजार किये बिना अपना ऑनलाईन आवेदन करें, अन्यथा किसी प्रकार की कोई नेटवर्क समस्या के लिए विभाग जिम्मेदार नहीं होकर अभ्यर्थी स्वयं जिम्मेदार होगा।

4. आवेदक द्वारा स्वयं / ई–मित्र / अन्य किसी स्त्रोत से ऑनलाईन आवेदन–पत्र भरते / भरवाते समय किसी प्रकार की कोई गलत प्रविष्टि /भूलवश त्रुटि हो जाती है, तो इसकी सम्पूर्ण जिम्मेदारी स्वयं आवेदक की होगी। इसलिए आवेदक सर्वप्रथम ऑनलाईन आवेदन–पत्र के Preview में अपनी जाति / वर्ग / श्रेणी, आयु (जन्म दिनांक), योग्यता इत्यादि संबंधी त्रुटियों की जाँच आवश्यक रूप से करने के पश्चात् ही उन्हें सुधारते हुए ऑनलाईन आवेदन–पत्र को submit करें और उसका प्रिन्ट लेकर उसकी जाँच आवश्यक रूप से पुनः कर लेवें। अगर फिर भी कोई गलती या त्रुटि पाई जाती है, तो विश्वविद्यालय द्वारा आवेदन पत्र में संशोधन की उपर्युक्त निर्धारित प्रक्रिया अनुसार संशोधन आवश्यक रूप से कर लेवें। इसके पश्चात् किसी प्रकार का कोई ऑनलाईन या ऑफलाईन संशोधन / परिवर्तन स्वीकार नहीं किया जाएगा एवं ऐसी किसी भी त्रुटि का सम्पूर्ण दायित्व स्वयं अभ्यर्थी का ही होगा। साथ ही आवेदक को यह ीाी हिदायत दी जाती है कि आवेदक अगर ई–मित्र अथवा अन्य स्त्रोत से आवेदन करवाता है, तो आवेदक स्वयं ई–मित्र अथवा अन्य स्त्रोत पर जाकर आवेदन करवायें। ई–मित्र अथवा अन्य स्त्रोत के भरोसे न छोड़े कि उनके द्वारा आपका ऑनलाईन आवेदन–पत्र सही–सही भर दिया होगा / जायेगा।

5. यदि आवेदक द्वारा अपनी श्रेणी से भिन्न श्रेणी में आवेदन किया जाता है तो इसे अधिकारों का परित्याग मानते हुये आवेदन पत्र में संशोधन की उपर्युक्त निर्धारित अवधि के पश्चात् उसकी श्रेणी में सुधार की सुविधा नहीं दी जाएगी। अनुसूचित जाति / अनुसूचित जनजाति / अति पिछड़ा वर्ग / आर्थिक रूप से कमजोर वर्ग / भूतपूर्व सैनिक / विधवा / परित्यक्ता / विकलांगता / अन्य वर्ग के अभ्यर्थी Online Application Form प्रस्तुत (Submit) करते समय अपने वर्ग का स्पष्ट रूप से उल्लेख निर्धारित कॉलम में करें अन्यथा Online Application Form प्राप्ति की अन्तिम दिनांक पश्चात् / संशोधन करने की अवधि समाप्त होनें के बाद वर्ग परिवर्तन नहीं किया जायेगा और ऐसे अभ्यर्थियों को जो कि उक्त वर्ग का उल्लेख नहीं करते है तो वर्ग विशेष का लाभ विज्ञापित पदों हेतु देय नहीं होकर आवेदक द्वारा ऑनलाईन आवेदन–पत्र में जो श्रेणी / वर्ग भरी / भरा है, उसी श्रेणी / वर्ग में ही मानकर कार्यवाही की जाएगी। अभ्यर्थी / आवेदक द्वारा जिस श्रेणी / वर्ग में ऑनलाईन आवेदन–पत्र भरा है उस संबंधित वर्ग / श्रेणी से संबंधित प्रमाण–पत्र दस्तावेज यथा समय प्रस्तुत नहीं करने पर आवेदक / अभ्यर्थी को वर्ग विशेष हेतु आरक्षित वर्ग के विज्ञापित पदों का लाभ देय नहीं होगा तथा उसे अनारक्षित श्रेणी में मानते हुए कार्यवाही की जावेगी और अभ्यर्थी को अनारक्षित श्रेणी का निर्धारित शुल्क का भुगतान करना होगा।

6. डा0 सर्वपल्ली राधाकृष्णन राजस्थान आयुर्वेद विश्वविद्यालय, जोधपुर द्वारा ऑनलाईन आवेदन–पत्र में भरी गई सूचनाओं के आधार पर ही अभ्यर्थियों की पात्रता (आयु, योग्यता इत्यादि) की जाँच की जाएगी। यदि आवेदक द्वारा भरी गई सूचना के आधार पर वह अपात्र पाया जाता है तो उसका ऑनलाईन आवेदन–पत्र अस्वीकृत कर दिया जाएगा, जिसकी समस्त जिम्मेदारी स्वयं आवेदक की होगी।

7. आवेदक जिनके ऑनलाईन आवेदन पत्र, आवेदन–पत्र प्राप्ति की अन्तिम दिनांक तक डा0 सर्वपल्ली राधाकृष्णन राजस्थान आयुर्वेद विश्वविद्यालय, जोधपुर कार्यालय को पूर्ण सूचना सहित प्राप्त होंगें, ऐसे आवेदकों की विश्वविद्यालय द्वारा पात्रता की जाँच दस्तावेज सत्यापन के समय की जायेगी। सत्यापन के समय आवेदक को विस्तृत आवेदन–पत्र दो प्रतियों में समस्त आवश्यक दस्तावेजों की स्वप्रमाणित फोटो प्रतियों विश्वविद्यालय में प्रस्तुत करना होगा। डा0 सर्वपल्ली राधाकृष्णन आयुर्वेद राजस्थान विश्वविद्यालय, जोधपुर द्वारा उम्मीदवार की पात्रता की जाँच करते समय तथा मूल प्रलेखों से पात्रता की जाँच करते समय यदि आयु, शैक्षणिक योग्यता व अन्य शर्तों की पालना नहीं

करने के कारण यदि अभ्यर्थी की अपात्रता का पता चलता है तो पात्रता रद्द की जा सकती है, जिसकी समस्त जिम्मेदारी स्वयं अभ्यर्थी की होगी।

8. माननीय उच्च न्यायालय, जयपुर द्वारा D. B. Special Appeal Writ No. 1631/2017 आरपीएससी बनाम प्रियंका जैन व अन्य के प्रकरण में पारित निर्णय दिनांक 01.11.2017 के अनुसार ऑनलाईन आवेदन–पत्र प्राप्ति की अन्तिम दिनांक तक विधवा / परित्यक्ता वर्ग में आवेदित महिला द्वारा आवेदन पत्र प्राप्ति की अंतिम दिनांक के पश्चात् पुनर्विवाह कर लिया जाता है तो भी उसे विधवा / परित्यक्ता वर्ग का लाभ दिया जायेगा। साथ ही विधवा / परित्यक्ता श्रेणी की महिला को ऑनलाईन आवेदन की अंतिम दिनांक तक पुनर्विवाह नहीं किये जाने संबंधी या विधवा / परित्यक्ता श्रेणी में होने संबंधी शपथ पत्र दस्तावेज सत्यापन के समय प्रस्तुत करना होगा।

9. आवेदक उक्त पद हेतु तभी आवेदन करें जब वह उक्त पद हेतु विज्ञापन में निश्चित निम्न व उच्च आयु सीमा के अन्तर्गत वांछित शैक्षणिक योग्यता संबंधित सम्पूर्ण मानदण्ड / मापदण्ड पूर्ण करता हो। साथ ही इस विज्ञापन में दी गई उक्त वांछित शैक्षणिक योग्यता एवं अनुभव के अतिरिक्त अन्य किसी योग्यता एवं अनुभव को डा0 सर्वपल्ली राधाकृष्णन राजस्थान आयुर्वेद विश्वविद्यालय, जोधपुर द्व ारा स्वीकार नहीं किया जायेगा। आवेदक के पास विज्ञापन में उल्लेखित अनुसार शैक्षणिक / प्रशैक्षणिक योग्यता एवं अनुभव प्रमाण–पत्र होनें पर ही पात्र माना जायेगा अन्यथा अपात्र माना जायेगा।

10. आवेदक को इस विज्ञापन में दी गई आयु सीमा में छूट के अतिरिक्त अन्य किसी प्रकार की कोई निम्नतम आयु एवं अधिकतम आयु संबंधी छूट नहीं दी जायेगी।"

6. In the advertisement itself it was mentioned that if any candidate feels that he/she has made incorrect entries in the online application form or inadvertently omitted to submit the details then he/she was allowed three days' time i.e. up to 08.11.2023 to make correction/amendment in the online application form.

7. As per the settled law, the candidature of a candidate is to be considered for recruitment/selection on the basis of entries made by him/hrt in the online application form, including the amendment/correction allowed by the respondents.

8. On consideration of submissions made by counsel for the petitioner and perusal of the documents made available on record, this court finds that the petitioner has not mentioned the details of B.Sc. Qualification, whereas B.Sc. course is the main source/qualification for placing a candidate in the selection list

because the criteria for preparing the selection list is the marks obtained in B.Sc. course. Though, the counsel for the petitioner submits that non submitting the details about B.Sc. is an inadvertently mistake on the part of E-mitra through which the petitioner submitted the online application form and also an human error and therefore, the candidature of the petitioner may be considered and be allowed for making correction/amendment in the online application form in regard to details of B.Sc. qualification.

9. Counsel for the petitioner has placed reliance on order dated 25.11.2020 passed by Co-ordinate Bench at Principal Seat Jodhpur in case of ***Suman Inaniyan Vs. State of Rajasthan & Anr. (S.B. Civil Writ Petition No.4465/2020)***. The Co-ordinate Bench at Principal Seat Jodhpur in case of ***Suman Inaniyan (supra***) has observed as under:-

> "38. So far as the arguments regarding condition of advertisement is concerned, true it is that in normal circumstances candidates should be careful enough to fill in correct particulars, but one cannot forget: 'to err is human and to forgive is divine', this Court feels that when the State is dealing with the fate of a citizen, more particularly unemployed youth, it should show large heartedness to ignore such inadvertent errors, especially when the errors are bonafide and do not reflect upon a candidate's conduct.
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> 39 Things may be slightly different when a candidate has given other incorrect/insufficient information such as category etc. to take perhaps to avail chance in more than one category. But when it comes to marks obtained in qualifying exam or course, some liberal and pragmatic approach needs to be adhered to.

40. No doubt, the petitioner was not careful enough to fill correct particulars, but then, a lesser meritorious candidate cannot thrive on her fault.

41. No right accrues to a candidate even if his/her name has been shown in the select list. In the present case, even final list was not issued and even first appointment order came to be issued on 28.04.2020. Hence, bogy of other candidate's rights being affected cannot be countenanced by this Court.

42. As an upshot of discussion aforesaid, the writ petition is allowed. The impugned order dated 31.03.2020 is quashed and set aside. Competent authority is directed to call the petitioner for document verification in the second week of December, 2020 and verify the assertion of marks so made by her.

43. In case, petitioner's assertion is correct that she had secured 1582 marks, she be placed at appropriate position in the select list and accorded appointment within a period of 60 days from today, if she is otherwise eligible."

10. Counsels appearing for the respondents have placed reliance on order dated 19.03.2021, passed by Hon'ble Division Bench of this Court in case of ***Rajasthan Public Service Commission Vs. Yogita Yaduvanshi (D.B. Civil Special Appeal (Writ) No.804/2020***). The Hon'ble Division Bench in case of ***Rajasthan Public Service Commission (supra)*** has observed as under:-

> "Admittedly, the respondent had not sought online correction within the stipulated period i.e. from 12.5.2018 to 18.5.2018. In these circumstances, in view of the decision relied upon by the learned counsel for the appellant, the writ petition filed by the respondent was liable to be dismissed.
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> In **Sonal Tyagi vs. State of Rajasthan & Ors, D.b. Civil Writ Petition No. 7840/2019, decided on**

12.7.2019, the Division Bench had observed as under:-

"4. This court is of the opinion that the later Division Bench Ruling in the case of Kavita Choudhary (supra) cannot be treated as a binding precedent. It clearly ignored the previous Rulings of this Court of a Coordinate Bench Strength (DB) without referring to a Larger Bench. Furthermore, the view that no-one would be prejudiced if mistakes are corrected, in the respectful opinion of this court, is unacceptable."

Learned Single Judge had allowed the writ petition basing reliance on decision of Division Bench in Kavita Choudhary's case (supra), but in Sonal Tyagis's case (supra), it has been observed by the Division Bench that it cannot be treated as a binding precedent. Therefore, keeping in view the facts and circumstances of the case and the Division Bench judgments relied upon by the learned counsel for the appellant, the appeal is allowed..

The impugned order dated 24.08.2020 passed by learned Single Judge is set aside. Consequently, the writ petition filed by the respondent stands dismissed."

11. Counsels for the respondents have also referred the judgment dated 10.04.2018 passed by the Division Bench at Principal Seat Jodhpur in case of ***Piyush Kaviya & Ors. Vs. The Rajasthan Public Service Commission & Ors.(D.B. Special Appeal Writ No.198/2018)*** with other connected appeals in which the Division Bench has observed as under:-

"25. In view of the unambiguous and clear language in the advertisement which gave one month time after the last date for submitting on-line applications for corrections to be made and clearly indicated that no application for correction in the on-line application forms would be accepted thereafter, there is no scope to interpret Note No.5 in the admit card as done by the learned Single Judge. That apart the language of the Note admits of no two interpretations. The language is clear. It permits the applicants to bring to the notice

of the Commission any error in the admit card concerning the candidate and said error has to be a mismatch between the particulars disclosed by the candidate in the on-line application and admit card. Thus, the question of any promissory estoppel binding the Commission does not arise.

26. As regards the decisions cited by learned Senior Counsel for the writ petitioners, in Smt. Kirti's case applicability of Rule 10(4)of the applicable Rules came up for consideration. The Rules of1962 were amended in the years 1982 and 1984. As amended the Rule required change of preference to be indicated for a particular service desired to be accepted within 30 days of declaration of the result of the written examination. The writ petitioner successfully established that she had no knowledge of the amended Rules and when she applied to the Government Press for the Rules to be issued to her in the year 1992, the original Rules, sans the amendment were provided to her. In that view of the matter relief was granted to her with additional reason that in the original application form there was no stipulation that a candidate would not be allowed to change his/her preference.

27. As noted hereinabove, in the instant case advertisement clearly indicated to the candidates that no change in the application forms would be permissible after the mid night of 25thJuly, 2016

28. The decisions in Ram Kumar Gijroya's case and Seema Kumari Sharma's case do not apply in the instant case. In Ram Kumar's case the issue concerned the date by which an OBC certificate had to be submitted and the decision in Seema Kumari Sharma's case concerned assignment of marks for candidates belonging to backward areas and belonging to IRDP families. The applicants had submitted the IRDP certificate late.

29. It needs to be highlighted that seeking public employment the number of applicants swell into thousands for every appointment offered. The cumbersome process of processing the applications manually and at each stage of the selection process manual intervention being time consuming, aid of technology is being taken. On-line applications are being received. Opportunities to correct mistakes in the on-line application forms are provided by opening a window period. When the window period closes, the forms,

applications etc. as amended are processed. The computer generates the admit cards. The results of the examination are fed in the computer for various categories of posts and in the instant case, the number being 30, select list based on merits and categories are generated by the computer. The candidates need to be vigilant and specially when, as in the instant advertisement, they were cautioned time and again to check their particulars and a window period within which corrections could be made was made available to the candidates.

30. Whilst it may be true that every endeavour should be made to induct meritorious candidates but at the same time administrative inconvenience caused by permitting applicants to correct errors committed by them has to be kept in mind. It serves public interest that appointments to civil posts are made as early as possible

31. Thus, the conflict between merit and public interest subserved by timely filling up of public posts has to be balanced. The balance is stuck in the instant case by giving a window period to the candidates to correct the on-line application forms. The balance was stuck by prohibiting any application to be submitted after last date notified.

32. The writ petitioners were negligent. They never disclosed in the on-line application forms submitted that they were non-gazetted Government employees. Thus, it was too late in the day for them to seek change in the category in which they had applied after the admit cards were issued by informing the Commission that they were non-gazetted Government employees.

33. The appeals are allowed. Impugned orders of even date i.e. 24.11.2017 are set aside. S.B. Civil Writ Petition No.4440/2017filed by Sajjan Singh, S.B. Civil Writ Petition No.10812/2017 filed by Birda Ram Bishnoi and S.B. Civil Writ Petition No.4466/2017 filed by Purshpendra Singh Rajawat are dismissed."

12. Taking into consideration the facts of the case and the observations made by the Hon'ble Division Bench, no such correction or entry in the online application form can be allowed after the last date of submitting the application form or any

extended period allowed by the respondents. Since the advertisement itself provides for specific instructions to the candidates for submitting their online application form, which clearly speak that a candidate before uploading online application form must go through the entries made in the online application and after due verification, should upload the same. The petitioner admittedly did not submit details in regard to B.Sc. qualification which is the basic qualification for preparing the merit list. Such failure on part of the petitioner in no manner can be said to be inadvertent or human error. It shows the negligence of a candidate.

13. The Hon'ble Apex Court in case of ***Rajasthan public Service Commissioner, Ajmer & Anr. Vs. Shikun Ram Firoda & Anr. (Civil Appeal No.8146/2018)*** decided on 25.10.2019 has also deprecated the prayer for allowing any amendment/ correction in online application form after passing of the period during which a candidate may correct or amend the online application form.

14. Taking into consideration the facts of the case and law referred above, this Court can safely held that the candidature of a candidate can only be considered on the basis of the entries made by a candidate in his/her online/offline application form, including the correction/amendment made in such application form within the period allowed by the recruiting agency.

15. A candidate cannot be permitted to make correction/amendment in the online application form after the last date of submitting the application form or up to the period and opportunity allowed to the candidate for making

correction/amendment in the application. Hence, this Court finds no merit in the instant petition.

16. The instant writ petition is accordingly dismissed.

17. Since the main petition has been dismissed, the stay application and all pending application/s, if any, also stand dismissed.

(GANESH RAM MEENA),J

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