



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

D.B. Special Appeal (Writ) No. 1133/2022

In

S.B. Civil Writ Petition No.7811/2022



1. State of Rajasthan, Through Principal Secretary, Department of Home, Secretariat, Jaipur.
2. The Director General of Police, Rajasthan, Police Head Quarters, Near Nehru Place, Lalkothi, Tonk Road, Jaipur.

-----Appellants

Versus

1. Raghu Nandan Pal S/o Shri Kanwar Mahendra Pal, Aged About 33 Years, R/o Kanwar Ka Nangal, Post Dabla, District Sikar (Rajasthan).
2. Rajasthan Public Service Commission, Through Its Secretary, Ajmer.

-----Respondent/Petitioner

---Performa/Respondent

For Appellant(s)	:	Mr. Samee Khan on behalf of Mr. Bhunesh Sharma, AAG
For Respondent(s)	:	Mr. Mirza Faisal Baig

**HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJEET PUROHIT**

JUDGMENT

04/08/2025

1. The present appeal has been preferred assailing the order and judgment dated 27.05.2022 passed by the learned Single Judge, whereby the learned Single Judge allowed the writ petition and set-aside the rejection of candidature of the writ petitioner on account of his non-appearance in the Physical Efficiency Test (PET). Learned Single Judge further directed the respondents to



fix a date within a period of four weeks for holding the PET for the writ petitioner.

2. Learned counsel appearing on behalf of the appellant-State submits that the impugned order is in contravention of the judgment rendered by the Division Bench of this Court in D.B. Special Appeal (Writ) No.1129/2022 (*State of Rajasthan & Anr. vs. Bharat Yadav & Anr.*), decided on 09.11.2022, wherein such a course adopted by the Division Bench in the case of "**Dropadi Jyani vs. State of Rajasthan & Ors.**", dated 30.01.2020, was upheld.

3. Notices were issued in this appeal. Despite service, none has appeared on behalf of the respondent-writ petitioner.

4. A look at the facts of the present case reflects that the writ petitioner had qualified the written examination for the post of Police Sub-Inspector and due to medical ground/reason, he failed to appear in the PET held by the respondents more than once. In spite of two chances given to him and on account of non-appearance, his candidature was rejected. He approached the Court with the grievance that due to fracture, he could not appear and prayed for re-conducting the PET for him. The learned Single Judge has allowed the petition holding as under:

"On perusal of the record, I am of considered view that the rejection of the candidature of the petitioner on the ground that he failed to appear in the PET cannot be held to be valid and justified as the reason/circumstance shown by



the petitioner about his nonappearance in the PET was beyond his control and therefore, in the facts and circumstances the respondents need to be directed to hold the PET again for the petitioner."

5. Thus we find that the learned Single Judge has taken a view that if a candidate is not able to appear for PET, for the reasons beyond his control, he should be allowed to participate by holding separate PET for him.

6. If we apply this principle generally to all the circumstances, it would result in indefinite delay in conducting and making selections. There can be scores of reasons, when a candidate is unable to appear for any test, it may be on account of his physical condition, it may be on account of other circumstances like social commitments, his own marriage or on account of environmental issues due to extreme rain conditions or earthquake etc. However, the question arises whether this Court can take a view and allow a particular candidate who comes before it to get re-examination done only for him alone. It is completely a different aspect where the examining body itself takes a decision to re-conduct the PET. We also noticed that in the present case, two chances were given to the candidates and they could not avail it.

7. We, therefore, would not subscribe to the view taken by the learned Single Judge and we are supported by the view taken by the Division Bench of this Court in D.B. Special Appeal (Writ) No.1129/2022 (*State of Rajasthan & Anr. vs. Bharat Yadav &*



Anr.), decided on 09.11.2022, wherein the Co-ordinate Bench held as under:

"4.Learned counsel for the appellant-State submits that the controversy regarding physical efficiency test of the respondent No.1 is covered by the decision of the Division Bench of this Court dated 30.01.2020 passed in D.B. Special Appeal Writ No.1310/2019, Dropadi Jyani Vs. State of Rajasthan & Ors. In the said case, the petitioner had filed a writ petition seeking direction upon the State-respondents to conduct physical efficiency test of the petitioner for the post of Sub-Inspector/Platoon Commander on her recovery from the injury. The writ petition was dismissed on the basis of the decision of the Co-ordinate Bench rendered in S.B. Civil Writ Petition No.14086/2018, Sunil Kumar Jani Vs. State of Rajasthan & Ors., decided on 18.09.2018, against which the special appeal was dismissed on 14.11.2018.

5. In view of the aforesaid decision of the learned Single Judge in the case of Sunil Kumar Jani (supra), which was upheld by the Division Bench, the decision of the learned Single Judge allowing the writ petition filed by the petitioner-respondent No.1 cannot be accepted.

6.In view of the above, as the controversy regarding conduction of





physical efficiency test of the respondent No.1 for the post of Sub-Inspector/Platoon Commander is covered by the above decision in Sunil Kumar Jani's case (supra), which has been affirmed by the Division Bench and followed by another Division Bench in Dropadi Jyani's case (supra), we are of the opinion that this appeal deserves to be allowed and the judgment and order of the learned Single Judge directing for conducting physical efficiency test of the respondent No.1 deserves to be set aside and the same is hereby set aside."

8. In view of the above and considering that the judgment passed by the Co-ordinate Bench of this Court in D.B. Special Appeal (Writ) No.1129/2022 (*State of Rajasthan & Anr. vs. Bharat Yadav & Anr.*), has already been tested and upheld by the Hon'ble Apex Court in **Special Leave Petition (Civil) Diary No.6622/2023**, vide order dated 24.02.2023, we are of the considered opinion that the order passed by the learned Single Judge dated 27.05.2022, deserves to be set aside.

9. Accordingly, the judgment and order dated 27.05.2022 passed by the learned Single Judge is hereby set aside. The present Special Appeal (Writ) stands allowed.

10. All pending application(s), if any, shall stand disposed of.

(SANJEET PUROHIT),J

(SANJEEV PRAKASH SHARMA),J

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