

**(1993) 01 RAJ CK 0001**  
**In the Rajasthan High Court**  
**Case No : Civil Special Appeal No. 1 of 1993**

|                                                |            |
|------------------------------------------------|------------|
| Rajasthan Public Service Commission and Others | APPELLANT  |
| Vs                                             |            |
| Meetha Nath @ Meethesh Nirmohi                 | RESPONDENT |

**Date of Decision :** 28-01-1993

**Acts Referred:**

Constitution of India, 1950 — Article 162, 226

**Citation :** (1993) WLN 33

**Hon'ble Judges :** N.K. Jain, J; Jasraj Chopra, J

**Bench :** Division Bench

## Judgement

N.K. Jain, J.—This special appeal u/s 18 of the Rajasthan High Court Ordinance, 1949 is directed against the order dt. 2.12.1992 passed by learned Single Judge of this Court whereby he has allowed the writ petition filed by the petitioner-respondent No. 1.

2. The facts of this case which are necessary to be noticed for the disposal of this special briefly stated are that the appellant Rajasthan Public Service Commission (hereinafter referred as the Commission) issued an advertisement for five posts of Public Relation Officer vide advertisement No. 5/90-91 dt. 5.11.1990 (Ex. 2). The last date of submitting application form was fixed as 2.12.1990, The petitioner-respondent No. 1 applied for the post of P.R.O. and in the column of experience, he has stated that he had five years experience of working with the news-paper the Dainik Jaltey Deep and four years experience of working with the Rajasthan Sahityik Tremasik. After scrutiny, the non-petitioner appellant found that the petitioner-respondent did not possess the requisite experience of working with a news-paper of National or State level, which resulted into rejection of his candidature for want of requisite experience of five years and the same was communicated to him vide order Ex. 18 dt. 9.12.1991. The petitioner-respondent no. 1 filed a writ petition alleging inter-alia that the Dainik Jaltey Deep is widely circulated news-paper and if should be considered as a State or National level news-paper and prayed that Ex. 18 may be quashed.

3. The non-petitioner-appellant in its return has stated that the Dainik Jaltey Deep and the Rajasthan Keshri have not been recognised by the State Government as a State or National level news-paper. The State on the basis of circulation has not recognised these papers which is evident from the communication dt. 19.5.88, and the petitioner has the experience of working with the news-paper Jaltey Deep, which does not fall within the category of State or National level news-paper. It was also stated that the petitioner-respondent having failed to fulfill the condition of requisite experience his candidature has been rightly rejected.

4. The State also filed reply to the writ petition stating that both the papers with which the petitioner has working experience are registered news-papers of District level and not registered as news-papers of State level. It was also stated that working experience of the petitioner on honorary basis in a news-paper which is not recognised by the Government of Rajasthan as a State level or National level, does not fulfill the necessary requirement of qualification for the post of Public Relation Officer.

5. A rejoinder was also filed by the petitioner with some documents including a certificate of C.A. showing circulation of the Dainik Jaltey Deep news-paper between the years 1981 to 1987.

6. The non-petitioner State also filed additional affidavit stating that the basis of declaring State level news-paper is that the news-paper should be circulated in all the Districts of the Rajasthan and readers of the news-papers should be all over the State. A notesheet dt. 18.10.92 of the State Government showing the basis of declaring State level news-paper was also produced as anx. R/3. The learned Single Judge after hearing both the parties and on the basis of material available on record while allowing the writ petition held that the Dainik Jaltey Deep is State level news-paper and the experience acquired by the petitioner-respondent can be considered as the requisite experience to confer the eligibility on the petitioner. The learned Single Judge has further directed that the petitioner-respondent no. 1 has already been interviewed and if he is selected in the said interview he should be given appointment on the post of P.R.O. in accordance with the relevant Rules. Aggrieved non-petitioner-appellant the Commission has filed this special appeal.

7. Mr. Joshi, learned Counsel for the appellant has challenged the order on the sole ground that the learned Single Judge has erred in holding that the R.P.S.C. was not bound to reject the candidature of the petitioner-respondent no. 1 on the basis of anx. Rule 1 dt. 19.5.88 and the Commission should have applied its mind. He has also submitted that the learned Single Judge has erred in issuing this direction to the R.P.S.C. to decide the level of a particular news-paper independent of Government information as the learned Single Judge has lost sight of the fact that there is no agency with the Commission to determine which news-paper is of State level and National level, and this direction can only be given to the State. He has also prayed that the impugned order passed by the

learned Single Judge may be set aside.

8. Mr. Bhati, learned Dy. G.A. has submitted that the learned Single Judge has committed serious error of law by adjudicating a disputed question of fact regarding circulation of the Dainik Jaltey Deep under Article 226 of the Constitution of India and to recognise the same as the State level news-paper. He has also submitted that the experience gained by the petitioner in the Dainik Jaltey Deep on honorary basis cannot be termed as experience required for the post of P.R.O.

9. Mr. Mridul, learned Counsel for the respondent has submitted that the learned Single Judge after considering the material has rightly exercised his discretion and this Court should not interfere in the appellate jurisdiction as there is no error. He has also submitted that no other ground has been pleaded except that the petitioner has not requisite, five years experience with a news-paper of State or National level. He has further submitted that the State has not filed any special appeal against the order of learned Single Judge.

10. We have heard learned Counsel for the parties and perused the record.

11. Admittedly there are no rules to adjudge which news-paper is of State level and which is of National level. In such a situation when the rules are silent the State Government in the exercise of powers under Article 162 of the Constitution can issue instructions to supplement the rules provided they are not inconsistent with the statutory provisions. The Rajasthan Public Service Commission being an autonomous body is the final authority under proviso 2 of Rule 19 for laying down of qualification and experience for a particular post and the State Government does not come in picture so far as the eligibility part is concerned.

12. In the instant case, as there were no rules, the Rajasthan Public Service Commission before issuing advertisement sought advice from the State Government and the State Government vide its order dt. 19.5.88 Anx. RJ1 informed the Commission about the news-papers of State level and National level and also regarding news-agencies. The Commission was also informed that only four news-papers have been recognized as State level newspapers which are; Rajasthan Patrika, Jaipur, Rashtradoot, Jaipur, Navjoti, Jaipur and Navbharat Times, Jaipur. So far as the agencies are concerned PTI and UNI "Bhasa" (Hindi) have been recognised. The Commission on that basis issued advertisement laying down eligibility conditions and according to which the candidate must possess a degree of graduation from any recognised University with experience of working with National or State level news-paper or any news-agency of National level for a period of five years so also with other condition which are not relevant for the purpose of present case. The only prayer of the petitioner in writ petition was for quashing Ex. 18, on the other hand the case of the Commission was that the petitioner-respondent did not possess five years working experience with any State or National level news-paper. The learned Single Judge called the record and found that there is no criteria for recognition of a news-paper at State

level, which, has not been disputed before us also. The only ground which was urged before the learned Single Judge regarding recognition was that there must be circulation of the news-paper in every District of the State. There is no mention in Anx. R/3 that what is the minimum number of news-paper required to be circulated in every District of the State for being recognised at the State level. A bare perusal of this document also shows that there must be readers of the news-paper, number of which may vary in every District, of the State. The petitioner-respondent produced the material showing that the Dainik Jaltey Deep is being circulated in every District and in its support also produced the certificate of the C.A. which remained uncontroverted by the State. Therefore, in the absence of any rules and after considering material on record, the learned Single Judge accepted the contention of the petitioner that he has working experience of five years with the Dainik Jaltey Deep considering it to be a news-paper of State level. Mr. Joshi learned Counsel for the appellant has not been able to point out any error in the order of learned Single Judge, so far as this aspect of the matter is concerned: The petitioner respondent, a scheduled caste candidate has been permitted to appear in the examination and has also passed the same as submitted by Mr. Mridul, if he is found suitable for appointment according to his merit, he may be appointed so according to the relevant rules as per the direction of the learned Single Judge and, therefore, so far as this part of the order of the learned Single Judge is concerned, it does not call for any interference.

13. So far as the argument of Mr. Bhati that honorary Working experience of the petitioner cannot be equated with the five years experience attained by regular service, that argument cannot be considered now in view of the fact that this point was not agitated before the learned Single Judge nor the State has filed any special appeal and further more while rejecting the candidature of the petitioner the Commission assigned no such reasons.

14. As regards the recognition of the Dainik Jaltey Deep as State level news-paper is concerned, admittedly the Dainik Jaltey Deep never claimed that the news-paper is of State level nor it agitated to treat itself as a paper of State level by challenging Anx. R/1 dt. 19.5.1988 whereby category of news-papers have been defined. Thus, the observations of the learned Single Judge to treat this paper as a State level paper are valid only for the purpose of decision of the candidature of the respondent. We may make it clear that on the basis of these observations, the status of a State level paper cannot be conferred on the news-paper Jaltey Deep. That question will have to be gone into and decided by the appropriate authority. Undoubtedly the State Government alone is competent to confer a particular category on any news-paper on the basis of its publication and further on verification of actual sale and proof of the circulation in various Districts. So far as the contention of the counsel for the appellant that it is for the State Government to consider whether any news-paper is of State or National level or not and its decision cannot be left on the Commission is concerned, it has great force. In our opinion, the State alone can frame the rules

and it is open to the State to frame necessary rules and prescribe qualifications and conditions for recognising news-papers, in terms of the above observations and the observations of the learned Single Judge, so that it may not give rise to any controversy in future. Therefore, we deem it just and proper to direct the State Government to frame necessary rules within a period of six months prescribing norms, scales and standards which will govern the grant of the status to a new-paper to be classified either as a national level news-paper or a State level news-paper to be treated as a local or District level news-papers.

15. In the result we uphold the judgment of the learned Single Judge so far as the respondent no. 1 Mithesh Nirmohi's eligibility to take up interview for the post of Public Relation Officer is concerned and order that if the respondent Mithilesh has secured requisite merit in the interview he be given appointment as Public Relation Officer by the Government forthwith. However, the finding of the learned Single Judge will confer no right on the daily news-paper Jaltey Deep to be treated as State level news-paper. That will be a matter which will have to be decided by the appropriate authority as per Rules. However, the State Government is directed to frame Rules prescribing norms, scales and standards for grant of a status to the news-paper to be classified either as a National level news-paper or a State level news-paper or to be treated as a local or District level news-papers.

16. The special appeal stands disposed of accordingly on merits with no order as to costs.