

**(2001) 01 RAJ CK 0029**

**In the Rajasthan High Court**

**Case No : Civil Special Appeal No. 36 and 1085 of 2000**

Raju

APPELLANT

Vs

Nagar Nigam Jodhpur

RESPONDENT

**Date of Decision : 19-01-2001**

**Acts Referred:**

Constitution of India, 1950 — Article 14, 16

**Citation :** (2001) 2 RLW 794 : (2001) 2 WLN 634

**Hon'ble Judges :** Shethna and, J;H.R. Panwar, J

**Bench :** Division Bench

## Judgement

Shethna, J.

(1). Both the special appeals are disposed of by this common order as they are arising out of the common judgment and order dated 22.9.00 passed by the learned Single Judge dismissing both the writ petitions No. 302/97 & 418/87 filed by the appellants petitioners.

(2). An advertisement was issued for filling up the post of Sweeper with certain terms and conditions. One of the condition is that only one person from the family shall be made eligible for the employment, if there is already one member of the family is in employment, preference should be given to those persons from whose family no one was employed. This condition was included in the advertisement as per the common judgment and order dated 21.10.92 passed by the learned Single Judge of this Court in S.B. Civil Writ Petition No. 1177/92 and other alike matters.

(3). Admittedly, there is more than one family member of the petitioners is in employment therefore they were not given appointment and those persons were preferred from those family where no one was employed. The same was challenged by way of two separate petitions which were dismissed on 29.2.00 by common judgment and order. Hence this special appeal.

(4). Only submission raised by Mr. Vyas learned counsel for the appellants was

that the judgment and order dated 21.10.92 delivered by the learned Single Judge of this Court in S.B. Civil Writ Petition No. 1177/97 and allied matters is in violation of Articles 14 & 16 of the Constitution. Hence, it is nullity. Therefore to incorporate the conditions in advertisement that one person from the family should be made eligible for employment and if there is more than one member in the family is in the employment then the preference would be given to others whose family have no member in employment would be bad.

(5). We are afraid. We cannot accept this submission of Mr. Vyas Common judgment and order dated 21.10.92 delivered by the learned Single Judge in S.B. Civil Writ Petition No. 1177/97 and other allied matters has become final as the same was not challenged further. Once that judgment has become final then the respondents were bound to comply with the same and if they do not comply then it would be contempt of court. When they have complied with the judgment and incorporate the aforesaid conditions alongwith other conditions in the advertisement that the other members of the appellants were in service, therefore, they were not considered for appointment then it cannot be said to be bad.

(6). Having carefully gone through the judgment and order dated 22.9.00 passed by the learned Single Judge dismissing the writ petitions No. 302 & 418/97 we are of the opinion that no error was committed by the learned Single Judge while dismissing the writ petition. Hence both the special appeals fail and are dismissed.