

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPURJUDGMENT(1) D.B. CIVIL SPECIAL APPEAL(WRIT) NO.469/2014  
IN

S.B. CIVIL WRIT PETITION NO.18940/ 2013

RAJESH KUMAR &amp; ORS. Vs. RAJASTHAN STATE ROAD TRANSPORT CORPORATION &amp; ORS

(2) D.B. CIVIL SPECIAL APPEAL(WRIT) NO.210/2014  
IN

S.B. CIVIL WRIT PETITION NO. 17934/ 2013

SUMESH KUMARI Vs. RAJASTHAN STATE ROAD TRANSPORT CORPORATION &amp; ORS

(3) D.B. CIVIL SPECIAL APPEAL(WRIT) NO.267/2014  
IN

S.B. CIVIL WRIT PETITION NO.55/ 2014

SHALYE SHARMA &amp; ORS. Vs. RAJASTHAN STATE ROAD TRANSPORT CORPORATION &amp; ORS

(4) D.B. CIVIL SPECIAL APPEAL(WRIT) NO.406/2014  
IN

S.B. CIVIL WRIT PETITION NO.19120/ 2013

SURENDRA SINGH JATAV Vs. RAJASTHAN STATE ROAD TRANSPORT CORPORATION &amp; ORS

(5) D.B. CIVIL SPECIAL APPEAL(WRIT) NO.412/2014  
IN

S.B. CIVIL WRIT PETITION NO.19635/ 2013

SMT. ANITA Vs. CHIEF MANAGER, RSRTC &amp; ANR.

REPORTABLEDATE: 30.01.2015HON'BLE THE ACTING CHIEF JUSTICE MR. SUNIL AMBWANI  
HON'BLE MR.JUSTICE PRAKASH GUPTA

Mr. Vigyan Shah,  
Mr. Manoj Pareek,  
Mr. Hemant Taylor on behalf of  
Mr. Rajeev Surana and  
Mr. Manish Lawaniya, for the appellants.  
Mr. Ashok Bansal,  
Mr. Vinayak Joshi, and  
Mr. Om Prakash Sheoran, for the respondents.

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1. We have heard learned counsel appearing for the parties.
2. The facts and circumstances, and the issues raised in these Special Appeals, arising out of the judgments of learned Single Judge dated 20.12.2013 and 08.01.2014, are common to the facts and the grounds, in which D.B. Civil Special Appeal No.793/2014-Mohan Lal Kadwasra Vs. Raj. State Road Transport Corp. & ors., and 8 other connected Special Appeals, were decided by a Division Bench, sitting at the Principal Seat of this Court at Jodhpur, by judgment dated 08.01.2015. The Division Bench held as follows:-

6. *In the present case, we find considerable substance in the argument of learned counsel appearing for the appellants that having received the complaints on 13.6.2013, prior to the issuance of appointment letters of the appellants-petitioner dated 26.6.2013, the Corporation did not act promptly in getting the complaints examined. The Committee was constituted on 21.8.2013, and on receipt of the report from such Committee, the results were revised on 19.9.2013. In between, on 6.8.2013, the Corporation had advertised 1428 vacancies on the posts of Conductor, which included 89 vacancies, on which the 7 appointees of 2012 selections, in which the appellants had participated and were selected, had not joined. It is submitted that apart from the benefit of the principle laid down by the Supreme Court that the services of the persons appointed through competitive examination in accordance with the Rules, should not be terminated on the ground of preparation of erroneous results, for which nothing can be attributed to them, the appellants-petitioners were deprived of the chance of applying in the subsequent recruitment to the posts, which were advertised on 6.8.2013, and on which date, they were working with the Corporation in pursuance of earlier selections.*

7. *We do not find any good ground to deny the appellants-petitioners the benefit of the rule of law, serving principles of equity, developed by the Supreme Court in which it is clearly stated that it will be highly*

*unjust and grossly unfair to terminate the services of those persons, who are innocent appointees of an erroneous evaluation of the answer scripts. Their continuation in service should neither give any unfair advantage to them nor cause any undue prejudice to the candidates selected qua the revised merit list.*

8. *In the present case, we find from the averments made in the pleadings that 89 persons did not join in the selections for 718 advertised vacancies and these vacancies were subsequently included in the subsequent selections, which were advertised on 6.8.2013 when the appellants were already working with the Corporation.*

9. *We do not find any substance in the contention of the counsel appearing for the Corporation that the judgment in Secretary, State of Karnataka V/s Uma Devi (2006 (4) SCC 1), providing that all appointments in public services should be made serving the principles of equality under Articles 14 and 16 of the Constitution of India, would in any way deny the appellants the benefit of the principles of equity in allowing them to continue, when they were selected and appointed in the selections under the statutory Rules and were terminated on the revision of the select list.*

10. *In view of the pronouncement of the law by the Supreme Court, which serves the principles of equity to protect the appointments of those persons, who have no role in the revision of the results, the Special Appeals are allowed. The orders by which the services of the appellants-petitioners were terminated are set aside. The appellants however will not be reinstated in service. They will be given appointment letters and will be placed at the bottom of the select list, after the last appointee in the selections of the revised list, in pursuance to the advertisement dated 23.3.2012. As the appellants-petitioners are still working in pursuance to the interim orders passed by this Court, the pay and allowances, which they have drawn before their re-appointment, shall not be recovered back from them."*

3. It is submitted by learned counsel appearing for the appellants that the posts reserved for horizontal reservation for the

selections of the year 2012, could not have been carried forward to the next selections (the subject selections).

4. We do not find that any such ground was either taken or argued before learned Single Judge, and that in any case, such ground will amount to fresh cause of action to the persons, who are seeking relief, to be picked up from the previous selections, for which the posts on horizontal basis, could not have been carried forward.

5. We are not called upon to decide the question of validity of carrying forward the vacancies as the facts and grounds for claiming such relief, were not pleaded in the writ petitions, giving rise to the present Special Appeals.

6. All the Special Appeals are, consequently, allowed. The orders, by which the services of the appellants-petitioners were terminated, are set aside. The appellants however will not be reinstated in service. They will be given appointment letters and will be placed at the bottom of the select list, after the last appointee in the selections of the revised list, in pursuance to the advertisement dated 23.03.2012. As the appellants-petitioners are still working in pursuance to the interim orders passed by this Court, the pay and allowances, which they have drawn before their re-appointment, shall not be recovered back from them.

7. A copy of this order be placed in all the connected files.

(PRAKASH GUPTA), J.

(SUNIL AMBWANI), ACTING C. J.



All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

RAJASTHAN HIGH COURT



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