
(2022) 02 RAJ CK 0080

In the Rajasthan High Court

Case No : S.B. Civil Writ Petition No. 2546, 2608 Of 2022

Manish Mathur And Others

APPELLANT

Vs

Rajasthan Public Service Commissioner

RESPONDENT

Date of Decision : 18-02-2022

Acts Referred:

Citation : (2022) 02 RAJ CK 0080

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : R.J. Punia, Tarun Joshi

Final Decision : Dismissed

Judgement

Arun Bhansali, J

These writ petitions have been filed by the petitioners, candidates at RAS and RTS exam, seeking change in category from General to General, Non-Gazetted Employee ('NGE').

It is inter alia submitted that as the petitioners are in service, while filling up the form, they were to seek the category as General, NGE, however, due to inadvertence, they could not seek the NGE category. They appeared in the preliminary examination, which they cleared and fall in the cut-off. It is only when the result was declared, the petitioners became aware of the fact that they had not claimed their status as NGE and, therefore, immediately moved the respondent – RPSC for change of category.

It is claimed that the petitioners were required to deposit fees of Rs.300/- each, which the petitioners have done, however, the respondents have not done the needful and the main examinations are scheduled to start from 25th of February, 2022, and therefore, the respondents be directed to do the needful.

Learned counsel for the petitioners made submissions that the respondents are not justified in not correcting the mistake, inasmuch as, at this stage change in

category would not affect anyone as the petitioners already stand in cut-off for the preliminary examination and, therefore, the petitions be accepted and the respondents be directed to correct the category of the petitioners.

Learned counsel appearing for the RPSC on caveat made submissions that prayer made by the petitioners seeking correction in the category after preliminary examination, cannot be accepted as the issue is no more res integra and is covered by two Division Bench judgments in Piyush Kaviya & Ors. v. RPSC and Ors.: D.B. Special Appeal Writ No.198/2018, decided on 10.4.2018 and Rajasthan Public Service Commission v. Yogita Yaduvanshi: D.B. Civil Special Appeal (Writ) No.804/2020, decided on 19.3.2021 at Jaipur Bench.

Further submissions have been made that as many as four opportunities are granted to the candidates to check the entries in the application form, inasmuch as, as soon as the application form is submitted, message is flashed to candidates regarding their name and the category, in which, the form has been filed.

Further, in the instructions contained in the advertisement, three more opportunities at different stages wherein the last been within 10 days of the preliminary examination, have been granted for seeking change in the application form. The petitioners apparently despite being aware of the same, as the category is also indicated in the admission card, don't seek the changes and as such the petitioners are not entitled to any relief and the petitions deserve dismissal.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

The submission made by learned counsel for the respondent – RPSC is duly supported by the stipulation made in the advertisement, wherein, various opportunities at different stages are available to the candidates for seeking corrections / changes in the application form.

Further, the admission card of the petitioners also clearly indicates petitioners' category and as the petitioners have not availed the various opportunities granted, apparently the petitioners have been negligent in this regard.

The Division Bench in the case of Piyush Kaviya (supra), inter alia, came to the following conclusion:-

"32. The writ petitioners were negligent. They never disclosed in the on-line application forms submitted that they were nongazetted Government employees. Thus, it was too late in the day for them to seek change in the category in which they had applied after the admit cards were issued by informing the Commission that they were non-gazetted Government employees.

33. The appeals are allowed. Impugned orders of even date i.e. 24.11.2017 are set aside. S.B.Civil Writ Petition No.4440/2017 filed by Sajjan Singh, S.B.Civil

Writ Petition No.10812/2017 filed by Birda Ram Bishnoi and S.B.Civil Writ Petition No.4466/2017 filed by Purshpendra Singh Rajawat are dismissed.”

In the case of Yogita Yaduvanshi (supra), the Division Bench came to the following conclusion:-

“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.”

In view of the above fact situation as well as the legal position, the petitioners are not entitled to any relief. The petitions are, therefore, dismissed.