



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S. B. Civil Writ Petition No. 1791 / 2017

Yogendra Kumar S/o Sh. Budaraj, aged about 49 years, R/o V/P Sindhi Topadara Dist. Ajmer, at present residing at Near Balaji Medical, Ajmer Road, Merta, Dist. Nagaor.

----Petitioner

Versus

1. State of Rajasthan through Principal Secretary, Department of Medical & Health, Secretariat, Jaipur.
2. Director, Department of Medical & Health, Swasthay Bhawan, Tilak Marg, C-Scheme, Jaipur.
3. Addl. Director (Admn.), Department of Medical & Health, Swasthay Bhawan, Tilak Marg, C-Scheme, Jaipur.

----Respondents

Connected With

S.B. Civil Writ Petition No. 13966 / 2016

Arvind Kumar Acharya S/o Sh. Sadan Prasad Acharya, aged about 48 years, R/o V/p Nandwai, Tehsil Bagun, Dist. Chittorgarh

----Petitioner

Versus

1. State of Rajasthan through Principle Secretary,, Department of Medical & Health, Secretary, Jaipur.
2. Director, Department of Medical & Health, Swasthay Bhawan, Tilak Marg, C-scheme, Jaipur
3. Addl. Director (Admn.), Department of Medical & Health, Swasthay Bhawan, Tilak Marg, C-scheme, Jaipur

----Respondents

S.B. Civil Writ Petition No. 13967 / 2016

Abdul Aziz S/o Mohd. Khan, aged about 47 years, R/o Zamit Pura Tehsil Talera Dist. Bundi

----Petitioner

Versus

1. State of Rajasthan through Principle Secretary, Department of Medical & Health, Secretary, Jaipur.
2. Director, Department of Medical & Health, Swasthay Bhawan, Tilak Marg, C-scheme, Jaipur



3. Addl. Director (Admn.), Department of Medical & Health, Swasthay Bhawan, Tilak Marg, C-scheme, Jaipur

-----Respondents

S. B. Civil Writ Petition No. 14827 / 2016

Rajveer Singh S/o Sh. Laxman Singh, aged about 50 years, R/o V/P Pushpa Vatika Colony, Behind Saras Circle, District - Bharatpur at present residing at Near Medical Collage, Sadulganj Colony, District – Bikaner

-----Petitioner

Versus

1. State of Rajasthan through Principal Secretary, Department of Medical & Health, Secretariat, Jaipur
2. Director, Department of Medical & Health, Swasthay Bhawan, Tilak Marg, C-scheme, Jaipur
3. Addl. Director (Admn.) Department of Medical & Health, Swasthay Bhawan, Tilak Marg, C-scheme, Jaipur

-----Respondents

S. B. Civil Writ Petition No. 626 / 2017

Sushil Kumar S/o Sh. Prabhudayal, aged about 49 years, R/o V/P STC Housing Colony, House No. 2A/29, Bharatpur

-----Petitioner

Versus

1. State of Rajasthan Through Principal Secretary, Department of Medical & Health, Secretariat, Jaipur
2. Director, Department of Medical & Health, Swasthay Bhawan, Tilak Marg, C-Scheme, Jaipur
3. Addl. Director (Admn.), Department of Medical & Health, Swasthay Bhawan, Tilak Marg, C-Scheme, Jaipur

-----Respondents

S. B. Civil Writ Petition No. 635 / 2017

Devendra Kumar S/o Sh. Ajab Singh, aged about 45 years, R/o V/P Geeni, Teh. Kumher, Dist. Bharatpur

-----Petitioner

Versus

1. State of Rajasthan through Principal Secretary, Department of Medical & Health, Secretariat, Jaipur



2. Director, Department of Medical & Health, Swasthay Bhawan, Tilak Marg, C-Scheme, Jaipur
3. Addl. Director (Admn.), Department of Medical & Health, Swasthay Bhawan, Tilak Marg, C-Scheme, Jaipur
----Respondents



For Petitioners : Mr. O.P. Sangwa

For Respondents : Mr. Rishabh Tayal for Mr. K.L. Thakur, A.A.G.

HON'BLE MS. JUSTICE NIRMALJIT KAUR

Order

26/04/2017

All the above mentioned writ petitions shall stand decided by this common order as the issue involved therein is identical.

The prayer in the present writ petitions is for grant of appointment to the petitioners on the post of Lab Assistant in pursuance to the advertisement dated 10.07.2013 with all consequential benefits.

It is contended by learned counsel for the petitioners that their names find mentioned in the merit list. They have more marks than the last selected candidate but have not been appointed for the reasons best known.

Learned counsel for the respondents states that the matter was pending as the policy decision with respect to the age relaxation was still under consideration. It is pointed out that as per the information received by him vide Letter dated 31.01.2017, the policy decision has already been taken and it has been decided to grant the age relaxation and now, when the said policy decision



has been taken, the case of the petitioners for appointment is under consideration.

In view of the above statement, all the above writ petitions are disposed of with a direction to the respondents to consider the case of the petitioners for appointment on the post of Lab Assistant as expeditiously as possible preferably within one month from today and grant them appointment forthwith if they are otherwise found in merit and eligible.

With respect to the Writ Petition No. 1791/2017, it is pointed out that besides the above, a prayer has also been made to direct the respondents to consider the marks of the supplementary examination obtained by the petitioner therein for the purpose of weightage.

If it is so, the said issue is no more *res integra* and has already been decided by this Court in the case of **Pradeep Singh Vs. The State of Rajasthan & ors. (S. B. Civil Writ Petition No. 12970/2015) decided on 08.03.2016**. The operative part of the judgment is reproduced below :-

"13. It is well settled principle of law that rules of game cannot be changed after the selection process has started. In Maharashtra State Road Transport Corpn. & ors. v. Rajasthan Bhimrao Mandve & ors., (2001) 10 SCC 51, it was held that the rule of the game, meaning thereby, that the criteria for selection cannot be altered by the authorities concerned in the middle or after the process of selection has commenced. In the present case, rule 19 of the Rajasthan Medical & Health Subordinate Service Rules, 2013 does not mention or talk of marks obtained in supplementary examination. The rule itself is very clear and unambiguous. The respondents have



not been able to point out any rule which mandates rejection of marks secured in examination passed in more than one attempts. Rule 19 specified "marks obtained in Secondary Examination" and it is only by an order dated 28.10.2015 issued by the Additional Director (Adm.) that the criteria for calculating marks of academic qualification as well as educational qualification was set out. The said respondent-Additional Director (Adm.) certainly does not have the power to give directions as to the calculation of the marks or of laying down criteria for drawing merit list. Initially, an order dated 22.3.2015 had been issued which provided criteria for consideration of marks of Senior Secondary Examination and Professional Courses and for consideration of weightage as well as bonus marks and it was on the basis of this that selection list was prepared and impugned office order dated 28.10.2015 came to be issued subsequent thereto. Thus, once the process of selection had started, the criteria of selection could not be changed.

14. Therefore, the above noted writ petitions are allowed. The impugned clause-(5) of the order dated 28.10.2015 is struck down and it is directed that the marks are to be counted as a whole by including actual marks obtained in the supplementary examination."

In view of the above, the Writ Petition No. 1791/2017 too is disposed of in the same terms as Pradeep Singh (supra). If, after assessing the marks of the petitioner as directed above, he stands in merit, then the necessary consequences shall follow.

(NIRMALJIT KAUR), J.

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