



**HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT
JAIPUR**

(1) D.B. Civil Special Appeal (W) No.1657/2017

1. Babulal Kumawat S/o Shri Madan Lal Kumawat, aged about 25 years, R/o VPO Ugriyawas, Via Phulera, Tehsil Mozmabad, Distt. Jaipur

2. Vinod Kumar S/o Shri Jai Kishan, aged about 39 years, R/o VPO Nagrasari, Nohar, Hanumangarh

3. Kapil Kumar S/o Shri Satish Kumar, aged about 28 years, R/o Near Iron Water Tank, Ward No.1, Nohar, Hanumangarh

4. Prashant Kumar Bansal S/o Shri Rajendra Kumar Bansal, aged about 26 years, R/o 188, Block-D, Kishan Nagar, Near Swami Vivekanand School, Hindaun City, Karauli

5. Ram Sunder Pareek S/o Shri Sukan Chand Pareek, aged about 28 years, R/o Ragu Babu Ka Bangla, Station Road, Didwana, Nagaur

6. Gaurav Mathur S/o Shri Devi Sharan Mathur, aged about 33 years, R/o F-89, Amrapali Circle, Vaishali Nagar, Jaipur

7. Avinash Kumar Sharma S/o Shri Om Prakash Sharma, aged about 28 years, R/o Village Gawari, Post Patan, Tehsil Raini, Distt. Alwar

8. Pradeep Yadav S/o Shri Yadram Yadav, aged about 28 years, R/o 32, Bhuvneshwar Vatika Vistar, Meenawala, Jaipur

9. Dinesh Kumar Saini S/o Shri Bhagirath Lal Saini, aged about 33 years, R/o 146, Partap Colony, Nai Ki Thadi, Jamawaramgarh Road, Jaipur

10. Yatendra Singh S/o Shri Bahadur Singh, aged about 22 years, R/o VPO Dudhawa, Via Kachhar, Dantaramgarh, Sikar

----Appellants

Versus

1. State of Rajasthan through its Secretary, Department of Personnel and Administration, State Secretariat, Jaipur

2. Rajasthan Public Service Commission through its Secretary, Jaipur Road, Ajmer (Rajasthan)

3. Anil Kumar S/o Shri Ghamsu Ram, Village Camry, Tehsil Nandoti, District Karauli

4. Ankit Pandey S/o Shri Om Prakash Pandey, Ward No.6, Gobind Garh, District Alwar



5. Sumit Sharma S/o Shri Lallu Lal Sharma, Janakpuri Colony, Gupteshwar Road, Dausa
6. Parmod Goswami S/o Shri Jagdish Prasad Goswami, Plot No.115, Shri Ram Vihar Colony, Prem Nagar, Agra Road, Jaipur
7. Gajraj Singh S/o Sawant Singh, 26, Shekawati Nagar-A, Govindpura, Kalwar Road, Jaipur
8. Moti Lal Gurjar S/o Shri Nanag Ram Gurjar, B-98, Kheda Mahapura, Murlipura, Jaipur
9. Babulal Choudhary S/o Shri Dola Ram Choudhary, D-64, Parama Hans Colony, Murlipura, Jaipur
10. Manoj Kumar Sharma S/o Shri Chhitar Mal Sharma, C-248, Mahesh Nagar, Jaipur
11. Rahul Yadav S/o Shri Hari Narayan Yadav, 29-A, Phool Colony, Sanaganer, Jaipur
12. Ravi Kumar Khileri S/o Shri Jagdish Singh Khileri, Village and Post Dhaywa, Tehsil Ladnu, District Nagaur

----Respondents

WITH

(2) D.B. Civil Special Appeal (W) No.1683/2017

1. Sourabh Sharma S/o Shri Mithlesh Chandra Sharma, aged about 30 years, R/o A-8-A, Ashok Vihar, Manyawas, Mansarovar, Jaipur
2. Monika Kumari Sharma D/o Shri Ramesh Chandra Sharma, aged about 28 years, R/o Ward No.14, Brahmano Ka Mohalla, Hanpur, Shrimadhapur, District Sikar
3. Girija Kanwar Kaviya D/o Shri Amar Singh, aged about 26 years, R/o Bar Ka Charanwas, Post Danta, District Sikar
4. Ankit Kumar Avasthi S/o Shri Bharat Lal Avasthi, aged about 23 years, R/o 180, Shyam Enclave, Ward No.11, Panchyavala, Jaipur
5. Manish Kumar Sandeep S/o Shri Roodha Ram Sandeep, aged about 22 years, Resident of Sherpura, Khori, Tehsil Shahpura, District Jaipur
6. Karan Singh Charan S/o Shri Ghanshyam Singh, aged about 22 years, R/o 665, Bandi Mohalla, Devliya Kalan, Tehsil Bhinay, District Ajmer
7. Ramswaroop Nehra S/o Shri Shiv Lal Nehra, aged about 28 years, R/o Harsava Bar, Sikar
8. Kishore Singh S/o Shri Vikram Singh, aged about 23 years, R/o Kishanpura Krishi Mandi Road, Gandhi Nagar, Barmer



9. Deepak Sharma S/o Shri Yogesh Sharma, aged about 22 years, R/o Ward No.9, Village Malkhera, V.P.O. Malkhera, 5 AMS, District Hanumangarh

----Appellants

Versus

1. State of Rajasthan through its Secretary, Department of Personnel and Administration, State Secretariat, Jaipur

2. Rajasthan Public Service Commission through its Secretary, Jaipur Road, Ajmer (Rajasthan)

3. Anil Kumar S/o Shri Ghamsu Ram, R/o Village Camry, Tehsil Nadoti, District Karauli

4. Anil Pandey S/o Om Prakash Pandey, R/o Ward No. 6, Gobind Garh, District Alwar

5. Sumit Sharma S/o Lallu Lal Sharma, R/o Janakpuri Colony, Gupteshwar Road, Dausa

6. Pramod Goswami S/o Shri Jagdish Prasad Goswami, R/o Plot No. 115, Shri Ram Vihar Colony, Prem Nagar, Agra Road, Jaipur

7. Gajraj Singh S/o Sawant Singh, R/o 26, Shekawati Nagar-A, Govindpura, Kalwar Road, Jaipur

8. Moti Lal Gurjar S/o Shri Nanag Ram Gurjar, R/o B-98, Kheda Mahapura, Murlipura, Jaipur

9. Babulal Choudhary S/o Shri Dola Ram Choudhary, R/o D-64, Param Hans Colony, Murlipura, Jaipur

10. Manoj Kumar Sharma S/o Sh. Chhitar Mal Sharma, R/o C-248, Mahesh Nagar, Jaipur

11. Rahul Yadav S/o Shri Hari Narayan Yadav, R/o 29-A, Phool Colony, Sanganer, Jaipur

12. Ravi Kumar Khileri S/o Shri Jagdish Singh Khileri, Village and Post Dhaywa, Tehsil Ladnu, District Nagaur

----Respondents

(3) D.B. Civil Special Appeal (W) No.1685/2017

1. Harshit Sharma S/o Shri Devendra Sharma, R/o Plot No. 44, Sita Vihar, Khirni Phatak Road, Jhotwara, Jaipur

2. Rishi Pareek S/o Shri Kailash Pareek, R/o 38, Vijay Singh Pathik Nagar, Kalwar Road, Jhotwara, Jaipur

3. Makkhan Lal Meena S/o Shri Kalyan Sahai Meena, R/o Village Doyoda Choud, Post Naila Tehsil Bassi, District Jaipur



4. Pramod Kumar Jagrit S/o Shri Puran Mal, R/o Ambedkar Nagar, Ward No.23, Nawalgarh, District Jhunjhunu
5. Radhey Shyam Jat S/o Shri Suva Lal Jat, R/o Dhani Dhabas Wali, Ward No.25, Shahpura, Jaipur
6. Sunil Sharma S/o Shri Kanta Prasad Sharma, R/o 32/447, Pratap Nagar, Sanganar, Jaipur
7. Yash Veer S/o Shri Patram Gurjar, R/o Village Kyara Post, Karoda Tehsil Mundawar, District Alwar
8. Kapil Kumar S/o Shri Rajveer Singh, R/o Khushallbas (Rundh) Post Behrod Tehsil Mundawar District Jaipur
9. Ravi Beniwal S/o Shri Amar Singh Beniwal, R/o Plot No.77, Saini Colony-I, Kartarpura, Jaipur
10. Paras Atal S/o Shri Laxmi Narayan Atal, R/o Village Gila Ki Nagal, Post Naila, Tehsil Bassi District Jaipur
11. Pankaj Katara S/o Shri Ramesh Chand Sharma, R/o Ward No.10, Nagar Tiraya, Nadbai-321602, Dist. Bharatpur
12. Narendra Singh S/o Shri Madan Singh Sonigara, R/o Chawandiya Kalan, Tehsil Jaitaran, District Pali
13. Abhishek Sharma S/o Shri Suresh Chand Sharma, R/o Badiyal Road, Bandikui District Dausa

----Appellants

Versus

1. State of Rajasthan through its Secretary, Department of Personnel and Administration, State Secretariat, Jaipur
2. Rajasthan Public Service Commission through its Secretary, Jaipur Road, Ajmer (Raj.)
3. Anil Kumar S/o Shri Ghamsu Ram, R/o Village Camry Tehsil Nandoti, District Karauli
4. Ankit Pandey S/o Om Prakash Pandey, R/o Ward No.6, Govind Garh, District Alwar
5. Sumit Sharma S/o Lallu Lal Sharma, R/o Janakpuri Colony, Gupteshwar Road, Dausa
6. Pramod Goswami S/o Sh. Jagdish Prasad Goswami, R/o Plot No.115, Shri Ram Vihar Colony, Prem Nagar, Agra Road, Jaipur
7. Gajraj Singh S/o Sawant Singh, R/o 26, Shekawati Nagar-A, Govindpura, Kalwar Road, Jaipur



8. Moti Lal Gurjar S/o Shri Nanag Ram Gurjar, R/o B-98, Kheda Mahapura, Murlipura, Jaipur

9. Babulal Choudhary S/o Shri Dola Ram Choudhary, R/o D-64, Param Hans Colony, Murlipura, Jaipur

10. Manoj Kumar Sharma S/o Shri Chhitar Mal Sharma, R/o C-248, Mahesh Nagar, Jaipur

11. Rahul Yadav S/o Shri Hari Narayan Yadav, R/o 29-A, Phool Colony, Sanganer, Jaipur

12. Ravi Kumar Khileri S/o Shri Jagdish Singh Khileri, Village & Post Dhaywa, Tehsil Ladnu, District Nagaur

-----Respondents

(4) D.B. Civil Special Appeal (W) No.1693/2017

Rajasthan Public Service Commission through its Secretary, Jaipur Road, Ajmer (Rajasthan)

-----Appellant

Versus

1. Anil Kumar S/o Shri Ghamsu Ram, R/o Village Camry Tehsil Nandoti, District Karauli

2. Ankit Pandey S/o Om Prakash Pandey, R/o Ward No.6, Gobind Garh, District Alwar

3. Sumit Sharma S/o Lallu Lal Sharma, R/o Janakpuri Colony, Gupteshwar Road, Dausa

4. Pramod Goswami S/o Sh. Jagdish Prasad Goswami, R/o Plot No.115, Shri Ram Vihar Colony, Prem Nagar, Agra Road, Jaipur

5. Gajraj Singh S/o Sawant Singh, R/o 26, Shekawati Nagar-A, Govindpura, Kalwar Road, Jaipur

6. Moti Lal Gurjar S/o Shri Nanag Ram Gurjar, R/o B-98, Kheda Mahapura, Murlipura, Jaipur

7. Babulal Choudhary S/o Shri Dola Ram Choudhary, R/o D-64, Param Hans Colony, Murlipura, Jaipur

8. Manoj Kumar Sharma S/o Shri Chhitar Mal Sharma, R/o C-248, Mahesh Nagar, Jaipur

9. Rahul Yadav S/o Shri Hari Narayan Yadav, R/o 29-A, Phool Colony, Sanganer, Jaipur

10. Ravi Kumar Khileri S/o Shri Jagdish Singh Khileri, Village & Post Dhaywa, Tehsil Ladnu, District Nagaur



11. State of Rajasthan through its Secretary Department of Personnel and Administrative, State Secretariat, Jaipur

----Respondents

(5) D.B. Civil Special Appeal (W) No.1579/2017

Khushiram Jat S/o Shri Ram Kalyan Jat, R/o Village and Post Tilanju, Tehsil Malpura District Tonk, Rajasthan.

----Appellant

Versus

1. State of Rajasthan through the Principal Secretary, Department of Personnel, Government Secretariat, Jaipur, Rajasthan.

2. Rajasthan Public Service Commission through its Secretary, Ghoghara Ghati, Ajmer, Rajasthan.

3. Hemant Kumar S/o Shri Ramesh Kumar, aged about 27 years, R/o Village Nangli Ojha, Post and District Alwar.

4. Hemant Singh Choudhary S/o Shri Mada Ram, aged about 24 years, R/o 60, Choyolo Ki Dhani-Mihiyasar, Tehsil-Degana, District Nagaur.

----Respondents

(6) D.B. Civil Special Appeal (W) No.1580/2017

1. Ashish Sharma S/o Shri Dinesh Sharma, aged about 25 years, R/o Village & Post Datwas, Tehsil Niwai, District Tonk (Raj.)

2. Abhishek Prajapati S/o Shri Dharm Singh Prajapati, aged about 26 years, R/o 60, Sitaram Colony 3, Pratap Nagar, Sanganer, Jaipur (Raj.)

3. Priyadarshini D/o Shri Deshraj Yadav, aged about 28 years, R/o Village & Post Rasoolpurahiran, Pacheri Bari, Tehsil Buhana, District Jhunjhunu (Raj.)

4. Hemant Kumar Sharma S/o Shri Yadram Sharma, aged about 36 years, R/o Village & Post Singhada, Tehsil Bayana, District Bharatpur (Raj.)

----Appellants

Versus

1. Anil Kumar S/o Shri Ghamsu Ram, R/o Village Camry, Tehsil Nandoti, District Karauli

2. Ankit Pandey S/o Om Prakash Pandey, R/o Ward No.6, Gobind Garh, District Alwar

3. Sumit Sharma S/o Lallu Lal Sharma, R/o Janakpuri Colony, Gupteshwar Road, Dausa



4. Pramod Goswami S/o Shri Jagdish Prasqad Goswami, R/o Plot No.115, Shri Ram Vihar Colony, Prem Nagar, Agra Road, Jaipur

5. Gajraj Singh S/o Sawant Singh, R/o 26, Shekawati Nagar-A, Govindpura, Kalwar Road, Jaipur

6. Moti Lal Gurjar S/o Shri Nanag Ram Gurjar, B-98, Kheda Mahapura, Murlipura, Jaipur.

7. Babulal Choudhary S/o Shri Dola Ram Choudhary, R/o D-64, Param Hans Colony, Murlipura, Jaipur.

8. Manoj Kumar Sharma S/o Shri Chhitar Mal Sharma, R/o C-248, Mahesh Nagar, Jaipur.

9. Rahul Yadav S/o Shri Hari Narayan Yadav, R/o 29-A, Phool Colony, Sanganer, Jaipur

10. Ravi Kumar Khileri S/o Shri Jagdish Singh Khileri, Village & Post Dhaywa, Tehsil Ladnu, District Nagaur

11. State of Rajasthan through its Secretary, Department of Personnel and Administrative, State Secretariat, Jaipur

12. Rajasthan Public Service Commission through its Secretary, Jaipur Road, Ajmer (Raj.)

----Respondents

(7) D.B. Civil Special Appeal (W) No.1635/2017

Ravi Shankar S/o Laxman Ram Tiwari, aged about 25 years, R/o Durga Colony, Village Kalu, Tehsil Lunkaransar, District Bikaner (Rajasthan)

----Appellant

Versus

1. Hemant Kumar S/o Shri Ramesh Kumar, aged about 27 years, R/o Village Nangali Ojha, Post, District Alwar

2. Hemant Singh Choudhary S/o Shri Mada Ram, aged about 24 years, R/o 60, Choyolo Ki Dhani-Mihiyasar, Tehsil Degana, District Nagaur

3. State of Rajasthan through Principal Secretary, Department of Personnel, Government Secretariat, Jaipur

4. Rajasthan Public Service Commission through its Secretary, Goonghara Ghati, Ajmer

----Respondents



(8) D.B. Civil Special Appeal (W) No.1656/2017

1. Neeraj Kumar S/o Shri Bhagvan Singh, aged about 26 years, R/o Village Bansroli, Post Astavan, Tehsil Kumher, District Bharatpur (Raj.)-321201

2. Vivek Dixit S/o Shri Bharat Bhooshan Dixit, aged about 26 years, R/o 7, Mukesh Nursery, Opp. Malviya Nagar, Alwar (Raj.)-301001

3. Yadram S/o Shri Karan Singh, aged about 24 years, R/o Village and Post Lakanpur, Tehsil Nadbai, District Bharatpur (Raj.)-321028

4. Ramveer Singh S/o Shri Puran Singh, aged about 31 years, R/o Lalama Khurd, Via-Baru, Tehsil Parbatsar, District Nagaur (Raj.)-341501

5. Jai Prakash Tiwari S/o Shri Lallu Lal Sharma, aged about 36 years, R/o Village Rojwari, Post Bhurla, Tehsil Bassi, District Jaipur (Raj.)-303004

6. Ashok Kumar Didel S/o Shri Bhanwar Lal Didel, aged about 31 years, R/o Outside of Khaitipura, Badli Road, Opp. Ramdev Mandir, District Nagaur (Raj.)-341001

7. Indu Sharma D/o Shri Suraj Kumar Sharma, aged about 27 years, R/o 54/48, Saryu Marg, Mansarovar, Jaipur (Raj.)-302020

8. Ritu Kumari D/o Shri Prakash Chand, aged about 22 years, R/o Near Jagdamba Furniture House, Halena Road, Nadbai, Tehsil Nadbai, District Bharatpur (Raj.)-321602

9. Kuldeep Poonia S/o Shri Ramswaroop Poonia, aged about 22 years, R/o Village Himmatpura, Post Devgaon, Tehsil Nawalgarh, District Jhunjhunu (Raj.)-333707

10. Priyanka D/o Shri Suresh Kumar, aged about 26 years, R/o Village Keshripura, Post Shittal, Tehsil Udaipurwati, District Jhunjhunu (Raj.)-333021

सत्यमेव जयते

----Appellants

Versus

1. Mukesh Budania, S/o Shri Dharmveer Budania, aged about 27 years, R/o 130, Anand Vihar, Ward No.2, Nangal-Jaisa-Bohra, Jaipur (Raj)

2. Yashoda Nandan Gauttam, S/o Shri Madan Mohan Gauttam, aged about 24 years, R/o 65/294, V.T. Road, Mansarovar, Jaipur (Raj.)

3. State of Rajasthan through its Secretary, Department of Personnel and Administration, Govt. Secretariat, Jaipur.



4. Rajasthan Public Service Commission through its Secretary,
Jaipur Road, Ajmer (Raj.)

----Respondents

(9) D.B. Civil Special Appeal (W) No.1659/2017

1. Ankit Kumar Sharma, S/o Shri Babu Lal Sharma, aged about 22
years, R/o Badapadampura, Dhampura, Badapadampura, Jaipur

2. Shankar Lal Dhayal, S/o Shri Jaman Lal Dhayal, aged about 22
years, R/o Village Ralawata, Bagawas, Bagawas, Jaipur

----Appellants

Versus

1. Anil Kumar S/o Shri Ghamsu Ram, R/o Village Camry, Tehsil
Nandoti, District Karauli

2. Ankit Pandey S/o Shri Om Prakash Pandey, R/o Ward No.6,
Gobind Garh, District Alwar

3. Sumit Sharma S/o Lallu Lal Sharma, R/o Janakpuri Colony,
Gupteshwar Road, Dausa

4. Pramod Goswami S/o Shri Jagdish Prasad Goswami, R/o Plot
No.115, Shri Ram Vihar Colony, Prem Nagar, Agra Road, Jaipur

5. Gajraj Singh S/o Sawant Singh, R/o 26, Shekawati Nagar-A,
Govindpura, Kalwar Road, Jaipur

6. Moti Lal Gurjar S/o Nanag Ram Gurjar, R/o B-98, Kheda
Mahapura, Murlipura, Jaipur

7. Babulal Choudhary S/o Shri Dola Ram Choudhary, R/o D-64,
Param Hans Colony, Murlipura, Jaipur

8. Manoj Kumar Sharma S/o Shri Chhitar Mal Sharma, R/o C-248,
Mahesh Nagar, Jaipur

9. Rahul Yadav S/o Shri Hari Narayan Yadav, R/o 29-A, Phool
Colony, Sanganer, Jaipur

10. Ravi Kumar Khileri S/o Shri Jagdish Singh Khileri, Village &
Post Dhaywa, Tehsil Ladnu, District Nagaur

11. State of Rajasthan through its Secretary, Department of
Personnel & Administration, State Secretariat, Jaipur

12. Rajasthan Public Service Commission through its Secretary,
Jaipur Road, Ajmer (Raj.)

----Respondents



(10) D.B. Civil Special Appeal (W) No.1655/2017

Mukesh Budania, S/o Shri Dharmveer Budania, aged about 27 years, R/o 130, Anand Vihar, Ward No.2, Nangal-Jaisa-Bohra, Jaipur (Raj)

----Appellant

Versus

1. State of Rajasthan through its Secretary, Department of Personnel and Administration, Govt. Secretariat, Jaipur.

2. Rajasthan Public Services Commission through its Secretary, Jaipur Road, Ajmer (Raj.)

3. Yashoda Nandan Gauttam S/o Shri Madan Mohan Gauttam, aged about 24 years, R/o 65/294, V.T. Road, Mansarovar, Jaipur (Raj.)

----Respondents

For Appellants : Mr.Raghunandan Sharma & Mr.Mahesh Kumar Sharma
 Mr.R.N. Mathur, Senior Advocate assisted by Mr.Prateek Mathur, Mr.Shovit Jhajararia and Mr.Samrath Sharma
 Mr.A.K. Sharma, Senior Advocate assisted by Mr.Rachit Sharma,
 Mr.Sarthak Rastogi,
 Mr.Vigyan Shah with Mr.Kamlesh Sharma,
 Mr.G.S. Rathore,
 Mr.M.F. Baig with Mr.Govind Gupta
 Mr.K.S. Rajawat on behalf of Mr.Prahlad Sharma & Mr.Bharat Yadav

For Respondents : Mr.Sunil Samdaria, Mr.Shobhit Tiwari
 Mr.Punit Singhvi & Mr.Kapil Gupta

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE DINESH CHANDRA SOMANI

Judgment

03/11/2017



Per Hon'ble The Chief Justice:

1. On 26/07/2013, Rajasthan Public Service Commission issued an advertisement inviting applications from eligible candidates to fill up posts of clerk Grade-II in the office of the Commission and subordinate offices of the State of Rajasthan. Last date for receipt of applications was 15/09/2013. On 30/09/2013 a corrigendum was issued adding 275 posts of Clerk Grade-II in the office of State Secretariat, which posts were also included within the ambit of the original advertisement, and accordingly the last date for receipt of applications was extended to 07/10/2013. On 01/10/2013 a corrigendum was issued specifying provisions relating to age and age relaxation and that the recruitment would be as per the Rajasthan Subordinate Offices Ministerial Service Rules, 1999 and the Rajasthan Public Service Commission (Ministerial and Subordinate Services) Rules and Regulations, 1999.

2. The recruitment process had two phases. In Phase-I two papers pertaining to General Hindi, Science and Mathematics (one paper) and General Hindi and English (second paper) had to be cleared and the candidates who cleared Phase-I examination and had acquired more than 40% marks in each paper of Phase-I examination were eligible to participate at Phase-II examination which had a Typewriting in Hindi on Computer Test and Typewriting in English on Computer Test. For both, speed and efficiency had to be tested. 25 marks each for speed and efficiency in both Hindi and English was intimated to the candidates requiring at least 9 marks to be cleared in each segment.



3. As per the advertisement educational qualifications were prescribed as under:-

1. Educational Qualifications:-

"A. Senior Secondary from a recognised board or its equivalent examination,

B "O" or Higher Level Certificate Course conducted by the DOEACC under control of the Department of Electronics, Government of India

or

Computer operator & Programming Assistant (COPA)/Data Preparation and Computer Software (DPCS) certificate organised under National/State Council of Vocational Training Scheme.

or

Diploma in Computer Science/Computer Application from a University established by law in India or from an institution recognised by the Government.

or

Diploma in Computer Science & Engineering from a polytechnic institution recognised by the Government

or

Rajasthan State Certificate Course in Information Technology (RS-CIT) conducted by Verdhaman Mahaveer Open University, Kota under control of Rajasthan Knowledge Corporation Limited

2. Essential qualification:-

Working knowledge of Hindi written in Devnagri Script and knowledge of Rajasthani Culture."

4. Below the educational qualifications three notes were appended. Note No.3 is relevant. It reads as under:-

"उक्त पदों की अपेक्षित शैक्षणिक अर्हता के अंतिम वर्ष में सम्मिलित हुआ हो या सम्मिलित होने वाला व्यक्ति भी आवेदन करने के लिये पात्र होगा, किन्तु उसे आयोग द्वारा आयोजित परीक्षा दिनांक से पूर्व शैक्षणिक अर्हता अर्जित करने का सबूत देना होगा, अन्यथा वह अपात्र होगा।"



5. Translated, Note No.3 reads as under:-

"3. An applicant who has appeared or has to appear at the final year examination of the course which is the requisite educational qualification for the posts can apply but would have to submit proof of acquiring the requisite qualification before appearing in the main examination conducted by the Commission."

6. When the selection process was underway and merit list was yet to be prepared large number of candidates filed writ petitions, which have been disposed of by the learned Single Judge vide impugned order dated 05/10/2017. Two questions have been answered by the learned Single Judge. The same are as under:-

"(i) Whether the participating candidates in the recruitment involved herein for appointment to the post of LDC are required to secure minimum 36% marks i.e. 9 marks out of 25, in speed Test and Efficiency Test (Hindi) and Speed Test and Efficiency Test (English), independently or the candidates would qualify Phase-II Examination by securing 36% marks i.e. 9 out of 25 in speed and Efficiency Test (Hindi and English), cumulatively?"

"(ii) Whether the participating candidates were required to have acquired RS-CIT/equivalent qualification as contemplated under the rules and the advertisement, on or before last date of receipt of application i.e. 7th October, 2013, or it could be any other date later to Phase-II Examination that was held up till 8th March, 2017 or any date later till Phase-II examination is held?"

7. In the appeals, we are concerned with the impugned decision in so far it has answered Question No.2 for the reason in neither appeal the impugned decision has been challenged in so far it has answered Question No.1.

8. Concerning the second question, the rival arguments have been noted by the learned Single Judge in paragraphs 11 to



14 of the impugned decision, which we reproduce as under:-

"11. Mr. Sunil Samdaria, learned counsel, on the next issue would submit that the candidates who were not in possession of Rajasthan State Service Course in Information Technology (for short, "RS-CIT"), conducted by Vardhman Mahaveer Open University, Kota under the control of Rajasthan Knowledge Corporation Limited; on or before the extended last date i.e. 7th October, 2013, for submission of application form; could not have been treated as eligible to participate in the recruitment process. For they were not in possession of the essential educational qualifications on the last date of the application i.e. 7th October, 2013.

12. Per contra: Mr. Vigyan Shah, learned counsel appearing on behalf of the applicant-respondent-Sagarmal Mahala while supporting the counter claims as pleaded in SBCWP No. 11493/2017 (Mamta Yadav VS. State of Raj. & Ors.) and analogous matters; would submit that a glance of Rule 16 and 27 of the Rules of 1999, would reflect that the applications which are found incomplete and were not filed in accordance with instructions issued by the respondent-Commission, were liable to be rejected at the initial stage. Further, the respondent Commission is obliged to permit the candidates to appear in the examination provisionally whom it considered it proper and to grant the certificate for admission.]

13. Referring to proviso to Rule 16(2)(iii), learned counsel asserted that the person who had appeared or is appearing in the final examination of the course, which is requisite educational qualification for the post as mentioned in the rule or schedule for direct recruitment; shall be eligible to apply for the post but he/she shall have to submit proof of having acquired the educational qualification to the appropriate selection agency before appearing in the written examination or interview where selection is made through only written examination or only interview, as the case may be. (19 of 43) [CW-5724/2017]

14. According to the learned counsel, a conjoint reading of Rule 16(2) and Rule 27 of the Rules of 1999 would leave no room for doubt that where the educational qualification for the post is of more than one year of the course in that event the final year candidates are eligible to apply for consideration of their candidature subject to condition that the candidate must acquire the requisite educational qualification before appearing in the examination which according to Rule 27, would be the written examination. Moreover, the candidates whose duration of course of study is less than a year, as in the case of RS-CIT, they are required to submit the proof of the requisite educational qualification acquired before



appearing in the written examination. For the RS-CIT qualification is a course of duration of three months; hence, the phrase "appeared or is appearing in the final year of the course" as contained under Rule 27 of the Rules of 1999, is not attracted to the writ applications at hand. Hence, the participating candidates in the recruitment process involved herein, were not required to get registered in RS-CIT course prior to submitting their application form and they could acquire such qualification before they appeared in the examination i.e. written examination, and therefore, it was not mandatory for the applicant/respondent (Sagarmal Mahala), to furnish information regarding RS-CIT qualification in his application form. Furthermore, there cannot be two different dates of eligibility for the petitioner was in possession of the qualification of Senior Secondary examination in the year 2009, and hence, prescription (20 of 43) [CW-5724/2017] of a different date of eligibility with reference to the qualification of RS-CIT only the date of written examination in the recruitment process, would result into two different dates of eligibility with reference to essential educational qualification; impermissible in law."

9. In answering Question No.2, in paragraph 22 of the impugned decision the learned Single Judge has noted the educational qualifications which were prescribed and Note 3 beneath the same. We have reproduced the same hereinabove. Holding that the educational qualifications have to be attained by 7th October, 2013, being the last date for submitting applications as per the corrigendum dated 30/09/2013, the reasoning of the learned Single Judge in paragraphs 23 and 24 of the impugned decision reads as under:-

"23. A glance of the contemplation with reference to educational qualifications would reflect that the participating candidates ought to have acquired the educational qualifications on the date of submission of application form which undeniably was 7th October, 2013. The contention that the condition stood modified in view of (37 of 43) [CW-5724/2017] note 3, which permitted the participating candidates to furnish evidence of the educational qualifications acquired before the examination in the recruitment process was conducted appears to be



misconceived. A conjoint reading of the instructions in the advertisement and corrigendum, would reflect that the participating candidates were required to be in possession of the educational qualifications on the date of issuance of the advertisement and were to produce evidence of the same as contemplated under note 3 supra. Thus, the last cut-off date in the batch of writ applications at hand would be the last date of submission of application form i.e. 7th October, 2013. Hence, it was necessary for the participating candidates to fill up the necessary details as to educational qualifications in the application form for determination of the recruitment agency as to eligibility of the candidates by the last cut-off date. The participating candidate who was not in possession of the educational qualifications on the last date of application form submitted, was not eligible to participate in the recruitment process. Therefore, permitting the candidates, who were not in possession of the requisite educational qualifications on the last cut-off date, will result into discrimination and uncertainly.

24. *By now it is well settled law that a candidate participating in the recruitment process, is required to possess the essential educational qualifications by the last cut-off date. In the case of **Ashok Kumar Sonkar Vs. Union of India**: (2007) 4 SCC 54, the Supreme Court, in no uncertain terms, held that in absence of (38 of 43) [CW-5724/2017] any cut-off date in the advertisement or in the Rules; the last date for submission of the application form, shall be considered as the cut-off date. It was further held that possession of requisite educational qualifications is mandatory and hte same should not be uncertain. If an uncertainty is allowed to prevail, the employer would be flooded with applications of ineligible candidates. Hence, the cut-off date for the purpose of determining the eligibility of the participating candidates is required to be fixed. In absence of any rule or any specific date having been fixed in the advertisement; the law, as to the last cut-off date, therefore, as declared by the Supreme Court, would be the last date for filing the application form.”*

- 10.** The decision in **Ashok Kumar Sonkar** followed as a precedent by the learned Single Judge holds that if the cut of date by which the eligibility has to be acquired by possessing the necessary educational qualification is not provided for, the last date for filing the application has to be considered as the cut of date. Thus, the learned Single Judge is clearly in the error in





holding that in view of **Ashok Kumar Sonkar's** case, the last date for submitting applications i.e. 07/10/2013 would be the date by which educational qualifications had to be acquired.

11. As noted hereinabove, the learned Single Judge has noted the rival arguments which mandated the learned Single Judge to have noted, considered and culled out the legal position with reference to Rule 15 of the Rajasthan Public Service Commission (Ministerial and Subordinate Services) Rules & Regulations, 1999 and Rule 16 of the Rajasthan Subordinate Offices Ministerial Service Rules, 1999.

12. Rule 16 of the Rajasthan Subordinate Offices Ministerial Service Rules, 1999 reads as under:-

"16. Academic Qualification:- A candidate for direct recruitment to the post mentioned in column number 2 of Schedule 1 shall possess:

- (1) the qualification and experience as laid down in column number 5 of Schedule I;
- (2) working knowledge of Hindi written in Devnagri script and knowledge of Rajasthani culture.

"Provided that the person who has appeared or is appearing in the final year examination of the course which is the requisite educational qualification for the post as mentioned in the rules or schedule for direct recruitment, shall be eligible to apply for the post but he/she shall have to submit proof of having acquired the requisite educational qualification to the appropriate selection agency:- सत्यमेव जयते

- (i) before appearing in the main examination, where selection is made through two stages of written examination and interview;
- (ii) before appearing in interview where selection is made through written examination and interview;
- (iii) before appearing in the written examination or interview where selection is made through only written examination or only interview, as the case may be."



13. Rule 15 of the Rajasthan Public Service Commission (Ministerial and Subordinate Services) Rules and Regulations, 1999 reads as under:-

"15. Academic and technical qualification:- A candidate for direct recruitment to the posts specified in Schedule-I shall:-

(i) Possess the qualifications given in Column 4 of Schedule-I and a working knowledge of Hindi written in Devnagri Script and knowledge of Rajasthani Culture.

(ii) Pass the qualifying examination or the competitive examination, wherever necessary, as prescribed in Schedule-II.

Provided that the person who has appeared or is appearing in the final year examination of the course which is the requisite educational qualification for the post as mentioned in the rules or Schedule for direct recruitment, shall be eligible to apply for the post but he/she shall have to submit proof of having acquired the requisite educational qualification to the appropriate selection agency,-

(a) before appearing in the main examination, where selection is made through two stages of written examination and interview;

(b) before appearing in interview where selection is made through written examination and interview;

(c) before appearing in the written examination or interview where selection is made through only written examination or only interview, as the case may be."

14. A perusal of the two rules would show that proviso to sub-rule (2) of Rule 16 of the Rajasthan Subordinate Offices Ministerial Service Rules, 1999 is *pari materia* with proviso to Rule 15 of the Rajasthan Public Service Commission (Ministerial and Subordinate Services) Rules and Regulations, 1999.

15. A perusal of Note 3 of the advertisement makes it clear that it was informed to the applicants that the educational qualifications need not be possessed by the applicants by the last



date by which the applications could be submitted. It was informed to the applicants that proof of having acquired the educational qualifications would have to be furnished on the date when the Commission conducts the examination. It is settled law that where a Statutory Rule occupies a territory, the Rule will prevail and any ambiguity in an executive order would be resolved in light of the rule. The proviso to the two rules applicable makes it clear that an applicant who has appeared or has to appear at the final year examination of the course which is the requisite educational qualification for the posts, can apply but would have to submit proof of acquiring the requisite qualification before appearing in the main examination. The main examination referred to in the proviso to the two rules, was conceded by the learned counsel for the parties to mean the examination conducted by the Commission and not the examination pertaining to the educational qualification being obtained.

16. Learned counsel for the writ petitioners who had succeeded before the learned Single Judge and are the respondents before us conceded that the learned Single Judge has erred in not considering the two rules in question and has further erred in proceeding on the basis that the law declared in **Ashok Kumar Sonkar's** case was applicable. Learned counsel for the respondents conceded to the fact, and urged that their case which was urged before the learned Single Judge was not as has been exactly noted and thereafter dealt with by the learned Single Judge.



17. In view of a decision dated 05/01/2017 in DBSAW No.674/2016 **RPSC Vs. Shobha Muhta**, which considered Rule 11 of the of the Rajasthan Educational Service Rules, 1970, having a proviso *pari materia* to the two provisos in question, wherein it was held that the educational qualifications have to be cleared before completion of the written examination, meaning the date of the last examination by the Commission, learned counsel for the respondents conceded to the legal position that the academic qualifications could be acquired on the date when Phase-II examination was held.

18. Notwithstanding the concession made by the learned counsel for the respondents we note the reasoning of the Division Bench in **Shobha Mutha's** case, which reads as under:-

"It has rightly been contended that clause (iii) of proviso to Rule 11 uses the words "appearing in the written examination where selection is through written examination." No word of a statute can be read in a manner to render any part of it as futile. Selection can be made only after the written examination is over. It naturally means only after both the papers are completed. To (9 of 9) [SAW-674/2016] accept the submission that the barrier for eligibility will drop on 12.7.2014 the day of the first paper would render the word "selection" meaningless. If the date for second paper got extended to 27.9.2014, that date has to be considered as relevant for all purposes including eligibility under the advertisement and it cannot be accepted as a relevant date for some purposes and not for other purposes.

In conclusion, we hold that the eligibility as required under clause (iii) of proviso to Rule 11 of the education service rules has to be understood as before the completion of the written examination in a composite sense meaning the date the last examination was held."

19. We go by the reasoning more so when no argument has been advanced before us to take a contrary view.



20. But what was the debate before the learned Single Judge and before us?

21. Debate pertained only to the candidates who were relying upon the educational qualifications of a certificate in the Rajasthan State Certificate Course and Information Technology (RS-CIT) conducted by the Vardhman Mahaveer Open University, Kota. The argument, (imperfectly noted by the learned Single Judge) was that the duration of the said course was three months. The argument was that the two provisos referred to the eligibility of a person who had appeared or was to appear in the final year examination of the course which was the requisite educational qualification, of course the educational qualification to be obtained on the date when the last written examination by the Commission was conducted. Pith of the argument whereof was that a proviso, which uses a phrase "appearing in the final year examination of the course which is the requisite educational qualification" would necessarily mean that the course in question had to be of at least one year duration.

22. We note that in paragraph 11 of the impugned decision the learned Single Judge has briefly noted the contention concerning the course in question i.e. RS-CIT.

23. A perusal of the educational qualifications to be acquired, which have been noted by us hereinabove, would show that the candidates had to possess a Senior Secondary degree from a recognised Board and any one of the five certificates or diplomas enumerated under caption "B" of the advertisement. The advertisement does not refer to the duration of any course leading



to the award of a certificate or a diploma. The requirement is to have a certificate or a diploma in any one out of the five listed courses.

24. Underlying principle behind a legislation has to be kept in mind while interpreting the legislation. This is the purposive rule of interpretation. The reference in the provision that a person taking to examination conducted by the Commission should have appeared or should be appearing in the final year examination of the course which is the requisite educational qualification is that by the time the Commission conducts the examination the person concerned would have known the result of the examination conducted by the Board or the Institute which awards the certificate/degree or diploma pertaining to the requisite educational qualification. The 'final year examination' would mean the year of the final examination and does not mean that the duration of the course has to be for a minimum period of one year. The proviso simply requires that the educational qualifications must be obtained by the candidate by the date when the last examination is conducted by the Commission and should have appeared or would be entitled to appear in the year of examination of the course. Thus, we hold that all candidates who relied upon the strength of RS-CIT Certificates were eligible to be considered for appointment if they had obtained the requisite certificate by the date when the Commission conducted the Phase-II Examination, which date we note would be 08/03/2017.





25. The appeals are allowed. Impugned decision dated 05/10/2017 is set-aside in so far it has decided Question No.2. Pertaining to Question No.2, we hold that those who had obtained a degree/certificate/diploma in any one of the five courses notified in the advertisement by 08/03/2017 would be eligible candidates.

(DINESH CHANDRA SOMANI)J.

(PRADEEP NANDRAJOG)C.J.

Anil Goyal-PS

RAJASTHAN HIGH COURT



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