

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Special Appeal (Writ) No. 991/2018
With
D.B. Civil Misc. Stay Application No.14150/2018
In
S.B. Civil Writ Petition No.11961/2016

Rajasthan Public Service Commission Through Its Secretary,
Ajmer

----Appellant

Versus

1. Ram Prasad Meena S/o Cheetar Mal Meena, Aged About 37 Years, Village Yashodandanpura, Post Turkiya, Tehsil Niwai, Distt. Tonk (Raj.)
2. Santosh Meena D/o Bhanwar Lal Meena W/o Ram Prasad Meena, Aged About 32 Years, Village Yashodandanpura, Post Turkiya, Tehsil Niwai, Distt. Tonk (Raj.)
3. The State Of Rajasthan, Through Its Secretary, Higher Education, Secretariat, Jaipur

----Respondents

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|-------------------|---|---------------|
| For Appellant(s) | : | Mr. M.F. Baig |
| For Respondent(s) | : | |

**HON'BLE MR. JUSTICE MOHAMMAD RAFIQ
HON'BLE MR. JUSTICE GOVERDHAN BARDHAR**

Order

29/09/2018

For stated reasons, D.B. Civil Miscellaneous Application No.754/2018 filed under Section 5 of the Limitation Act is allowed. The delay in filing the Special Appeal is condoned.

Learned counsel for the appellant submits that this matter is squarely covered by the judgment dated 09.04.2018 of a coordinate bench of this court at Principal Seat, Jodhpur, in D.B. Special Appeal (Writ) No.655/2018 – The State of Rajasthan Vs. Hemraj Meena and Others.

Heard learned counsel for the appellant – Rajasthan Public Service Commission.

An advertisement was issued on 12.01.2015 by the RPSC to make appointments to the post of Lecturers in various subjects in colleges across the State of Rajasthan. The appointment to be made was governed by the Rajasthan Educational Collegiate Branch Rules, 1986. On 17.06.1993 the Rules of 1986 were amended and, inter-alia, effect of the amendment was that qualifications as prescribed from time to time by the University Grants Commission would automatically govern the qualifications for appointment to various posts in colleges in the State of Rajasthan.

To maintain minimum standards in higher education, on 30.06.2010 the UGC promulgated the UGC Regulations On Minimum Qualifications For Appointment of Teachers and Other Academic Staffs in Universities and Colleges. As per Regulation 3.3.0, minimum requirement of marks for good academic record was 55% marks or equivalent grade in a point scale where grading system was followed. As per Regulation 3.4.1 it was provided that a relaxation of 5% may be provided at the graduate and master's level for SC/ST and differently abled candidates.

Highlighting that the use of the word 'may' in Regulation 3.4.1 vested a discretion in the State Governments to grant or not to grant relaxation of 5% marks for SC/ST/differently abled candidates, grievance laid in the writ petition by the respondent was to the stipulation in the advertisement inviting applications which granted 5% relaxation at the level of post-graduate degree and denied the same at the level of graduation. It was additionally

pointed out that a subsequent advertisement issued by the Rajasthan University, Jaipur granted 5% relaxation across the State of Rajasthan for graduate as well as post-graduate degrees.

Thus, the contention of the respondent was that there was no rational in the decision to grant 5% relaxation in marks at post-graduate level only. It was highlighted that the power of relaxation, though discretionary, related to granting the relaxation at graduate and master's level. It was reiterated that no rational was emerging in the decision to grant relaxation only at the master's level.

The learned Single Judge has agreed with the contention of the respondent.

We note that in the reply filed to the writ petition not even an attempt has been made by the appellant to justify grant of relaxation in marks only at the post-graduate level and not at the graduate level. Even in the appeal no attempt has been made to justify said decision.

Thus, we find no infirmity in the view taken by the learned Single Judge.

The writ appeal is dismissed in limine. This also disposes of the stay application.

(GOVERDHAN BARDHAR),J

(MOHAMMAD RAFIQ),J