



IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
AT JODHPUR

ORDER

S.B.Civil Writ Petition No. 6764/2015  
Rajesh Kumar vs. The Rajasthan Public Service  
Commission, Ajmer & ors.

Date of Order:

10.08.2016

**PRESENT**

**HON'BLE MISS JUSTICE JAISHREE THAKUR**

Mr. Ramdev Potaliya, Advocate, for the petitioner.  
Mr. Rajesh Punia for respondents.

**BY THE COURT:**

1. The instant writ petition has been filed under Article 226 of the Constitution of India to assail the legality and validity of the order dated 5.9.2014 issued by the Rajasthan Public Service Commission, Ajmer (hereinafter referred to as 'the RPSC') as well as order dated 3.3.2015 issued by the State of Rajasthan, whereby a decision was taken to remove the petitioner and other similarly situated recruitees from the post of Teacher Grade-III.

2. In brief, the facts are that the petitioner got admitted in B.Ed. Course being offered by the college affiliated to Jiwaji University, Gwalior(Madhya Pradesh) in the year 2006. The petitioner appeared in the final examination and cleared the same. The result of the B.Ed. examination was to be published and the marks-sheet was to be issued to the candidate after the examination was concluded. However, for some reason, the result was declared by the University in the year 2007. The





marks-sheet and certificate of the petitioner was withheld by the University because of the pendency of the litigation between the colleges affiliated to the University and the State of Madhya Pradesh before the Apex Court.

3. The RPSC issued an advertisement dated 30.10.2006 inviting applications for filling up district wise vacancies for the post of Teachers(Primary and Upper Primary Schools). The advertisement bore special conditions that the candidates applying should have obtained requisite educational qualification uptill the last date of submission of the application form, i.e. 16.12.2006. Thereafter a corrigendum dated 30.11.2006 was issued by the RPSC wherein the candidates appearing/appeared in B.Ed./B.S.T.C./D.S.E/B.Ed.(Special Education) Examination were declared eligible for applying in pursuance to the aforesaid advertisement with a condition that the candidates concerned shall have to submit the certificate of obtaining professional qualification of the result of the examination.

4. The writ petitioner herein claimed that being eligible, he applied for the post advertised by the RPSC. He appeared in the written examination as conducted and the result thereof was declared by the Commission on 16.3.2007. By the public information in the news-papers, RPSC informed the successful candidates to submit proof of attaining qualifications by 31.3.2007. The petitioner claimed that he had secured higher marks than the cut-off marks in his category. The cut-off list by the RPSC was rectified on the basis of a judgment rendered by the High Court and a fresh cut-off list dated 30.9.2014 was





issued by the RPSC, whereby the cut-off marks of the respective candidate was brought down. The petitioner, thus stood in merit as per the result of the examination, but unfortunately, the result of B.Ed. was not published and issued by the Jiwaji University upto the cut-off date prescribed by the RPSC, i.e. 16.3.2007 due to the pendency of the SLP and thus, he was denied appointment on account of failure to submit his B.Ed. documents within the cut-off date. The result was finally declared by the University with retrospective effect, i.e., 23.1.2007. The petitioner was denied appointment on which he filed writ petition before this Court. The writ petition was disposed of with the directions to the RPSC and Education Department to consider his case. In compliance of the judgment passed by this Court, the RPSC issued a merit list of candidates who obtained qualifications from Jiwaji University, Gwalior and the petitioner was declared successful as per his standing in the merit list. Consequently, on the recommendations made by the RPSC, the Commissioner, Elementary Education, Rajasthan issued order dated 23.10.2012 whereby the petitioner and those similarly situated were offered appointments. After two years of successful probation, the petitioner was confirmed in service. Without affording any opportunity of hearing or without giving notice to the candidate, the RPSC by order dated 5.9.2014 has withdrawn the recommendation made for appointments to the post of Teacher Grade-III and the State Government has issued the impugned order dated 3.3.2015 whereby the services of 633 candidates who have secured B.Ed. degree from Jiwaji





University, Gwalior have been terminated. Against the termination order, the present writ petition have been filed.

5. Learned counsel appearing on behalf of the petitioner contends that the action of the respondents-authorities in terminating his services without adhering to the principles of natural justice, is unsustainable. It is also argued that the action of the RPSC of withdrawing recommendation is without any basis and application of mind. It is contended that after having allowed the petitioner and other similarly situated to work for a substantial length of time, the termination, is wholly unjustified.

6. It is also argued that the controversy in hand pertaining to the petitioner stands settled in **Rajasthan Public Service Commission, Ajmer through its Secretary vs. Bhumika Vyas & ors., D.B. Civil Special Appeal Writ No.657/2013** decided on 31.3.2016. The Division Bench considered the case of students of Jiwaji University, Gwalior who were students of B.Ed.(Academic Session 2005-06) as to whether they would be eligible for appointment pursuant to the advertisement issued by the RPSC for appointment to the post of Teacher Grade-III. The Division Bench took note of the exceptional circumstances pertaining to the students of Jiwaji University, Gwalior who appeared in B.Ed. examination(Academic Session 2005-06) and noted that their result was declared in September, 2008 on the intervention of the Apex Court. The Division Bench came to hold as under:-

*"We find substance in the submission made by the appellants' counsel and the exception was only in*





*regard to the students of B.Ed. Course of Jivaji University, Gwalior (Academic Session 2005-06) alone and such benefit could not have been extended to other candidates and they cannot claim any parity and they are not the candidates similarly situated and orders passed in regard to such of the candidates who have qualified B.Ed. from Universities other than Jivaji University, Gwalior and failed to hold their qualifying degree on 16.3.2007 which was the cut-off date certainly could not be considered eligible to participate in the selection process even if they are placed in the order of merit and being ineligible candidate no right could be conferred in their favour for appointment and the State authorities are at liberty to cancel such appointments after due compliance of the principles of natural justice and in accordance with law."*

7. It is contended by the learned counsel for the petitioner that the petitioner is similarly situated, as he appeared for the B.Ed. Course of Jivaji University, Gwalior (Academic Session 2005-06) and thus would be entitled to the same benefit as given to the other similarly situated candidates as per the decision rendered in Rajasthan Public Service Commission, Ajmer through its Secretary vs. Bhumika Vyas & ors. (supra).

8. The learned counsel appearing on behalf of the respondents has very fairly stated that as per the Division Bench at Jaipur, the students of B.Ed. of Jivaji University, Gwalior would be considered eligible.

9. In view of the above, the writ petition is allowed holding that the students of B.Ed. Course of Jivaji University, Gwalior (Academic Session 2005-06) alone can be considered for appointment to the post of Teacher Grade-III, if otherwise





meritorious.

10. Hence, the above noted writ petition is disposed of in the light of the order and judgment rendered in Rajasthan Public Service Commission, Ajmer through its Secretary vs. Bhumika Vyas & ors. and the impugned orders dated 5.9.2014 and 3.3.2015 are hereby set aside.

**(JAISHREE THAKUR), J.**

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