HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Special Appeal (Writ) No. 548/2017

In

S.B. Civil Writ Petition No.13160/2014

The State Of Rajasthan, Through Secretary, Department Of Education, Government Of Rajasthan, Secretariat, Jaipur

----Appellant

Versus

1. Irfan Ansari S/o Abdul Majid, aged 25 years, R/o Care Of Sabir Ansari (Vikas Property) Sripura Bus Stand, Kota, Rajasthan.
2. Rajasthan Public Service Commission, Ajmer Through Secretary.

----Respondents

For Appellant(s)	:	Mr. SS Raghav, Additional Advocate General
For Respondent(s)	:	Mr. Vigyan Shah, Advocate

HON'BLE MRS. JUSTICE SABINA
HON'BLE MR. JUSTICE MANOJ KUMAR VYAS

Judgment / Order

01/02/2021

Appellant-State has filed the appeal challenging the order dated 24.09.2015 passed by the learned Single Judge, whereby, the petition filed by respondent No.1 was allowed.

Learned counsel for respondent No.1 at the outset has submitted that the writ petition filed by respondent No.1 was disposed of in terms of decision given in SB Civil Writ Petition No.14873/2014, Murari Lal Sharma Vs. Rajasthan Public Service Commission, Ajmer and Ors. vide order dated 24.09.2015. The case of Murari Lal Sharma (supra) was disposed of along with

other connected writ petitions. SB Civil Writ Petition No.10349/2014 in the case of Ramswaroop Saini Vs. Rajasthan Public Service Commission, Ajmer was also disposed of vide order dated 24.09.2015 along with case of Murari Lal Sharma (supra) and other connected matters. In the case of Ramswaroop Saini, Rajasthan Public Service Commission filed an appeal and the said appeal alongwith other connected appeals were dismissed vide order dated 27.10.2016 by the Division Bench of this Court. Appeal filed by the Rajasthan Public Service Commission before the Hon'ble Supreme Court in Ramswaroop Saini's case was dismissed by the Apex Court on the ground of delay. Similar appeal in the case of State of Rajasthan Vs. Hemant Kumar was got dismissed as withdrawn. DB Special Appeal Writ No.194/2017 titled as State of Rajasthan Vs. Hemant Kumar and Another filed by the State was got dismissed as withdrawn vide order dated 28.07.2017. Learned counsel has submitted that present appeal is liable to be dismissed.

Learned counsel has further submitted that revised result has been declared after dismissal of the appeal by the Hon'ble Supreme Court and the appointment of the respondent No.1 has been withheld in pursuance to the revised result due to pendency of the present appeal.

Learned State Counsel has, however, submitted that the present appeal deserves to be allowed.

Respondent No.1 had filed SB Civil Writ Petition No.13160/2014 in relation to the advertisement dated 02.08.2013 and corrigendum issued thereafter in connection with appointment of Senior Teacher Grade-II. Writ petition filed by respondent No.1 was disposed of vide order dated 24.09.2015.

Order dated 24.09.2015 reads as under:-

> "This writ petition is disposed of so as the stay application. (See separate order passed in SB Civil Writ Petition No.14873/2014 in the case of Murari Lal Sharma Vs. RPSC, Ajmer).

So far as the case of Murari Lal Sharma in SB Civil Writ Petition No.14873/2014 is concerned, the same was disposed of vide order dated 24.09.2015 along with other connected matters and it was observed as under:-

> "It is, however, a fact that subsequent to the publication of third key, result has been declared followed by appointments and many candidates have already joined the posts. In view of the above, while setting aside third answer key published by the RPSC, they are directed as follows:
>
> (i) The RPSC would publish result based on second answer key. The appointments would be given thereafter as per the revised merit list.
>
> (ii) The new merit list may repeat the name of those, who have been earlier appointed, thus their appointment would not be disturbed and at the same time, new appointment pursuant to the revised merit list would be arranged in order of merit for the purpose of seniority but such of petitioners would not be entitled to the backwages or other benefits.
>
> (iii) Those candidates, who go out of the merit list and were appointed pursuant to third answer key and result may not be ousted from service if nothing adverse exists against them and sufficient vacant post exists. The Government shall accommodate them against the vacancies by placing them at the bottom of revised list of the selected candidates. The direction aforesaid is given in the light of

> the judgements in the case of Rajesh Kumar & Ors. vs. State of Bihar & Ors. reported in (2013) 4 SCC 690, Vikas Pratap Singh & Ors. vs. State of Chattisgarh & Ors, reported in (2013) 14 SCC 494 and lastly considering the judgment of this court in the bunch of writ petitions led by S.B. Civil Writ Petition No. 3541/2014 in the case Pooja Sharma vs. RPSC, Ajmer & Ors. decided on 24th November, 2014."

Along with the case of Murari Lal Sharma, SB Civil Writ Petition No.10349/2014 titled as Ramswaroop Saini Vs. Rajasthan Public Service Commission, Ajmer was also disposed of vide order dated 24.09.2015. Appeal filed by the Rajasthan Public Service Commission against the order dated 24.09.2015 in the case of Ramswaroop Saini and other connected appeals were disposed of by the Division Bench of this Court vide order dated 27.10.2016.

Order dated 27.10.2016 reads as under:-

> "It is, however, a fact that subsequent to the publication of third key, result has been declared followed by appointments and many candidates have already joined the posts. In view of the above, while setting aside third answer key published by the RPSC, they are directed as follows:
>
> (i) The RPSC would publish result based on second answer key. The appointments would be given thereafter as per the revised merit list.
>
> (ii) The new merit list may repeat the name of those, who have been earlier appointed, thus their appointment would not be disturbed and at the same time, new appointment pursuant to the revised merit list would be arranged in order of merit for the purpose of seniority but such of petitioners would not be entitled to the backwages or other benefits.

> (iii) Those candidates, who go out of the merit list and were appointed pursuant to third answer key and result may not be ousted from service if nothing adverse exists against them and sufficient vacant post exists. The Government shall accommodate them against the vacancies by placing them at the bottom of revised list of the selected candidates. The direction aforesaid is given in the light of the judgements in the case of Rajesh Kumar & Ors. vs. State of Bihar & Ors. reported in (2013) 4 SCC 690, Vikas Pratap Singh & Ors. vs. State of Chattisgarh & Ors, reported in (2013) 14 SCC 494 and lastly considering the judgment of this court in the bunch of writ petitions led by S.B. Civil Writ Petition No. 3541/2014 in the case Pooja Sharma vs. RPSC, Ajmer & Ors. decided on 24th November, 2014.
>
> 3. The same is not subject matter of challenge by any party, therefore, it will not be proper to disturb this after one year when the RPSC has in principle accepted the same.
>
> 4. In this view of the matter, we are not interfering in the matter. However, if the matter is made subject matter of appeal by any party it will be open for the RPSC to revive the case in case of difficulty.
>
> 5. The appeals are accordingly disposed of. The stay applications and other applications are also disposed of."

Appeal filed by the Rajasthan Public Service Commission against the order dated 27.10.2016 was dismissed on the ground of delay by the Hon'ble Supreme Court vide order dated 12.07.2018. In the case of Hemant Kumar, who had filed SB Civil Writ Petition No.10583/2014 which was disposed of along with the writ petition filed by Murari Lal Sharma, State had filed DB Special Writ Appeal No.194/2017. The said appeal was withdrawn by the

State vide order dated 28.07.2017. The order passed by learned Single Judge in other connected matters has been upheld by the Division Bench of this Court vide order dated 27.10.2016 and the fact that similar appeal in the case of Hemant Kumar was got dismissed as withdrawn by the State, the present appeal is liable to be dismissed.

Accordingly, appeal is dismissed.

RAJASTHAN HIGH COURT

(MANOJ KUMAR VYAS),J (SABINA),J

Sunita Kanwar /21

सत्यमेव जयते