



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

D.B. Civil Special Appeal (Writ) No. 804/2020

in

S.B. Civil Writ Petition No. 8900/2019

Rajasthan Public Service Commission, Jaipur Road, Ajmer  
Through Its Secretary.

----Appellant

Versus

Yogita Yaduvanshi D/o Shri Mukesh Kumar, Aged About 21 Years,  
R/o Talpur, Tehsil Kotkasmi, District Alwar Rajasthan.

----Respondent

For Appellant(s) : Mr. M.F. Baig, Advocate

For Respondent(s) : Mr. Padam Singh Gurjar, Advocate

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

**Order**

**19/03/2021**

Appellant – Rajasthan Public Service Commission has filed the appeal challenging the order dated 24.8.2020 passed by the learned Single Judge, whereby, the writ petition filed by the respondent was allowed.

Learned counsel for the appellant has submitted that an Advertisement was issued on 2.4.2018 for filling up various posts. As per the terms of the Advertisement, the last date for submission of online form was 11.5.2018 and any correction in the application form could be made online from 12.5.2018 till 18.5.2018. As per the Advertisement, it was also specified that no correction would be allowed off-line. Learned Single Judge fell in error in permitting the respondent to change the category from



Most Backward Class (for short 'MBC') to Other Backward Class (for short 'OBC') offline after the due date. Learned counsel further submitted that the learned Single Judge fell in error in basing reliance on decision of this Court in the case of **Kavita Choudhary vs. The Registrar (Examination), Rajasthan High Court, Jodhpur & Anr., D.B. Civil Special Appeal (Writ) No. 1700/2017** decided on 1.11.2017, as in **Sonal Tyagi vs. State of Rajasthan & Ors, D.B. Civil Writ Petition No. 7840/2019**, decided on 12.7.2019 it had been held that the decision given in Kavita Choudhary's case (supra) could not be treated as a binding precedent. It was also held that the view that no one would be prejudiced if mistakes are corrected, was not acceptable.

Learned counsel for the appellant has next placed reliance on **Piyush Kaviya & Ors. vs. The Rajasthan Public Service Commission & Ors., D.B. Special Appeal Writ No. 198/2018** and other connected matters decided on 10.4.2018, wherein it was held as under:-

“9. As per the Rules of 1999, vide Rule 15, the competitive examination had two stages. A preliminary examination and a main examination. Those who qualified at the preliminary examination were to be short listed and only fifteen times the number of vacancies to be filled up were to be admitted to the main examination. The three writ petitioners cleared the preliminary examination and were issued admit cards for the ensuing main examination which was scheduled to be held on 28th and 29th January, 2017. The admit card recorded the name, father's name as also the category in which the writ petitioners had applied and there is no dispute that said particulars in the admit card are correct. Note No.5 of the admit card which fell for interpretation before the learned Single Judge provides that the applicant must verify that in the admit card his name, father's name, date of birth and category etc. are correct and if any correction is desired he may submit an



application to the office of the Commission with a postal order in sum of ₹300/-. After the date of the examination no application for correction shall be entertained.

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12. The stand of the Commission was that Note No.5 in the admit card did not give any opportunity to make any correction in the on-line application forms, which correction could be made, as indicated in the advertisement, only up till 12.00 mid night of 25.7.2016 and that Note No.5 in the admit card pertained to corrections to be made in the admit card by amending the same if there was a mismatch between what was filled up by way of particulars in the admit card by the Commission and put on-line vis-a-vis what was disclosed by the candidates in the on-line application forms.

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20. From the facts noted hereinabove the factual position which clearly emerges is that when the Commission issued the advertisement inviting applications from eligible candidates on 28.4.2016, it categorically made known to the candidates that online applications had to be submitted between 10th May, 2016 till mid-night of 25th June, 2016 and further that amendments could be made in the on-line application forms submitted between 26.6.2016 till the mid-night of 25.7.2016 and by way of special information it was made known that no amendment to the on-line applications would be entertained after the last date indicated in the advertisement by which the amendment in the on-line applications could be made had elapsed. Thus, the decision taken by the Commission on 7th May, 2015 for not permitting any amendment in the on-line application forms to be made after the last date notified to the candidates by which amendment could be made had elapsed was made known to the candidates.

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25. In view of the unambiguous and clear language in the advertisement which gave one month time after the last date for submitting on-line applications for corrections to be made and clearly indicated that no application for correction in the on-line application forms would be accepted thereafter, there is no scope to interpret Note No.5 in the admit card as done by the learned Single Judge. That apart the language of the Note admits of no two



interpretations. The language is clear. It permits the applicants to bring to the notice of the Commission any error in the admit card concerning the candidate and said error has to be a mismatch between the particulars disclosed by the candidate in the on-line application and admit card. Thus, the question of any promissory estoppel binding the Commission does not arise.

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27. As noted hereinabove, in the instant case advertisement clearly indicated to the candidates that no change in the application forms would be permissible after the mid night of 25th July, 2016.

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29. It needs to be highlighted that seeking public employment the number of applicants swell into thousands for every appointment offered. The cumbersome process of processing the applications manually and at each stage of the selection process manual intervention being time consuming, aid of technology is being taken. On-line applications are being received. Opportunities to correct mistakes in the on-line application forms are provided by opening a window period. When the window period closes, the forms, applications etc. as amended are processed. The computer generates the admit cards. The results of the examination are fed in the computer for various categories of posts and in the instant case, the number being 30, select list based on merits and categories are generated by the computer. The candidates need to be vigilant and specially when, as in the instant advertisement, they were cautioned time and again to check their particulars and a window period within which corrections could be made was made available to the candidates.”

Learned counsel for the respondent, on the other hand, has opposed the appeal and has submitted that due to inadvertence, respondent had described herself as belonging to 'MBC' candidate, whereas in-fact, she belongs to category 'OBC'. Since, the selection process was still going on, the learned Single Judge rightly held that third party interest had not been created



and had rightly directed the appellant – Commission to change the category of the respondent from 'MBC' to 'OBC'.

Admittedly, an Advertisement was issued on 2.4.2018 by the appellant for filling up various posts. Respondent had also filled in her application form. The last date for filling up application form was upto 11.5.2018. As per the Advertisement, online corrections could be made in the application form from 12.5.2018 to 18.5.2018. It has also been mentioned by way of special note in the Advertisement that off-line corrections would not be allowed in the application form. It was also clarified that no corrections would be allowed after 18.5.2018.

Admittedly, the respondent had not sought online correction within the stipulated period i.e. from 12.5.2018 to 18.5.2018. In these circumstances, in view of the decision relied upon by the learned counsel for the appellant, the writ petition filed by the respondent was liable to be dismissed.

In **Sonal Tyagi vs. State of Rajasthan & Ors, D.B. Civil Writ Petition No. 7840/2019**, decided on 12.7.2019, the Division Bench had observed as under:-

“4. This court is of the opinion that the later Division Bench Ruling in the case of Kavita Choudhary (supra) cannot be treated as a binding precedent. It clearly ignored the previous Rulings of this Court of a Coordinate Bench Strength (DB) without referring to a Larger Bench. Furthermore, the view that no-one would be prejudiced if mistakes are corrected, in the respectful opinion of this court, is unacceptable.”

Learned Single Judge had allowed the writ petition basing reliance on decision of Division Bench in Kavita Choudhary's case (supra), but in Sonal Tyagi's case (supra), it has been observed by the Division Bench that it cannot be treated



as a binding precedent. Therefore, keeping in view the facts and circumstances of the case and the Division Bench judgments relied upon by the learned counsel for the appellant, the appeal is allowed.

The impugned order dated 24.8.2020 passed by the learned Single Judge is set aside. Consequently, the writ petition filed by the respondent stands dismissed.

**(MANOJ KUMAR VYAS),J**

**(SABINA),J**

Anil Makwana /27



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