

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

D.B. Civil Writ Petition No. 15135/2020

1. Rajasthan Prashasanik Sewa Parishad, 2 Industrial Area, Near Dainik Bhaskar Office, J.L.N. Marg, Jaipur Through Its President Shaheen Ali Khan S/o Sh. Liaqat Ali Khan, R/o 61 Kidwai Nagar, Imlti Phatak, Jaipur.
2. Rakesh Sharma S/o Shri B.L. Sharma, Aged About 45 Years, R/o A-6, JDA Flats, Lalkothi, Jaipur (Raj.) Presently Posted As JS, Revenue.
3. Sukhveer Saini S/o Shri Govind Ram Saini, Aged About 47 Years, R/o 806, Unique Sanghi Apartment, Mahaveer Nagar, Jaipur (Raj.) Presently Posted as Ed, RBCL.
4. Mahendra Kumar Khinchi S/o R.N. Khinchi, R/o B-23, Devi Chiranjeev Colony, Mahesh Nagar, Jaipur Presently Posted As Additional Commissioner (II) (Admn.), Transport And Ex-Officio Joint Secretary To Government, Jaipur.
5. Ajay Aswal S/o Shri J.P. Aswal, R/o A-224, Hanuman Nagar, Jaipur Posted As Jointed Secretary, Finance Department.
6. Suresh Chandra S/o Late Sh. bhagwan Singh, R/o 363, Jaswant Nagar, Khatipura Road, Jaipur Presently Posted As Officer On Special Duty, Election Department, Jaipur.
7. Jaswant Singh S/o Shri Birbal Singh Yadav, R/o D-10/101 Chitrakoot Scheme, Jaipur Presently Posted As Managing Director, Rajasthan Seeds Corporation, Jaipur.
8. Sunil Bhati S/o Shri D.L. Bhati, Aged About 47 Years, R/o 53A, Shri Ram Nagar, Golyawas, Jaipur (Raj.). Presently Posted As DEO, Jaipur.
9. Shaheen Ali Khan S/o Sh. Liaqat Ali Khan, Aged About 46 Years, R/o 61 Kidwai Nagar, Imlti Phatak, Jaipur Presently Posted As JS, CMO.

----Petitioners

Versus

1. Union Of India, Through The Secretary, Department Of Personnel And Training, North Block, New Delhi-110001.
2. State Of Rajasthan, Through The Chief Secretary, Government Of Rajasthan, Secretariat, Jaipur-302006.

3. The Principal Secretary, Department Of Personnel, Government Of Rajasthan, Secretariat, Jaipur-302006.
4. Union Public Service Commission, Through The Secretary, Dholpur House, Shahajahan Road, New Delhi-110069.

-----Respondents

5. Prem Sukh Bishnoi S/o Shri M.L. Bishnoi, R/o 401 Golden Harmony, C-139 Mathur Colony Presently Posted As Settlement Officer, Jaipur.
6. Nalini Kathotia D/o Sh. S.M. Kathotia, R/o F-19 Saraswati Nagar Jaipur Presently Posted Joint Secretary To Government Home (Appeal) Department, Jaipur
7. Anil Kumar Agrawal S/o Late Sh. S.L. Agrawal, R/o 163 Vishvesariya Nagar, Gopalpura Byepass, Jaipur Presently Posted As Joint Secretary To Government, Technical Educational, Rajasthan, Jaipur
8. Sunil Sharma S/o Shri Damodar Prasad Sharma, Aged About 53 Years, R/o E-19, Gandhi Nagar, Jaipur (Raj.) Presently Posted As JS, Panchayati Raj Department
9. Rajendra Singh S/o Sh. Lohare Ram, R/o A-148, Ram Nagariya, JDA Scheme, Near SKIT Campus, Jagatpura, Jaipur Presently Posted As JS, Revenue.
10. Maneesh Goyal S/o Shri S.C. Goyal, R/o E-14, Gokhle Marg, C-Scheme, Jaipur Presently Posted As Executive Director, Rajasthan Tourism Development Corporation, Jaipur.
11. Jagveer Singh S/o Shri Girraj Prasad, R/o 82/39, Mansarovar, Jaipur Posted As Additional Commissioner Commercial Taxes Department.
12. Kesar Lal Meena S/o Shri Jagannath Meena, R/o A-418, Siddharath Nagar, Jawahar Circle, Jaipur Presently Posted As General Manager, Ganganagar Sugar Mills Limited, Jaipur,
13. Dr. Har Sahay Meena S/o Laxmi Narayan Meena, R/o A-553, Siddharath Nagar, Jawahar Circle, Jaipur Posted As Joint Secretary, C.M.O.
14. Bachnesh Agrawal S/o Shri Dwarka Prasad Agrawal, R/o 2/62, AVS Flat, Gandhinagar, Jaipur Presently Posted As Special Asstt. To Minister, Industries, State Enterprises Department, Jaipur (Shri Parsadi Lal)

15. Moolchand S/o Late Sh. Kishana Ram, R/o 528, Hanuman Nagar Ext. Sirsi Road, Jaipur Posted As Joint Secretary, Minority Affairs Department.
16. Mukesh Kr. Sharma S/o Shri R.K. Sharma, R/o B-29, Ashish Vihar, Ramnagar Road, Jagatpura, Jaipur Posted As Joint Secretary To Chief Secretary.
17. Gaurav Bajad S/o Lt. Shri Heeralal Bajad, Aged About 48 Years, R/o E-6, Gandhi Nagar, Jaipur (Raj.) Presently Posted As JS, CMO.
18. Rajnarayan Sharma S/o Shri Ramji Lal, R/o B-77, Scheme 10-B Gopalpura Byepass, Jaipur Posted As Additional Director Medical Education.
19. Dr. Rashtradeep Yadav S/o Sh. Hemant Yadav, R/o C-75 Nirman Nagar, Jaipur Presently Posted As D.S. Higher Education.
20. Radhe Shyam Delu S/o Sh. B.R. Delu, R/o F-211, New Transit Hostel, Gandhi Nagar, Jaipur, Presently Posted As DD Minority Affairs Department.

----Proforma Respondents

For Petitioner(s) : Mr. Manoj Kumar Bhardwaj with Mr. T.L. Pandey (heard through VC)

For Respondent(s) : Mr. M.S. Singhvi, Advocate General assisted by Mr. Darsh S. Pareek (heard through VC)

Mr. Amit Mathur, for Caveator (heard through VC)

HON'BLE MR. JUSTICE GOVERDHAN BARDHAR
HON'BLE MR. JUSTICE PANKAJ BHANDARI
(Special Bench – Winter Holidays)

Judgment / Order

24/12/2020

1. Petitioners have preferred this writ petition *inter alia* seeking relief that promotion should not be made to any Non-SCS Officers on the post of IAS in Rajasthan Cadre.

2. It is contended by the counsel for the petitioners that an Original Application was filed before the Central Administrative Tribunal but the same has not been decided and no interim order has been passed by the Central Administrative Tribunal and posted the matter in January, 2021. It is contended that the Non-SCS Officers have no right to be selected to the post of IAS and only in special circumstance the Non-SCS Officers can be appointed. It is prayed that a direction be issued to the Central Administrative Tribunal to decide the stay application prior to 30th of December, 2021, the date fixed by the Committee for selection of Non-SCS candidates.

3. Learned Advocate General appearing for the State has vehemently opposed the writ petition. It is contended that only Central Administrative Tribunal is having the jurisdiction and the High Court can only entertain writ petition after final order is passed by the Central Administrative Tribunal. Learned Advocate General placed reliance on the judgment of the Supreme Court titled as L. Chandra Kumar vs. Union of India and Others, (1997) 3 SCC 261. It is contended that the present petition does not lie as the Tribunal has not been impleaded as party. Learned Advocate General placed reliance on Udit Narain Singh Malpaharia v. Additional Member Board of Revenue, Bihar and another, AIR 1963 Supreme Court 786 (V 50 C 118). Learned Advocate General has also submitted before the Court that as per the Rules promotions are made from three categories; direct recruitment, promotion and selection from Non-SCS. It is argued that if selection is not made upto 31st of December, 2020, the posts would lapse and the respondents would be in undue hardship. Learned Advocate General has placed reliance on Rana Randhir

Singh and Others vs. State of U.P. and others, 1989 Supp (1) Supreme Court Cases 615, wherein the Apex Court held that stay should not be granted in promotion matters.

4. Mr. Amit Mathur, counsel for Caveator contended that the Original Application pertains to the selection list of year 2018. The said selection list has already lapsed and the present writ petition is devoid of any merits.

5. In view of the prayer made in the instant writ petition, we have considered the contentions. We are of the considered view that no directions can be given to the Central Administrative Tribunal when Tribunal has not been impleaded as party. The matter before the Tribunal is pending for the last more than one year and the petitioners did not press their application before the Tribunal and once the Tribunal has already posted the matter in January, 2021, this Court would not have any jurisdiction to entertain writ of *certiorari* or issue any direction to the Administrative Tribunal.

6. We are also of the considered opinion that the High Court can only exercise jurisdiction after final order is passed by the Administrative Tribunal.

7. As is evident from the arguments advanced, the select list of 2018 under challenge, stood already lapsed. Hence, we are of the considered view that the present writ petition is devoid of merit and deserves to be dismissed in limine.

8. A copy of this order under the seal and signature of Court Master be provided to the counsel for the parties.

(PANKAJ BHANDARI),J

(GOVERDHAN BARDHAR),J