

Dau Singh Chouhan. Versus State of Rajasthan
& ors.

S.B. Civil Writ Petition No. 3835/2006

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Date of Order: May 31, 2007

HON'BLE MR. JUSTICE H.R. PANWAR

Mr.Vinay Jain, for the petitioner.
Mr.B.L. Tiwari, Deputy Government Advocate, for respondents.

BY THE COURT:

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks a direction to the respondents to fill-up the post of Coach of Kho-Kho and consider the case of the petitioner for the said post.

I have heard learned counsel for the petitioner.

It is contended by the learned counsel for the petitioner that one Ramlal Patidar, who was a Coach of Kho-Kho was sent on deputation and, therefore, the post of Coach of Kho-Kho fell vacant and the petitioner possesses all the requisite qualifications to be appointed as Coach of Kho-Kho and, therefore, he seeks a direction to the respondents to appoint him on the post of Coach of Kho-Kho. Hence this writ petition.

A reply to the writ petition has been filed by the respondents stating therein that there is only one post of Coach of Kho-Kho which has already been filled up and occupied by Ramlal Patidar. It has been stated that under the Rajasthan Educational Service Rules, 1970 (for short, "the Rules, 1970" hereinafter), the post of Coach of Kho-Kho is to be filled 50% by direct recruitment and 50% by promotion. There are only two posts, one to be filled up by direct recruitment and one by promotion. The petitioner claims the post of Coach of Kho-Kho by promotion, which has already been occupied and held by Ramlal Patidar. Though Ramlal Patidar was sent on deputation but while on deputation, he held the lien in the Education Department and thereafter he has already been repatriated to his parent department and presently he is holding the post of Coach of Kho-Kho in his parent department and an affidavit to this effect has been filed by the respondents stating therein that Ramlal Patidar was sent on deputation to some other department but now he has been repatriated to his parent department and joined the duty in the Education Department on 30-4-2002 and since then he has been working in the Education Department on the post of Coach of Kho-Kho. This fact has not been disputed by the petitioner.

In this view of the matter, when there is only one promotional post of Coach of Kho-Kho which has been held by

Ramlal Patidar, who is otherwise also senior to the petitioner and the promotion of Ramlal Patidar as the Coach of Kho-Kho has never been challenged by the petitioner. In the circumstances, therefore, the claim of the petitioner seeking promotion on the post of Coach of Kho-Kho cannot be substantiated.

In this view of the matter, I do not find any merit in the writ petition. The writ petition is, therefore, dismissed. There shall be no order as to costs.

(H.R. PANWAR), J.

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