

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 10461/2023

Deepti Chinaria Daughter Of Shri Vinod Kumar Chinaria

-----Petitioner

Versus

Ajmer Vidyut Vitran Nigam Limited & Ors.

-----Respondents

For Petitioner(s)	:	Mr. Ashish Kishore Saksena
For Respondent(s)	:	Mr. Abhishek Sharma for respondents No. 1 & 2

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

17/07/2023

1. It has been submitted that petitioner along with other four persons were promoted from the post of Date Entry Operator to Infomatics Assistant in Ajmer Vidyut Vitran Nigam Ltd. (AVVNL) under recommendations of the DPC dated 25th April 2018. At that point of time, the cut off date of acquiring qualification for the post of Informatics Assistant was fixed by the Committee as on 10.04.2018 and since petitioner had acquired requisite qualification by 02nd April 2018, he was promoted.

2. It has been submitted that on the representation of Junior Data Operators, who acquired requisite qualification on 01.04.2018 it means a day before the petitioner, the recommendations of DPC have been reviewed on 15th June 2023 and seniority on the post of Informatics Assistant in respect of petitioner has been ordered to be reviewed, treating the date of qualification on 01.04.2018 instead of 10.04.2018.

3. Petitioner has assailed the recommendations of review DPC dated 15.06.2023 as well as provisional seniority list dated 30.06.2023 (Ann.23), prepared in pursuance of the review DPC dated 15.06.2023 and submits that the AVVNL is inclined to conduct the DPC for the next promotional post of Assistant Programmer taking into consideration the impugned provisional promotion list dated 30.06.2023.

4. Counsel for petitioner submits that as per amended Regulations 2016, the post of Informatics Assistant is required to be filled 100% by direct recruitment, however, the Board of Directors resolved and took decision that persons working on the post of Data Entry Operator, who have not submitted option for the resigned post of Commercial Assistant GR. II shall be considered as one time measure that promotion on the post of Informatics Assistant and as a subject case, the provisions of Rule 29(2) of the Regulations 2016 were not made applicable for determination for vacancies as on 01.04.2018. He further submits that promotion to petitioner and other four persons made pursuance to review DPC dated 25.04.2018 was not objected by other junior candidates nor the seniority list was put to challenge before the judicial forum though the same was published every year after 2018. Hence cancellation of previous seniority list of Informatics Assistant is arbitrary and illegal. Reliance has been placed on a judgment of the Hon'ble Supreme Court in case of ***Vijay Kumar Kaul Vs. Union of India [(2012) 7 SCC 610]***

5. On behalf of respondents No.1 & 2, learned counsel has put in appearance as caveator and accepts notices. Hence notices be issued to respondent No.3.

6. Heard on interim relief.

7. Taking into consideration the aforesaid contentions that petitioner has already been promoted on the post of Informatics Assistant pursuant to DPC dated 25.04.2018 and now in the review DPC, his seniority has been pushed down by reviewing the previous DPC in provisional seniority list dated 30.06.2023, as an interim measure, this Court deems it just and proper that the AVVNL shall not act upon the provisional promotion list dated 30.06.2023 for the purpose of considering the promotion on the post of Assistant Programmer. However, respondents would be at liberty to move application for vacation of stay order, after filing of reply, if so desires.

(SUDESH BANSAL),J

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