

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR.

O R D E R

Jalu Ram Choudhary v. State of Raj. & Ors.

S.B.CIVIL WRIT PETITION NO.5965/2003  
under Article 226 of the  
Constitution of India.

Date of Order : 30th May, 2005

P R E S E N T  
HON'BLE MR. JUSTICE GOVIND MATHUR

Mr. Pradeep Choudhary, for the petitioner.  
Mrs.R.R.Kanwar, Addl.Govt.Advocate.

BY THE COURT :

Shri Hari Ram, father of the petitioner, a Sepoy in Indian Army, was killed in action at field on 21.11.1971 during Indo-Pak war in the young age of 26 years. Martyr Shri Hari Ram left behind his young widow Smt.Naini Devi and a son of few months, the present petitioner.

The Government of Rajasthan by an order dated 29.10.1976 decided to given priority while making appointments in its Gr.III and Gr.IV services to the wards of the defence personnels who sacrificed their lives or disabled during the war. The Government of

Rajasthan by an another order dated 12.8.1999 notified its decision with regard to grant of employment on various posts under pay scale No.1 to 9-A for the war widows and other wards of the defence personnels who sacrificed their lives or permanently disabled during the war.

The petitioner, being possessing the qualification requisite for the purpose of appointment to the post of Teacher Gr.III, submitted an application dated 31.3.2000 to the Chief Executive Officer, Zila Parishad, Jodhpur for making appointment as Teacher Gr.III in accordance with policy declared by Government of Rajasthan under the order dated 12.8.1999 read with order dated 29.10.1976.

The request of the petitioner was negatived by the District Education Officer, Primary Education, Jodhpur on the count that at the relevant time there was a ban on appointments by communication dated 14.12.2001, however, while negativing the petitioner's request an assurance was given to him for sympathetical consideration for appointment on lifting the ban on appointments. The State Government subsequently lifted the ban but appointment was not provided to the petitioner, hence present writ petition is filed with a prayer for a direction for respondents to employ the petitioner as Teacher Gr.III.

A reply to the writ petition has been filed on behalf of the respondents stating therein that the vacancies advertised in pursuance of which the petitioner applied for appointment was cancelled by the Director, Elementary Education, Bikaner, therefore, appointment was not given to the petitioner.

Heard the counsel for the parties.

The petitioner has claimed for appointment as Teacher Gr.III in pursuance of a decision of Government of Rajasthan dated 12.8.1999 read with order dated 29.10.1976. The Government of Rajasthan by orders referred above decided to employ war widows/wards of the defence personnels who sacrificed their lives or disabled permanently during war. The decision of the government is not dependent to any notification inviting applications for appointment on the posts referred in the orders concerned. The order dated 12.8.1999 in quite unambiguous terms mentions that a war widow/wards of a defence personnel who has sacrificed his life or disabled permanently shall be entitled for appointment to the posts having pay scale No.1 to 9-A on availability of vacancies.

The respondents have no where stated that the vacancies are not available with them. On the contrary, the Additional Chief Executive Officer-cum-Secretary, zila Parishad, Jodhpur in the communication

dated 18.5.2000 accepted the fact about availability of 116 vacant posts of Teacher Gr.III. The only reason given by the respondents in their reply for denying appointment to the petitioner is that the advertisement in pursuance of which the petitioner said to have applied for appointment stood cancelled under an order dated 5.3.2004 passed by the Director, Elementary Education, Rajasthan, Bikaner. It is pertinent to note here that the petitioner never applied for appointment in pursuance of any advertisement but applied for appointment in pursuance of the order dated 12.8.1999 read with order dated 29.10.1976 wherein the decision of the Government of Rajasthan was notified with regard to providing employment to the wards of the defence personnels who sacrificed their lives in field or disabled permanently. The reason given by the respondents for denying appointment to the petitioner is absolutely non-existent. The respondents are under an obligation to perform the assurance given by them to the family members of martyrs who sacrificed their lives for nation.

I do not find any just and valid reason for denying appointment to the petitioner. Much delay has already been caused in giving appointment to the petitioner who is admittedly a ward of a defence personnel who sacrificed his life in military action.

Therefore, I consider it appropriate to direct the respondents to consider the candidature of the petitioner for the purpose of appointment as Teacher Gr.III and to employ him, if he is found otherwise eligible, as Teacher Gr.III within a period of 15 days from the date the petitioner submits a certified copy of this order to the respondent No.3. Registry is directed to issue copy of this order to counsel for the petitioner forthwith.

With the directions above the writ petition is allowed.

No order as to costs.

( GOVIND MATHUR ),J.

kkm/ps.