



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 16825 / 2017

1. Mukesh Kumar Dhaka S/o Shri Mahaveer Prasad Dhaka, Aged About 33 Years, Resident of Village Post Phephana, Tehsil Nohar, District Hanumangarh (Raj.)

2. Surendra Kumar Saharan S/o Devilal, Aged About 40 Years, Resident of Village Post Phephana, Tehsil Nohar, District Hanumangarh (Raj.)

----Petitioners

Versus

1. State of Rajasthan Through the Secretary, Rural & Panchayati Raj Department, Government of Rajasthan, Jaipur, Rajasthan.

2. Chief Executive Officer, Zila Parishad, Hanumangarh (Rajasthan).

3. District Establishment Committee Through Its Chairman, Zila Parishad, Hanumangarh, Rajasthan.

----Respondents

For Petitioner(s) :Mr. Ramdev Potalia

For Respondent(s) :Mr. Vikas Choudhary for Mr. SS Ladrecha, AAG

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI

Order

02/01/2018

1. The petitioner has preferred this writ petition under Article 226 of the Constitution of India with the following prayers:

"1. By an appropriate writ, order or direction, the respondents may kindly be directed to grant the appointment to the petitioners on the post of Teacher Grade-III (Level-II) with all consequential benefits and from the date of appointment to the lesser meritorious and appointed candidates.

2. By an appropriate writ order or directions, the respondents may kindly be directed to grant appointment to the petitioners on the post of Teacher



Grade-III (Level-II) in subject Social Studies as the lower meritorious candidates are already working on the post of Teacher Grade III (Level-II).

3. By an appropriate writ order or directions, any adverse order passed due to revising of merit against the petitioners may kindly be quashed and set aside.

4. Any other appropriate writ, order or directions which this Hon'ble Court may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioners.

5. Writ petition filed by the petitioners may kindly be allowed with costs."

2. Learned counsel for the parties states the matter is squarely covered by the judgment rendered by a coordinate Bench of this Court in **Mukesh Kumar Tailor Vs. State of Rajasthan (S.B. Civil Writ Petition No.750/2017**, decided on 09.02.2017, the judgment reads as under :-

"All the abovementioned writ petitions shall stand disposed of by this common order as the issue involved is identical.

The facts in short are that the respondent-Zila Parishad issued the advertisement dated 24.02.2012 for recruitment to the post of Teacher Grade III-2012. The selections made in pursuance to the said advertisement were challenged before this Court. Subsequently, the Division Bench of this Court vide judgment and order dated 08.12.2014 passed in Manju Choudhary & ors. Vs. State of Rajasthan & ors. (DB Civil Special Appeal (Writ) No.35/2014)), while partly allowing the Special Appeals passed the following directions:

"We do not find any error of law and agree with the reasoning given by learned Single Judge in Ramdhan Kumawat V/s The State of Rajasthan & anr. (supra), pursuant to which the results have to



be 14 revised after fresh evaluation of answers. The revision of select list is thus not complete and the process is still open. In the circumstances, in order to allay any apprehension and to protect the interest of the appellants-petitioners, who were appointed, and are under constant threat on the revision of lists under directions of the Court, without any fault attributed to them, we find it appropriate to quash the order dated 30.8.2013 passed by the Secretary and Commissioner, Gramin Vikas and Panchayati Raj Department (Panchayati Raj Primary Education), Government of Rajasthan, Jaipur, to the extent that it directs termination of services of those persons, who were ousted from selections on the declaration of the first revised results. We direct that at this stage, they will not be ousted from service. The termination orders passed, if any, consequent to the orders dated 30.8.2013, are set aside. The directions given by learned Single Judge in *Ramdhan Kumawat V/s The State of Rajasthan & anr. (supra)*, namely, that the Expert Committee will issue model answer keys afresh and that the results will be revised in accordance with such keys, will be given effect to, leaving the question of its correctness open. The State Government will be at liberty to pass fresh orders, after revising the results and adjusting equities protecting the interest of the appellants-petitioners, to the extent that they will not be ousted from the select list and will be placed as far as possible at the bottom of the revised select list."

As a result, all those candidates whose names appeared in the revised list were granted appointment and those who had already stood selected, continued to remain in service in spite of the fact that their names no more figured in the revised list. The outfall is that there were many candidates whose names were not in merit in the first list but as per the revised result got more marks than those who were allowed to continue in service by the order of the High Court even though, they now had less marks than the petitioners. The Special Leave Petition against the judgment and order dated





08.12.2014 was also dismissed. Thus, as on date, all those candidates who had got less marks than the petitioners are continuing to be retained in service and the same has resulted in filing of number of writ petitions by candidates who now have more marks as per the revised result. Thus, the grievance of the petitioners is that in pursuance to the same selection, the candidates less meritorious to the petitioners are continuing in service, whereas, as per the revised result, the petitioners have got more marks than those who are retained in service by the order of the Court. In short, those who had got less marks than the petitioners are still continuing in service.

The matter having been settled uptill Hon'ble Supreme Court, the candidates who were appointed in pursuance to the first list shall have to be permitted to continue. The respondent- State taking into account the grievance of the petitioners have tried to workout the possibility to adjust as many as candidates as possible from amongst those who have got more marks than the last candidate selected to the extent of the vacancies still available out of the advertised vacancies.

Learned Additional Advocate General has filed the reply in some of the petitions and has placed on record the order dated 08.02.2017 showing that the Department is trying to ascertain the factual position of the vacancies in each of the Zila Parishads and also taking into account the bifurcation of the vacancies as per the reservations. It is stated that the detail of the vacancies for some of the Zila Parishads have been received and from some of the Zila Parishads, it is likely to be received in few days time and after the whole process is completed, they shall offer the appointment after verification of their documents to the most meritorious candidates from amongst those who have got more marks than the last





candidate still working with the department in pursuance to the selection of the advertisement dated 24.02.2012.

In view of the fair stand taken by the respondent State and appreciating the exercise being undertaken by them to meet the situation in hand, all the abovementioned writ petitions are disposed of as under:

a. The respondent-State shall workout the vacancies in each of the Zila Parishads as expeditiously as possible. Thereafter, the list shall be prepared of the candidates who have got more marks than the last candidate still working with the department in pursuance to the directions of this Court passed in Manju Choudhary's case (supra).

b. Thereafter, the candidates as per the ratio of 1:2 of the vacancies available shall be called for the verification of the documents and the appointments shall be given to such like eligible candidates as per their merit equivalent to the vacancies available with the department.

c. This Court is aware that some of the candidates are bound to be left out even though they have got more marks than the last candidate but taking into account the limited number of vacancies, the said candidates shall have to try their luck in the next recruitment process afresh.

d. The said process be completed as expeditiously as possible preferably within 06 months from today.

The writ petitions are disposed of accordingly."

3. In light of the aforequoted judgment, the writ petition is disposed of in the same terms.

(DR. PUSHPENDRA SINGH BHATI)J.

sudheer

