

**(2018) 04 RAJ CK 0168**

**In the Rajasthan High Court**

**Case No : Special Appeal Writ No. 668 of 2018**

**State of Rajasthan @APPELLANT@Hash Farhad Banu**

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**Date of Decision : 11-04-2018**

**Acts Referred:**

Limitation Act, 1963 — Section 5

**Citation : (2018) 04 RAJ CK 0168**

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

**Bench : Division Bench**

**Advocate : P.R. Singh**

**Final Decision : Dismissed**

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## **Judgement**

Misc. Application No.368/2018

1. Heard on the application under Section 5 of the Limitation Act for condonation of delay.
2. For the reasons mentioned in the application, the application is allowed and the delay of 24 days in filing the appeal is condoned.

D.B. Special Appeal Writ No. 668 / 2018

1. Aggrieved of the order dated 08.12.2017, the present appeal is preferred by the State of Rajasthan.

2. In short the relevant facts to be noted in the present case are that the recruitment for the post of Teachers being made by the selection process

namely Primary and Upper Primary School

Teachers Recruitment, 2016 was to be done in TSP as well as nonTSP area in the State of Rajasthan.Â The respondent being eligible for

appointment as Teacher Grade-III, Level-II applied in pursuance to the advertisement dated 06.07.2016. The respondent being a resident of TSP area

applied in the TSP category.Â The applicant was having a total marks of

62.718%. Thus being above the cut off marks mentioned for General Female category she was expected to get an appointment order.Â The reason for not issuing the appointment order in case of the respondent was that she had not updated the information in pursuance of the advertisement dated 11.09.2017 before the cut off date fixed for the candidate of the TSP area.

3. Before the process of selection and appointment could be completed the advertisement dated 06.07.2016 was challenged before the Jaipur Bench of this Court in D.B. Civil Special Appeal (Writ) No.1464/2016; Sher Singh & Ors. Vs. State of Rajasthan & Ors. wherein a direction was issued by the Division Bench of this Court for readvertisement of the present vacancies and thereafter preparation of a fresh merit list.

4. In pursuance of the direction issued by the Division Bench in Sher Singh's case (supra) a fresh advertisement/notification dated 11.09.2017 was issued with certain amendments in the criteria laid down for the purpose of selection. In the above said notification/advertisement a condition was also made that those persons who have already filled in the application form are not required to fill in the forms afresh but were required to update the necessary information for the purpose of amended criteria.Â The last date mentioned for the purpose of updation in pursuance of the advertisement dated 11.09.2017 was 11.10.2017.

5. We also note that the last date for updation and for fresh application for the non-TSP area which was up to 11.10.2017 was further extended to 15.12.2017.

6. When the respondent did not receive appointment order in pursuance of the merit list dated 24.10.2017 the present writ petition was preferred.

7. A detailed reply on behalf of the respondent in the matter was filed contesting the writ petition.

8. The learned Single Judge allowed the writ petition vide order dated 08.12.2017 directing the respondents to extend the last date of advertisement/notification dated 11.09.2017 until 20.12.2017 and the respondents were further directed to consider the case of the petitioner and grant her appointment accordingly on the post of Teacher Grade-III, Level-II.

9. Heard learned Additional Advocate General appearing for the appellants.

10. The only argument put forth before us is that for the purpose of appointment on the post of Teacher Grade-III, Level-II, two separate

advertisements were issued, one for the TSP area and another for the non-TSP area.Â In the advertisement concerning non-TSP area the conditions

are different and therefore the same can have no effect in the selection being taken for the TSP area.

He further submits that if the last date for updating the data are extended for the incumbents of non-TSP area then it will not automatically be inferred

that the same will be extended to the candidates belonging to the TSP area.Â He further submits that since the appointments are being conducted for

a responsible post of Teacher, the aspirants should have been vigilant and should have acted in accordance with the advertisement dated

11.09.2017.Â Since the respondent has not updated the data before the date fixed for the candidate of TSP area, therefore, she was rightly not issued

the appointment order.

11. We are not impressed by the arguments made as the benefit of extension of date to the non-TSP area was done keeping in mind that people or

candidate at large should know the fact of filling up the post of Teacher Grade-III, Level-II and those candidates who somehow could not fill up the

forms may now avail the benefit of the advertisement issued afresh.

12. Since the selections are being done for the post of Teachers then for whatever reasons the dates are being extended, two yardsticks could not

have been adopted by the State for the candidates belonging to the non-TSP area and the candidates belonging to TSP area.

13. It is the candidate belonging to TSP area who is not having as many as facilities as the person residing in the non-TSP area. There are rather less

resources and gadgets to know about the latest information for the person residing in TSP area.Â Candidates of TSP area are the persons who

require more relaxation than the candidates in the non-TSP area.Â

14. We are of the view that more liberal approach is required towards the candidates belonging to the TSP area and therefore the learned Single

Judge has rightly extended the benefit of extension of time upto 20.12.2017 to the persons belonging to the TSP area which is absolutely justified in the

facts and circumstances in the present case.Â We concur.

15. We further note that when the discretion on the equitable side has been

exercised by the learned Single Judge taking into consideration the TSP area, we are not inclined to interfere in the view taken by the learned Single Judge, therefore, the present appeal fails and is hereby dismissed.