

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH, JAIPUR
JUDGMENT**

D.B. Civil Special Appeal (Writ) No.670/2014

Asharam Meena
Versus
Rajasthan Rajya Vidyut Prasaran Nigam Limited & Anr.

Date of Judgment :: 30th May, 2014

PRESENT

HON'BLE THE CHIEF JUSTICE MR. AMITAVA ROY
HON'BLE MR. JUSTICE VEERENDR SINGH SIRADHANA

Mr.Asharam Meena, appellant in person.
Mr.Anurag Kalawatiya on behalf of Mr.J.M. Saxena, AAG, for State-respondents.

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BY THE COURT: (Per Hon'ble Veerendr Singh Siradhana, J.)

The instant intra-court appeal is directed against the judgment and order passed by the learned Single Judge dated 18th February, 2014, declining the claim of the petitioner-appellant (for short the 'appellant') for appointment to the post of Junior Engineer-I (Electrical) under the Scheduled Caste Category.

2. Shorn off unnecessary details, the essential material facts, which need to be noticed first for appreciation of the controversy are: that the appellant participated in the selection process in response to the advertisement dated 22nd July, 2011, for consideration of his candidature for the post of Junior Engineer in various branches for five power sector companies against total 231 (196 Male + 35 Female)

posts. It is pleaded case of the appellant that he secured 45.60 marks satisfying the criterion of obtaining the minimum 25% qualifying marks in the Common Recruitment Examination held on 28th August, 2011. The appellant assailed the action of the respondents, declining appointment to him, alleging discrimination referring to the case of Shreeram Meena, Meetha Lal Meena, Shyam Sunder Meena and Manish Kumar Meena, who did not even complete their B.E. Degree.

3. In response to the notice of the writ petition, the respondents in their counter affidavit pleaded that but for Shyam Sunder Meena, who produced his B. Tech Qualification Degree on 28th August, 2011, the other three candidates were absent and did not appear for verification of the documents, and therefore, they were excluded. It was further pointed out that eleven candidates secured 45.60 marks, and as per the criterion adopted by the respondents, Laxmi Chand Meena, Mahendra Kumar Meena, Jagdish Meena, Rakesh Kumar Meena and Lokesh Chand Meena, were placed above the appellant, being elder than the appellant. The appellant's name found place at Serial Number 6 among the eleven candidates. There were five candidates below the appellant, namely, Tribhuwan, Pramod Kumar Meena, Jaiprakash Meena, Satish Kumar Meena and Dinesh Meena, who too secured 45.60 marks, but were younger to the appellant and none of them was accorded appointment. Therefore, the allegations and claim of the appellant was stated to be misconceived and misleading.

4. We have heard the appellant in person and perused the materials available on record.

5. It is pleaded case of the appellant that Laxmi Chand Meena,

Mahendra Kumar Meena, Jagdish Meena, Rakesh Kumar Meena and Lokesh Chand Meena, who secured equal marks to the appellant i.e., 45.60 marks, were placed above the appellant, in the merit list as they being elder than the appellant and five candidates were placed below him being younger to the appellant. In view of the admitted fact that none of the five candidates, younger to the appellant i.e., Tribhuwan, Pramod Kumar Meena, Jaiprakash Meena, Satish Kumar Meena and Dinesh Meena, has been accorded appointment or preference qua the appellant; the criterion adopted and applied in the given fact situation by the respondents to resolve the order of merit in the event of eleven candidates securing equal marks, as in the case at hand, by applying the criterion of more in age/elder, and according priority to the candidates are elder/more in age; cannot be faulted. Furthermore, this criterion has not been challenged by the appellant. The fact that though the candidates were allowed to participate in the Examination, but did not appear for verification of documents, is also not disputed.

6. In the factual matrix as detailed herein above, the finding recorded by the learned Single and the view arrived at in declining interference, in the selection process, calls for no interference by this Court in the instant intra-court appeal.

7. For the reasons and discussions herein above, we are not inclined to take a view different than the one arrived at by the learned Single Judge.

8. Consequently, the intra-court appeal is devoid of any substance and lacks in merit, therefore, deserves to be dismissed.

9. Ordered accordingly.

10. In view of the final adjudication of the intra-court appeal, the stay application stands closed.

11. However, in the facts and circumstances of the case, there shall be no order as to costs.

(VEERENDR SINGH SIRADHANA), J. (AMITAVA ROY), CJ.

Sunil/P.A.

All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

(Sunil Solanki)
P.A.