



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

S.B. Civil Writs No. 12608/2018

Arvind Singh Charan S/o Hinglaj Dan Charan, R/o Village Udasar Charanan, Post Kalyanpura, Tehsil Sardarshahar, District Churu, Rajasthan.

----Petitioner

Versus

The Rajasthan Public Service Commission, Through Its Secretary, Ajmer.

----Respondent

Connected With

S.B. Civil Writs No. 9399/2017

Gajanand S/o Shri Bajrang Lal, Resident Of Vpo Kolinda, Tehsil Malsisar, District Jhunjhunu Raj.

----Petitioner

Versus

- 1 State Of Rajasthan Through The Principal Secretary, College Education Department, Govt. Secretariat, Jaipur Raj.
- 2 The Rajasthan Public Service Commission, Through Its Secretary, Ghooghra Ghati, Ajmer Raj..

----Respondents

S.B. Civil Writs No. 10309/2017

Ajeeta Bai Meena D/o Shri Bhagwan Sahay Meena, Resident Of Village Post Khandip, Tehsil Wazeerpur, District Sawaimadhopur Raj.

----Petitioner

Versus

- 1 State Of Rajasthan Through The Principal Secretary, College Education, Govt. Secretariat, Jaipur Raj.
- 2 The Commissioner, College Education, Srk Shiksha Sankul, J.l.n. Marg, Jaipur Raj.
- 3 The Rajasthan Public Service Commission, Through Its Secretary, Ghooghra Ghati, Ajmer Raj.

----Respondents

S.B. Civil Writs No. 20542/2017



Asha Meena D/o Ramkishore Meena, R/o Vpo Pundarpara, Tehsil
Baswa, District Dausa, Rajasthan

----Petitioner

Versus

The Rajasthan Public Service Commission, Through Its
Secretary, Ghungroo Ghati, Ajmer

----Respondent

S.B. Civil Writs No. 13207/2018

Vishal Sharma S/o Niranjn Lal Sharma, R/o Behind Meena
Dharamshala, Nayabas, District Alwar, Rajasthan

----Petitioner

Versus

The Rajasthan Public Service Commission Through Its Secretary,
Ajmer

----Respondent

S.B. Civil Writs No. 14430/2018

Surekha Choudhary D/o Jagdish, Aged About 22 Years, R/o Near
Sheetala Mata Temple, Veer Teja Colony, Manasar, Nagaur,
Rajasthan

----Petitioner

Versus

The Rajasthan Public Service Commission Through Its Secretary,
Ajmer

----Respondent

S.B. Civil Writs No. 23696/2018

Harish Chand Meena S/o Shri Puran Mal Meena, Aged About 22
Years, Resident Of Village Parasiya Ajmer Road, Madanganj,
Kishangarh, Ajmer (Raj.)

----Petitioner

Versus

- 1 State Of Rajasthan, Through The Principal Secretary, College
Education, Govt. Secretariat, Jaipur (Raj.)
- 2 The Commissioner, College Education, Srk Shiksha Sankul, J.
L. N. Marg, Jaipur (Raj.)
- 3 The Rajasthan Public Service Commission, Through Its
Secretary, Ghoghra Ghati, Ajmer (Raj.)

----Respondents



S.B. Civil Writs No. 12421/2018

Rakesh Bokan S/o Ramphool Boken, aged about 24 years, R/o 67, Village and Post Harchandra, Tehsil and District Tonk, Rajasthan.

-----Petitioner

Versus

The Rajasthan Public Service Commission Through Its Secretary, Ajmer

-----Respondent

For Petitioner(s)	:	Mr. Himanshu Jain, Mr. Ram Pratap Saini, Mr. Tanveer Ahamad
For Respondent(s)	:	Mr. Pradeep Kalwaniya, Government Counsel, Mr. MF Baig

HON'BLE MR. JUSTICE ALOK SHARMA

JUDGMENT

06/03/2019

All these petitions agitate a common question of law and therefore, are being disposed by this common judgment, where necessary facts of S.B. Civil Writ Petition No. 20542/2017 – Asha Meena Versus RPSC will be adverted to.

The matter in issue pertains to appointments to the post of College Lecturer in different subjects under the Rajasthan Education Service (Collegiate Branch) Rules, 1986 (hereafter 'the Rules of 1986').



Vide advertisement dated 12.1.2015, the respondent RPSC invited applications for appointment to the post of College Lecturers in various subjects under the Rules of 1986. As per condition no. 2 of the advertisement aforesaid, the age of a candidate was required to be minimum 21 years as on 1.7.2015 and maximum 35 years as on the aforesaid date.

All the petitioners admittedly do not reach 21 years as on 1.7.2015. The petitioner Asha Meena, with reference to the facts of whom the issue in these petitions is being addressed, was born on 10.7.1994, and was 9 days short of 21 years as of 1.7.2015. Her's as also of the other petitioners' candidature for being considered for appointment to the post of College Lecturer pursuant to the advertisement dated 12.1.2015 and Rule 10 of the Rules of 1986 therefore came to be rejected. Hence these petitions.

Mr.Himanshu Jain appearing for the petitioner Asha Meena submitted that the advertisement dated 12.1.2015 was first amended by way of Corrigendum / Press Note dated 25.2.2015 and the last date for submission of applications was



enhanced to 26.3.2015 from the earlier date i.e. 27.3.2015.

Further by other Corrigendums / Press Notes, the last date for

submission of applications pursuant to the advertisement dated

12.1.2015 was extended upto 31.3.2015. Subsequently by

Corrigendum dated 15.10.2015 to the advertisement dated

12.1.2015, the number of posts of College Lecturers in the subject

of ABST was enhanced to 45 from 20 posts earlier advertised and

the last date for receipt of the applications was extended to

16.11.2015. Mr. Himanshu Jain submitted that the number of

posts of College Lecturer (ABST) being substantially enhanced

from 20 to 45 vide Corrigendum dated 15.10.2015 moreso in

contravention of Rule 16 of the Rules of 1986, it was wholly

arbitrary to confine the 21 years minimum age as on 1.7.2015. He

submitted that as on 16.11.2015, the extended date for

submission of applications, the petitioner had attained more than

21 years of age and therefore ought to have been considered to

be eligible treating the minimum age requirement of 21 years as

of 1.7.2016 not 1.7.2015. Mr. Himanshu Jain has placed reliance

on the judgment of Punjab and Haryana High Court in the case of



Harman Preet Singh Wadhwa & Ors. Versus State of Punjab & Ors. reported in 2016 (2) S.C.T. 302 as also in the case of Kavita Rani and Ors. Versus Haryana Staff Selection Commission reported in 2011 LIC 289 in support of his contentions.

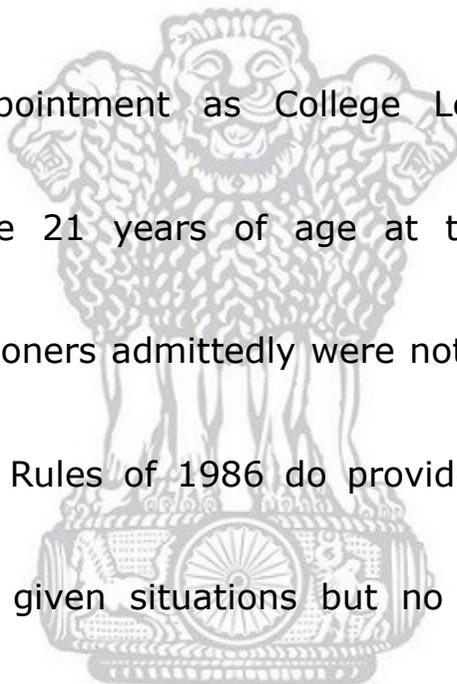
Mr. RP Saini and Mr. Tanveer Ahamad appearing for the petitioners in the connected petitions submitted that the vacancies on the post of College Lecturer in various subjects enhanced by the Corrigendum dated 15.10.2015 were vacancies of the subsequent year, in respect of which the minimum age of 21 years prescribed under Rule 10 of the Rules of 1986 and in the advertisement dated 12.1.2015 as of 1.7.2015, ought to have been of the first of July of the subsequent year i.e. 1.7.2016. They submitted that in the event the minimum age was so reckoned, the petitioners albeit not 21 years of age as on 1.7.2015, had the requisite minimum age requirement as of 1.7.2016 and were therefore eligible to participate in the recruitment process to the posts of Lecturer College Education in various subjects pursuant to the advertisement dated 12.1.2015, as amended by Corrigendums from time to time.



Per contra, Mr. MF Baig and Mr. Pradeep Kalwaniya, GC, appearing for the RPSC and State Government respectively submitted that the issue of the petitioners being eligible for recruitment to the post of College Lectures in various subjects pursuant to the advertisement dated 12.1.2015 has to be addressed in terms of conditions of the advertisement with regard to the minimum age and Rule 10 of the Rules of 1986. They submitted that under both the criteria above, candidates for being considered for appointment as College Lecturers in various subjects had to be 21 years of age at the minimum as of 1.7.2015. The petitioners admittedly were not so. Counsel further submitted that the Rules of 1986 do provide for enhancing the upper age limit in given situations but no rule even remotely addresses the issue of lowering the minimum age limit, as sought by the petitioners. Counsel further submitted that in the petitions, as laid, it is not the case of the petitioners that the enhanced vacancies under the Corrigendum dated 15.10.2015 to the advertisement dated 12.1.2015 related to the subsequent years. They further submit that even otherwise the mere bald assertion



RAJASTHAN HIGH COURT



सत्यमेव जयते



on this count in the rejoinder is an after-thought and without foundational factual support. The petitioners in the rejoinder also cannot be allowed to set up a case different from that set up in the main petition. Counsel further submitted that admittedly the initial advertisement for recruitment to the post of College Lecturers in various subjects was issued on 12.1.2015 provided that the RPSC would be at liberty to enhance or reduce the number of vacancies advertised. The Corrigendum dated 15.10.2015 was issued in the context of the aforesaid discretion vested in the RPSC.

Heard. Considered.

Condition no. 2 of the advertisement dated 12.1.2015 categorically provides that the candidates applying for consideration to the posts of College Lecturer in various subjects had to attain the age of 21 years on or before 1.7.2015. That condition is not under challenge before this Court. Similarly, Rule 10 of the Rules of 1986 also so provides. It would be appropriate to also record that said Rule is not under challenge. I am of the considered view that in this view of the matter the



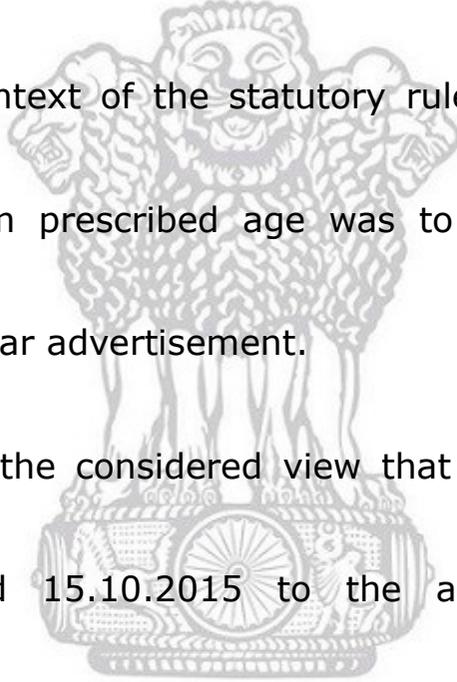
context of the condition of the advertisement dated 12.1.2015 and Rule 10 of the Rules of 1986 the petitioners admittedly not having attained the minimum age of 21 years of age as on 1.7.2015 cannot be considered for appointment on the said post.

Reliance by Mr. Himanshu Jain on the case of Harman Preet Singh Wadhwa & Ors. (supra) as also in the case of Kavita Rani and Ors. Versus Haryana Staff Selection Commission (supra) is in-apposite and of no avail as the said judgments have not been rendered in the context of the statutory rule as to the date by which the minimum prescribed age was to be attained in the context of a particular advertisement.

I am of the considered view that even otherwise the Corrigendum dated 15.10.2015 to the advertisement dated 12.1.2015 did not entail the variation of the conditions thereof including that of minimum age by the notified date unless a provision therefor was specifically made. The Corrigendums to the advertisement dated 12.1.2015 made on 25.2.2015, 27.3.2015 and of 15.10.2015 when the number of vacancies to which recruitment as College Lecturer in various subjects under the



RAJASTHAN HIGH COURT



सत्यमेव जयते



Rules of 1986 was enhanced, did not vary the condition with regard to the date by which the minimum age for participation in the recruitment process was to be reckoned. It is also relevant to note that the petitioners cannot take a new plea by way of a rejoinder and their case has to be confined, as of necessity with reference to the rule of pleadings, to the one as set up at the time of filing of the writ petition. Further there is no supporting material on record of the petition placed by the petitioners to even prima facie make out a case on this count. Mere bald assertion cannot be of any avail.

In the context of the aforesaid facts, I find no force in the petitions. They are accordingly dismissed.

Consequent upon the dismissal of the writ petition, the stay orders, where passed, in the writ petitions stand vacated. Resultantly the stay application as also the other applications connected with the writ petitions stand dismissed.

Registry is directed to place a copy of this judgment in each connected file.

(ALOK SHARMA),J



DK



RAJASTHAN HIGH COURT



सत्यमेव जयते