
(2018) 04 RAJ CK 0156

In the Rajasthan High Court

Case No : Spl. Appl. Writ No. 198, 209, 593, 594, 596 of 2018

Piyush Kaviya @APPELLANT@Hash Rajasthan Public Service Commission

Date of Decision : 10-04-2018

Acts Referred:

Rajasthan State and Subordinate Services (Direct Recruitment by Combined Competitive Examination) Rules, 1999 — Rule 4(1), 15
Income Tax Rules 1962 — Rule 10(4)

Citation : (2018) 04 RAJ CK 0156

Hon'ble Judges : PRADEEP NANDRAJOG, CJ; VINIT KUMAR MATHUR, J

Bench : Division Bench

Advocate : R.N.Mathur, Lokesh Mathur, J.P.Joshi, Siddharth Joshi, Khet Singh, M.S.Singhvi, Kuldeep Mathur, Vivek Aggarwal

Final Decision : Allowed

Judgement

Pradeep Nandrajog, CJ

1. Sajjan Singh was the writ petitioner in S.B.Civil Writ Petition No.4440/2017. Birda Ram Bishnoi was the writ petitioner in S.B.Civil Writ Petition

No.10812/2017. Purshpendra Singh Rajawat was the writ petitioner in S.B.Civil Writ Petition No.4466/2017. The writ petitions were heard together

and detailed judgment was pronounced on 24.11.2017 in the writ petition filed by Sajjan Singh. Incorporating the reasoning in said decision dated

24.11.2017, vide order of even date i.e. 24.11.2017, the other two writ petitions were also disposed of. The writ petitions were allowed.

2. The central issue which arises for consideration on the pleadings of the parties before the learned Single Judge related to the interpretation of Note

No.5 of the admit card issued to the three writ petitioners.

3. Before noting the language of Note No.5 of the admit card, the background facts need to be noticed.

4. An advertisement was issued by RPSC on 28.4.2016 inviting applications from eligible candidates to fill up various posts notified in the

advertisement. The selection and appointment to the posts in question was as per the Rajasthan State and Subordinate Services (Direct Recruitment

by Combined Competitive Examination) Rules, 1999. As per the proviso to subrule (1) of Rule 4 of the Rules of 1999, 7% of the available vacancies

were reserved for candidates who are non-gazetted employees of the Government, Panchayat Samitis and Zila Parishads.

5. Under the caption "Other Details", the advertisement made it known to the applicants that applications had to be filed on-line between

10.5.2016 till the mid night of 25.6.2016. Under the subject "Amendment in the on-line application forms", it was made known to the candidates

that amendment in the on-line application forms could be made between 26.6.2016 till 12.00 mid-night of 25.7.2016.

6. Under the caption "Special Information" it was indicated to the candidates that if any applicant desired amendment in the on-line application

form he had to do so within 30 days of the last date of submission of the application forms and that after said date no correction or amendment was

permissible in the application forms.

7. Relevant would it be to highlight that the information given to the candidates as special information was in conformity with what was indicated in the

advertisement concerning the period within which amendments could be made to the on-line application forms.

8. The writ petitioners submitted their on-line applications before the cut off date prescribed and unfortunately for them while filling up the on-line

application form they simply indicated that they were in Government service. None indicated that the post they were holding was a non-gazetted

post.

9. As per the Rules of 1999, vide Rule 15, the competitive examination had two stages. A preliminary examination and a main examination. Those

who qualified at the preliminary examination were to be short listed and only fifteen times the number of vacancies to be filled up were to be admitted

to the main examination. The three writ petitioners cleared the preliminary examination and were issued admit cards for the ensuing main examination

which was scheduled to be held on 28th and 29th January, 2017. The admit card

recorded the name, father's name as also the category in which the writ petitioners had applied and there is no dispute that said particulars in the admit card are correct. Note No.5 of the admit card which fell for interpretation before the learned Single Judge provides that the applicant must verify that in the admit card his name, father's name, date of birth and category etc. are correct and if any correction is desired he may submit an application to the office of the Commission with a postal order in sum of ₹ 300/-. After the date of the examination no application for correction shall be entertained.

10. The writ petitioners, on receipt of the admit card, submitted applications before the date of the examination informing that by mistake they did not indicate that they were applying in the category of non-gazetted Government servants and prayed to the Commission that said fact be recorded and amended admit card be issued to them.

11. The writ petitioners besieged the Commission with the reasoning given that Note No.5 in the admit card gave an opportunity to them to amend the application forms submitted online by them.

12. The stand of the Commission was that Note No.5 in the admit card did not give any opportunity to make any correction in the on-line application forms, which correction could be made, as indicated in the advertisement, only up till 12.00 mid night of 25.7.2016 and that Note No.5 in the admit card pertained to corrections to be made in the admit card by amending the same if there was a mismatch between what was filled up by way of particulars in the admit card by the Commission and put on-line vis-a-vis what was disclosed by the candidates in the on-line application forms.

13. The Commission also took the stand that on 7th May, 2015 it had taken a decision that no corrections would be accepted by the Commission in the application forms after the last date for making corrections in the admission forms as indicated in the advertisement had elapsed.

14. The view taken by the learned Single Judge is that the Commission did not make it known to the applicants that on 7.5.2015 it had passed a resolution as per which no corrections in the application forms were permissible after the last date notified in the advertisement for making corrections had elapsed. The learned Single Judge interpreted Note No.5 in the admit card as giving an opportunity to the applicants to make corrections in the

application forms submitted. The learned Single Judge held that accordingly the Commission would be estopped from pleading that the corrections

could not be made in the application forms after the last date notified for making corrections in the advertisement inviting applications had elapsed.

15. Seeking leave to appeal, Piyush Kaviya and others only challenged the decisions in favour of Sajjan Singh and Purshpendra Singh Rajawat for the reason they appear not to be in knowledge of the decision in favour of Birda Ram Bishnoi. Leave to appeal was granted to them because they were the affected candidates. RPSC challenges the three decisions in favour of the three writ petitioners.

16. Shri R.N.Mathur, learned Senior Counsel for Piyush Kaviya and others and Shri J.P.Joshi, learned Senior Counsel for RPSC submitted the same arguments. The arguments were a reiteration of the stand of the Commission with respect to various clauses contained in the advertisement inviting applications and the language of the admit card.

17. With respect to the view taken by the learned Single Judge that the Commission's decision dated 7.5.2015 was not made known to the candidates, learned Senior Counsels for the appellants urged that it is the content of decision which is required to be made known and it hardly matters whether the date of the decision is indicated in the information made known to the public at large. The argument was that in the advertisement inviting applications it was clearly mentioned that amendment in the application forms could be made till the mid night of 25th July, 2016 and by way of special information it was made known that no corrections would be permissible in the application forms after the last date by which the corrections could be made had elapsed.

18. Per contra, Shri M.S.Singhvi, learned Senior Counsel for the writ petitioners urged that the view taken by the learned Single Judge was correct and adopted the reasoning given by the learned Single Judge.

19. With respect to the issue concerning the decision of the Commission dated 7th May, 2015, learned Senior Counsel cited the decision of a Division Bench of this Court reported as 2002 WLC (Raj.) UC 228 State of Rajasthan V/s Smt.Kirti. The learned Senior Counsel also relied upon the decisions of the Supreme Court reported as (2016) 4 SCC 754 Ram Kumar Gijroya V/s Delhi Subordinate Services Selection Board & Anr. and 1998

(9) SCC 128 Seema Kumari Sharma (Mrs.) V/s State of H.P. & Anr.

20. From the facts noted hereinabove the factual position which clearly emerges is that when the Commission issued the advertisement inviting

applications from eligible candidates on 28.4.2016, it categorically made known to the candidates that online applications had to be submitted between

10th May, 2016 till mid-night of 25th June, 2016 and further that amendments could be made in the on-line application forms submitted between

26.6.2016 till the mid-night of 25.7.2016 and by way of special information it was made known that no amendment to the on-line applications would be

entertained after the last date indicated in the advertisement by which the amendment in the on-line applications could be made had elapsed. Thus, the

decision taken by the Commission on 7th May, 2015 for not permitting any amendment in the on-line application forms to be made after the last date

notified to the candidates by which amendment could be made had elapsed was made known to the candidates.

21. Thus, the reasoning of the learned Single Judge concerning the decision dated 7th May, 2015 by the Commission not being made known to the candidates is incorrect.

22. That takes us to the core issue: whether Note No.5 of the admit card gave another opportunity to the candidates to amend the on-line application forms.

23. Note No.5 is in Hindi and its English translation reads as under:-

“The applicant must verify that in the admit card his name, father’s name, date of birth and category etc. are correct and if any correction is

desired he may submit an application to the office of the Commission with a postal order in sum of ₹ 300/- before the date of examination positively.

After the date of the examination no application for correction shall be entertained. Correction will be in the discretion of the Commission.”

24. A plain reading of Note No.5 makes it very clear that attention of the candidate, to whom the admission card was issued, is drawn to the fact that

he should check up the particulars mentioned in the admission card and this would obviously mean the particulars as mentioned by the candidate in his

application form. If there is any discrepancy the same should be brought to the notice of the Commission and that said exercise must be

completed before the date of the final examination, evinced by the wording of

the Note i.e. after the date of the examination no application for correction shall be entertained.

25. In view of the unambiguous and clear language in the advertisement which gave one month time after the last date for submitting on-line applications for corrections to be made and clearly indicated that no application for correction in the on-line application forms would be accepted thereafter, there is no scope to interpret Note No.5 in the admit card as done by the learned Single Judge. That apart the language of the Note admits of no two interpretations. The language is clear. It permits the applicants to bring to the notice of the Commission any error in the admit card concerning the candidate and said error has to be a mismatch between the particulars disclosed by the candidate in the on-line application and admit card. Thus, the question of any promissory estoppel binding the Commission does not arise.

26. As regards the decisions cited by learned Senior Counsel for the writ petitioners, in Smt.Kirti's case applicability of Rule 10(4) of the applicable Rules came up for consideration. The Rules of 1962 were amended in the years 1982 and 1984. As amended the Rule required change of preference to be indicated for a particular service desired to be accepted within 30 days of declaration of the result of the written examination. The writ petitioner successfully established that she had no knowledge of the amended Rules and when she applied to the Government Press for the Rules to be issued to her in the year 1992, the original Rules, sans the amendment were provided to her. In that view of the matter relief was granted to her with additional reason that in the original application form there was no stipulation that a candidate would not be allowed to change his/her preference.

27. As noted hereinabove, in the instant case advertisement clearly indicated to the candidates that no change in the application forms would be permissible after the mid night of 25th July, 2016.

28. The decisions in Ram Kumar Gijroya's case and Seema Kumari Sharma's case do not apply in the instant case. In Ram Kumar's case the issue concerned the date by which an OBC certificate had to be submitted and the decision in Seema Kumari Sharma's case concerned assignment of marks for candidates belonging to backward areas and belonging

to IRDP families. The applicants had submitted the IRDP certificate late.

29. It needs to be highlighted that seeking public employment the number of applicants swell into thousands for every appointment offered. The cumbersome process of processing the applications manually and at each stage of the selection process manual intervention being time consuming, aid of technology is being taken. On-line applications are being received. Opportunities to correct mistakes in the on-line application forms are provided by opening a window period. When the window period closes, the forms, applications etc. as amended are processed. The computer generates the admit cards. The results of the examination are fed in the computer for various categories of posts and in the instant case, the number being 30, select list based on merits and categories are generated by the computer. The candidates need to be vigilant and specially when, as in the instant advertisement, they were cautioned time and again to check their particulars and a window period within which corrections could be made was made available to the candidates.

30. Whilst it may be true that every endeavour should be made to induct meritorious candidates but at the same time administrative inconvenience caused by permitting applicants to correct errors committed by them has to be kept in mind. It serves public interest that appointments to civil posts are made as early as possible.

31. Thus, the conflict between merit and public interest subserved by timely filling up of public posts has to be balanced. The balance is stuck in the instant case by giving a window period to the candidates to correct the on-line application forms. The balance was stuck by prohibiting any application to be submitted after last date notified.

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.

34. No costs.