HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 12607/2020

1. Pintu Saini S/o Shri Ramjee Lal Saini, Aged About 33 Years, R/o Village And Post Amawara, Tehsil Bamanwas, District Sawaimadhopur Rajasthan. Subject Sanskrit Employee Id- Rjka201826035592.
2. Sita Ram Saini S/o Shri Ramjee Lal Saini, Aged About 31 Years, R./o Village And Post Amawara, Tehsil Bamanwas, District Sawaimadhopur Rajasthan. Subject Sanskrit Employee Id- Rjka201526032991.
3. Ghanshyam Mali S/o Shri Rang Lal Mali, Aged About 34 Years, R/o Village And Post Dasa Ka Kuaa, Lalsot, Tehsil Lalsot, District Dausa Rajasthan. Subject Sanskrit Employee Id- Rjjp201815035544.
4. Prakash Chand Saini S/o Shri Chauth Mal Saini, Aged About 30 Years, R/o Village And Post Pakkadhora, Todathekle, Tehsil Lalsot, District Dausa Rajasthan. Subject Sanskrit Employee Id- Rjra201831020002.
5. Rajendra Kumar Mali S/o Shri Parbhu Lal Mali, Aged About 30 Years, R/o Village And Post Pakkadhora, Todakhekla Tehsil Lalsot, District Dausa Rajasthan. Subject Sanskrit Employee Id- Rjaj201806034555.
6. Ravi Kumar Napit S/o Shri Pappu Lal Napit, Aged About 31 Years, R/o Village And Post Salempura Tehsil Rahuwas, District Dausa Rajasthan. Subject Sanskrit Employee Id- Rjda201813028286.
7. Ashok Kumar Bairwa S/o Shri Budh Ram Bairwa, Aged About 30 Years, R/o Village And Post Todathekla Tehsil Lalsot, District Dausa Rajasthan. Subject Sanskrit Employee Id- Rjbm201805034581.
8. Rajesh Kumar Saini S/o Shri Badri Lal Saini, Aged About 31 Years, R/o Village And Post Behind Badaya Dharmshala Lahad Ka Kua Tehsil Lalsot, District Dausa Rajasthan. Subject Sanskrit Employee Id- Rjpa201829020987.
9. Meetha Lal Bairwa S/o Shri Ramshay Bairwa, Aged About 26 Years, R/o Village And Post Ramgarh Pachwara Tehsil Ramgarh Pachwara, District Dausa Rajasthan. Subject Sanskrit Employee Id- Rjda201813022658.
10. Asha Ram Saini S/o Shri Lallu Prasad Saini, Aged About

26 Years, R/o Village Gudadiya Post Talawgaon Tehsil Lalsot, District Dausa Rajasthan. Subject Sanskrit Employee Id- Rjna201821021719.

11. Porushottam Kumar Jangid S/o Shri Kajod Mal Jangid, Aged About 27 Years, R/o Near Brahaman Dharmshala Lahad Ka Kua, Lalsot, District Dausa Rajasthan. Subject Mathematics Employee Id- Rjra201831022433.

12. Akanksha D/o Ramniwas, Aged About 29 Years, R/o B-1004 Cedar Luxuria, Sanganer, District Jaipur Sub-English Employee Id Rjjp201818040706.

13. Ashok Kumar Ojha S/o Rampal Ojha, Aged About 27 Years, R/o Ward No. 22, Hariram Pura, Napasar, Teh - Bikaner Dist. Bikaner Sub- Hindi Employee Id Rjbi201809021580

14. Sangeeta Kumari D/o Maneeram Saini, Aged About 30 Years, R/o House No 123 Saini Dharmshala Ke Pass Ward No 9 Chirawa, Teh Chirawa, Dist Jhunjhunu- 333026 Rajasthan Sub- Hindi Employee Id Rjjp201818030939

15. Manju Kumari Jandu D/o Heera Lal Jandu, Aged About 36 Years, R/o Manju Kumari Jandu W/o Kamal Choudhary Master Ji Ki Dhani Bhainsawa, Dist. Jaipur Sub- Sanskrit Employee Id Rjjo201825041699

16. Anju Jat D/o Chauth Mal Jat, Aged About 32 Years, R/o Vpo- Jindoli Teh- Mundawar, Dist. Alwar Sub- Hindi Employee Id Rjal201802020093

17. Rajendra Kumar S/o Meva Ram, Aged About 33 Years, R/o Vpo- Godara Ki Dhani (Barna), Teh- Degana Dist. Nagaur, Sub- Sanskrit Employee Id Rjna201828020710

18. Moola Ram S/o Madna Ram, Aged About 33 Years, R/o Village- Tandiyo Ki Dhani (Jasrana), Post Rooppura Teh Kuchaman City, Dist Nagaur Sub- Hindi Employee Id Rjna201828028872

19. Surendra Choudhary S/o Balveer Choudhary, Aged About 25 Years, R/o Vpo Ramner Dhani, Vai Kishangarh, Dist. Ajmer Sub- Sanskrit Employee Id Rjpa201829025545.

20. Nirmla Kumari D/o Rameshwar Rao, Aged About 30 Years, R/o Baghaniyon Ki Dhani Hanuman Nagar Bhojasar, Teh-Phalodi, Dist Jodhpur, Sub- Hindi Employee Id Rjjo201825051944.

21. Bhartraj Meghwal S/o Mohan Lal Meghwal, Aged About 32

Years, R/o Village Aklor, Post Chatargan, Teh Hindoli, Dist Bundi Sub- Hindi Employee Id Rjjw201822022505

22. Sandeep Kumar Indoriya S/o Gangadhar Verma, Aged About 27 Years, R/o Vpo Naner, Teh Piplu, Dist. Tonk, Sub- Mathematics Employee Id Rjct201811036692.

23. Ranjana D/o Manohar Lal, Aged About 31 Years, R/o Kaman Bye Pass Ward No 04 Deeg, Dist. Bharatpur, Sub- Sanskrit Employee Id Rjbp201807019800.

24. Mahaveer Mali S/o Teju Ram, Aged About 28 Years, R/o Near Bus Stand, Vpo- Peeh, Teh. Parbatsar, Dist. Nagaur, Sub- English, Employee Id Rjna201828039421.

25. Girdhari Ram Rinwa S/o Manga Ram Rinwa, Aged About 33 Years, R/o Vpo- Bajwas, Teh. Parbatsar, Dist. Nagaur, Sub Hindi Employee Id Rjna828039452

26. Raju Ram Nala S/o Deena Ram, Aged About 27 Years, R/o Mangra Ki Dhani, Vpo Bagot, Teh. Parbatsar, Dist. Nagaur, Sub Sanskrit, Employee Id Rjna201828039608

27. Krishana Kant Sharma S/o Raja Ram Sharma, Aged About 30 Years, R/o Near Bus Stand, Vpo - Peeh, Teh. Parbatsar, Dist. Nagaur, Sub Sankrit Employee Id Rjna201828036742

28. Umrav Jat S/o Narayan Lal Jat, Aged About 27 Years, R/o Vpo Bandarsindri, Teh. Kishangarh, Dist. Ajmer, Sub - Sanskrit Employee Id Rjpa201829021127

29. Ramji Lal Gurjar S/o Ratan Lal Gurjar, Aged About 27 Years, R/o Vell. Benikhera, Post Rahalana, Teh.dudu, Dist. Jaipur, Sub Sankrit Employee Id Rajaj201801038774

30. Chandra Singh S/o Pooran Lal Saini, Aged About 29 Years, R/o Village Sikri Tehsil Nagar, Dist. Bhartput, Subjet Sanskrit Employee Id Rjjo201825031838

31. Nitesh Kumar S/o Sita Ram, Aged About 29 Years, R/o Po Sangliya, Tehsil Danta Ram Garh, Dist. Sikar. Subject Sanskrit Employee Id Rjjo201825030407

32. Narendra Kumar Meena S/o Ramcharan Meena, Aged About 30 Years, R/o Village Vijaypura, Post Ayana, Tehsil Pipalda, Dist. Kota, Subject English Rjjl201721029551

33. Gheesu Singh Champawat S/o Dhan Singh Champawat, Aged About 52 Years, R/o Village Bari, Post Thakurwas, Tehsil Marwarjndis, Dist. Pali. Subject English Employee Id Rjto201836003036

34. Vikash Kashyap S/o Ramesh Chand, Aged About 38 Years, R/o Village B Narayan Gate Bharatpur, Dist. Bharatpur, Subject English Employee Id Rjjw201822008788

35. Subhash Chandra S/o Bhagirath Mal, Aged About 38 Years, R/o Village Nehro Ki Dhani, Post Bamanwas, Tehsil Khandela, Dist. Sikar, Subject Hindi Employee Id Rjda201813022423

36. Chitralekha Salvi D/o Devi Lal Salvi, Aged About 36 Years, R/o Near By Jain Temple, Udaipur Road Dist. Udaipur. Subject Sanskrit Employee Id Rjct201811031436

37. Chitra Chaturvedi D/o Bhikam Chand Chaturvedi, Aged About 35 Years, R/o Brindavan Colony Krishi Mandi Ke Pass Kuchaman City Dist. Nagaur, Subject Sanskrit Employee Id Rjna201828020434

38. Anita Kumari Meena D/o Shankar Lal Meena, Aged About 34 Years, R/o Vpo Harshawar, Tehsil Kherwar, Dist. Udaipur. Subject Hindi Employee Id Rjud201839031950

39. Shankar Lal Chunya S/o Rameshwar Lal Chunya, Aged About 28 Years, R/o Vpo Sandoliya, Tehsil Arain, Dist. Ajmer. Subject Hindi Employee Id Rjaj201801023109

40. Laxmi Kumari Gameti D/o Vaxsi Gameti, Aged About 31 Years, R/o Post Nayagaon Kherwara, Dist. Udaipur. Subject Sanskrit Employee Id Rjud201839023428

41. Vinesh Kumari D/o Mohan Singh, Aged About 27 Years, R/o Vpo Khedi Devisingh, Tehsil Nadbai, Dist. Bharatpur, Subject Sanskrit Employee Id Rjbm201805050368

42. Sonu D/o Netram, Aged About 30 Years, R/o Sawantsar 32 P.s. (A), Tehsil Raisinghnagar, Dist. Ganganagar. Subject Sanskrit Employee Id Rjga201835021417

43. Deepak Saini S/o Mukti Lal Saini, Aged About 27 Years, R/o Govt. Sen Sec. School Aatma Rajsamand Dist. Rajsamand. Subject Mathematics Employee Id Rjra201831036190

44. Vishnu Datt Cocher D/o Dhanroop Gocher, Aged About 27 Years, R/o Vpo Pholai, Tehsil Patan, Dist. Bundi, Subject Hindi Employee Id Rjbr201804021866

45. Narendra Kumar S/o Bhagiarath Mal, Aged About 30 Years, R/o Village Hamirwas, Post Birmi, Dist. Jhunjhunu. Subject Hindi Employee Id Rjcr201812025786

46. Surener Kumar Yadav S/o Bhataram Yadav, Aged About

47 Years, Vpo Ghaseda, Tehsil Buhana, Dist. Jhunjhunu, Subject Social Science Employee Id Rjjw201822043702

47. Charan Singh S/o Pooran Lal Saini, Aged About 29 Years, Village Sikri, Tehsil Nagar, Dist. Bharatpur, Subject Sanskrit Employee Id Rjjo201825031838

48. Nayan Kalal D/o Lalchand Kalal, Aged About 34 Years, R/o Kokapur Tehsil Sagwara, Dist. Dungarpur, Sub Sanskrit Employee Id Rjdu201815033219

49. Sampat Raj Farak S/o Dhana Ram Gurjar, Aged About 27 Years, R/o Vill. Devnagar, Post Khariya Khangar, Tehsil Bhopalgarh, Dist. Jodhpur. Sub Hindi Employee Id Rjbm201705021779

----Petitioners

Versus

1. State Of Rajasthan, Through The Secretary, Department Of Education, Government Of Rajasthan, Jaipur, Rajasthan.
2. The Secretary, Rajasthan Public Service Commission, Ajmer, Rajasthan.
3. The Director, Secondary Education, Bikaner, District Bikaner, Rajasthan.
4. The Joint Director, Secondary Education, Jodhpur, District Jodhpur, Rajasthan.
5. The Joint Director, Secondary Education, Pali, District Pali, Rajasthan.
6. The Joint Director, Secondary Education, Ajmer, District Ajmer, Rajasthan.
7. The Joint Director, Secondary Education, Kota, District Kota, Rajasthan.
8. The Joint Director, Secondary Education, Churu, District Churu, Rajasthan.
9. The Joint Director, Secondary Education, Bikaner, District Bikaner, Rajasthan.
10. The Joint Director, Secondary Education, Bharatpur, District Bharatpur, Rajasthan.
11. The Joint Director, Secondary Education, Jaipur, District Jaipur, Rajasthan.
12. The Joint Director, Secondary Education, Udaipur, District Udaipur, Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Tanwar Singh, through Cisco Webex Mr. Gulab Singh, through Cisco Webex
For Respondent(s)	:	

JUSTICE DINESH MEHTA

Order

26/11/2020

Learned counsel for the petitioners submits that the issue raised in the present writ petition is squarely covered by judgment of this Court in *Manoj Khandelwal & Ors. v. State of Rajasthan & Ors. : S.B.C.W.P. No. 7283/2014*, decided on 16.07.2014 at Jaipur Bench and the said judgment has been followed in *Krishan Lal & Ors. v. The State of Rajasthan & Ors. : S.B.C.W.P. No. 19179/2017*, decided on 30.10.2017 at Jaipur Bench. The petitioners are also entitled to the same relief as granted in the case of Manoj Khandelwal (supra) and Krishan Lal (supra) claims learned counsel.

In view of the submissions made, the writ petition filed by the petitioners is disposed of with the similar directions as given in the case of Manoj Khandelwal (supra), which read as under:-

> "This Court in Suman Bai and Another Vs. State and Others – 2009 (1) WLC (Raj.) 381, held that candidates in lower order of merit cannot become entitled merely because they had approached court earlier. Petitioners had a fresh cause of action for approaching in such situation and their writ petition not barred either as res judicata or as being him in properly constituted. This directed the respondents to treat petitioners senior to respondents, who were in lower order of merit.
>
> It is further contended in the writ petition that in the matter of School Lecturers (English) in the same Department, where appointments were delayed because of the fault of the State authorities, the

candidates were accorded appointment from the date the candidates stood lower in merit were appointed and they have been granted all consequential benefits of services.

The petitioners approached the respondents by way of representations for extending them same benefits of service which have been granted to the candidates who stood lower in merit than the petitioners, but till date nothing has been done. Hence, this writ petition on behalf of the petitioners for a direction to the respondents to treat their appointment from the date the candidates lower in merit, were given, with all consequential benefits of service, such as seniority, continuity of service, pay fixation, grant of annual grade increments.

Having regard to the facts of the case, writ petition is disposed of requiring the petitioners to make a representation to respondent no.2 – Director, Secondary Education, Bikaner, alongwith a copy of this order, who shall, after verifying the facts stated above, consider and decide the same by a speaking order within a period of three months from the date of its making, addressing the grievance of the petitioners for extending them the relief as prayed for, as the candidates, who stood lower in merit, are getting benefit of higher pay, seniority, annual grade increments and other service benefits including the selection scales. If the respondent no.2 decides to place the petitioners above in seniority than the candidates who stood lower in merit, then the petitioners would be entitled to all benefits of seniority but they would be entitled only to notional benefits."

For the purpose aforesaid, the petitioners shall file representation before the competent authority giving out the requisite details along with certified copy of the order instant within a period of four weeks from today. On receipt of the representation, the concerned respondent shall decide the same, in accordance with law within a period of eight weeks from the date of receipt of the representation and accord notional benefits to the petitioners from the date persons similarly situated to them and lower in merit were given appointment.

Upon consideration of the representation so filed, if respondents find the case(s) of the petitioners to be covered by the judgment(s) aforesaid, before giving actual benefits, an undertaking shall be procured from the concerned petitioners to the effect that their rights/entitlements shall be subservient to the fate of the judgment(s) aforesaid and in case the same is reversed

or modified in any manner, they shall also be liable for restitution of any benefits/emoluments so received.

The stay application also stands disposed of accordingly.

(DINESH MEHTA),J

89-pooja/-

RAJASTHAN HIGH COURT

सत्यमेव जयते