



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

S.B. Civil Writ Petition No. 1628/2025

Kiran Yadav D/o Sita Ram Yadav, Aged About 28 Years, R/o Bijli Ghar Ke Pass, Singod Khurd, Viya Khejruli, District Jaipur, Rajasthan.

-----Petitioner

Versus

1. The State of Rajasthan, through its Principal Secretary, School Education Department, Government Secretariat, Rajasthan, Jaipur.
2. The Director, Secondary Education, Rajasthan, Bikaner.
3. The District Education Officer (Headquarter), Secondary, Jaipur Rural.
4. Rajasthan Staff Selection Board, through its Secretary, Agriculture Management Institute Building, Durgapura, Jaipur, Rajasthan.
5. University of Rajasthan, through its Registrar, J.L.N. Marg, Jaipur.

-----Respondents

For Petitioner(s)	:	Mr.Ram Pratap Saini with Mr.Aamir Khan
For Respondent(s)	:	Mr.B. S. Chhaba, AAG with Mr.Rahul Gupta, Mr.Shubhendu Pilonia Ms.Mahi Choudhary, Mr.Avinash Choudhary Mr.Vishnu Kant Sharma for UoR Mr.Manish Bhardwaj for Mr.Nalin G. Narain

JUSTICE ANOOP KUMAR DHAND

Order

Reserved on	:	27/03/2025
Pronounced on	:	04/04/2025
Reportable		



1. The instant writ petition has been preferred by the petitioner with the following prayer:-

“(I) Issue an appropriate writ, order or direction in the nature thereof thereby, the respondents be directed to allow the petitioner to continue render her duties as PTI in pursuance of appointment order dated 15.12.2023 (Annex.9) and as per as Inspection Performa (Annex/8).

(II) Issue an appropriate writ, order or direction in the nature thereof thereby, the impugned Order dated 16.01.2025 may kindly be quashed and set aside.

(III) Issue an appropriate writ, order or direction in the nature thereof thereby, the respondents be directed to consider the BPED (IV) Semester Final Result of petitioner as 19.09.2022 instead of 23.11.2022 in compliance of Certificate dated 14.12.2022.

(IV) Pass any other appropriate order which this Hon’ble Court may deem fit, just and proper in the facts and circumstances of the case in favour of the petitioner.

(V) Cost of the writ petition be also awarded in favour of the petitioner.”

2. By way of filing this writ petition, a challenge has been led to the impugned order dated 16.01.2025 by which appointment of the petitioner on the post of Physical Training Instructor (for short, ‘the PTI’) has been cancelled.

3. Learned counsel for the petitioner submits that pursuant to the advertisement dated 16.06.2022, the petitioner participated in the process of selection for appointment on the post of PTI. Counsel submits that as per the terms and conditions mentioned in Clause 7 of the advertisement, under the head “Eligibility and Education Qualification”, the required qualification for getting appointment on the said post was Senior Secondary or its



equivalent examination from a recognized Board and also one should have a Certificate in Physical Education (C.P.Ed.) or Diploma in Physical Education (D.P.Ed.) or Bachelor in Physical Education (B.P.Ed.) recognized by the Government/ National Council for Teacher Education. Counsel submits that a note was appended to the Advertisement in the aforesaid clause that those persons who are appearing in the qualifying examination would be entitled to participate in the selection process, subject to the condition that they possess the requisite qualification on or before the date of written examination of PTI. Counsel submits that the petitioner appeared in the qualifying examination of PTI and her result was declared on 19.09.2022, wherein she was declared as 'FAIL' in one paper for which she submitted an application for re-evaluation of answer-sheet and the result of re-evaluation was declared by the University on 23.11.2022, wherein the petitioner was declared as 'PASS', hence, her result of re-evaluation would be declared to be the original result as declared on 19.09.2022.

4. Counsel submits that the written examination for the post of PTI was conducted by the respondents on 25.09.2022 and the petitioner passed the said examination prior to the aforesaid date, i.e., on 19.09.2022. Counsel submits that the petitioner was selected for appointment on the post of PTI, on the basis of merit secured by her and treating her as eligible for the said post, appointment was offered to her on 15.12.2022, but her appointment has been cancelled by the respondents on 16.01.2025 after her joining, on a technical count that she was not in possession of the requisite educational qualification, on the



date of written examination, i.e., 25.09.2022. Counsel submits that the result declared after re-evaluation would be deemed to be the original result and it will be applicable from 19.09.2022, hence, under these circumstances, the petitioner could not be treated as ineligible in any manner.

5. In support of his contentions, learned counsel for the petitioner has placed reliance upon upon the following judgments:-

1. **Parmila Rani Vs. The State of Rajasthan and Ors.** while deciding **S.B. Civil Writ Petition No.13355/2016** vide order dated 09.03.2017.

2. **Koushalya Bai Meena Vs. Jai Narain Vyas University & Ors.** while deciding **S.B. Civil Writ Petition No.5026/2010** vide order dated 28.01.2011; and

3. **Veena Kumari Vs. State of J&K & Ors.** while deciding LPASW No.160 of 2011 vide order dated 14.06.2012.

4. **Ashok Kumar Meena Vs. Rajasthan Rajya Vidyut Prasaran Nigam Limited & Anr.** while deciding **S.B. Civil Writ Petition No.8649/2016** vide order dated 29.05.2017.

6. Counsel submits that under these circumstances, the impugned order passed by the respondents is not tenable in the eyes of law and the same is liable to be quashed and set aside.

7. *Per contra*, learned counsel for the respondents as well as the University opposed the arguments raised by the counsel for the petitioner and submitted that the terms and conditions of the advertisement were clear and specific to the effect that a candidate is supposed to possess the requisite educational qualification on the date of written examination of PTI, which was conducted on 25.09.2022. They jointly submit that the result of



qualifying examination of the petitioner, i.e., B.P.Ed. was declared on 19.09.2022, wherein the petitioner was declared as 'FAIL' hence, with no stretch of imagination, it can be believed that the petitioner was eligible to participate in the process for selection on 25.09.2022. Counsel submit that the result of re-evaluation of the petitioner was declared on a subsequent date, i.e., on 23.11.2022, hence, the subsequent result could not relate back to the original result of the petitioner which was declared on 19.09.2022.

8. In support of their contention, learned counsel for the respondents placed reliance upon the following judgments which are as follows:-

1. **Lalit Kishor Vs. State of Rajasthan & Ors.** while deciding batch of writ petitions in the above referred lead case bearing No. **S.B. Civil Writ Petition No.8908/2020** vide order dated 23.10.2020; and
2. **Dipesh Kushwaha Vs. State of Rajasthan & Ors.** decided by the **Division Bench D.B. Special Appeal Writ No.104/2021** vide order dated 15.04.2021.

9. Heard and considered the submissions made at Bar and perused the material available on record.

10. Perusal of the record indicates that the facts pleaded by both the sides with regard to the date of examination and date of declaration of result are not in dispute. Now the question remains for consideration of this Court is as to "whether on the basis of the re-evaluation, result of the petitioner declared at a subsequent stage can relate back to the original result?"

11. This fact is not in dispute that in the original result of the qualifying examination of the B.P.Ed., the petitioner was declared



as 'fail' on 19.09.2022, however, she was declared as 'pass' in the subsequent re-evaluation result which was declared on 23.11.2022. But, the written examination for the post of PTI was conducted prior to that, i.e., on 25.09.2022.

13. The similar issue came up for consideration before this Court in a batch of writ petitions, and the same was decided by the Co-ordinate Bench of this Court in the lead case of **Lalit Kishore & Ors. Vs. State of Rajasthan & Ors.** while deciding the **S.B. Civil Writ Petition No.8908/2020** on 23.10.2020. Several issues were framed, but Issue No.D is relevant for disposal of this petition. Issue No.D has been discussed in Paras No.8, 8.1 to 8.8 of the said judgment and the same are reproduced as under:-

"8. **ISSUE NO.D** - Candidates who submit that after revaluation result, they stand qualified, however, the date of revaluation was after last date of submission of the application form and also submit that revaluation should relate back to the date of declaration of the original result.

8.1 In **Jenany J.R. Versus S. Rajeevan & Ors., reported in (2010) 5 SCC 798**, the Apex Court was examining the question as to the crucial date, which should be considered for the candidate to possess requisite qualifications for the purpose of promotion and it was held as under:

"12. As has been mentioned hereinabove, the only question which is required to be considered by us in this appeal is whether on the date, vacancy had occurred i.e. on 1.7.2003, respondent No.1 was having requisite qualification or not to be appointed on the post of H.S.A. (Hindi).

13. It is not disputed that respondent No.1 was not qualified to be promoted as H.S.A on the date when the vacancy arose. It was conceded before learned Single Judge that in July, 2003, when the results of the examination were



published, he had failed. However, he had applied for re-evaluation. Only after re-evaluation was done, he was declared pass in September, 2003 as per the communication sent to him by Secretary, Board of Public Examinations. Thus, there was no dispute that on 1.7.2003, when the vacancy arose, admittedly, respondent No.1 was not duly qualified to be appointed as H.S.A (Hindi) as contemplated under Note 2 appended to Rule 43 of the Rules. This aspect of the matter has been dealt with by learned Single Judge in detail in para 5 of the judgment."

8.2 Thus, the said candidate – respondent No.1 though had passed the qualifying examination after declaration of his result upon revaluation, the Apex Court did not accept that he was eligible on the date when the vacancy arose and thus, did not accept the relate back theory to treat him as eligible on the crucial date.

8.3 The question regarding relate back of revaluation result was examined by this Court in ***Jitendra Kumar Shrotriya Versus Rajasthan Rajya Vidyut Prasaran Nigam Ltd. & Ors.: S.B. Civil Writ Petition No.1738/2012 & other connected petitions decided on 26.02.2014*** and it was held that revaluation result cannot relate back to the date prior to cut-off date.

8.4 The petitioners in these writ petitions have submitted that result of revaluation was declared by the respondents on 31.07.2020 whereby they have been declared passed in Part-II Examination. The cut-off date fixed by the appointing authority was, however, 30.07.2020 and therefore, the petitioners could not fill online application form as they have not passed Part-II Examination of Diploma in DMLT upto 30.07.2020.

8.5 Learned counsel for the petitioners submits that the revaluation result should relate back to the original declaration of Part-II Examination result and it cannot be considered as a fault of the candidates and therefore, the petitioners having become eligible, should be allowed to fill up their form offline treating them eligible as on 30.07.2020 and by interim order,



this Court also passed the direction to allow them to fill up their online form, however, the same was provisional and subject to the decision of the case.

8.6 Reply has been filed and the respondents have objected the same stating that the petitioners are ineligible on the cut-off date, which is sacrosanct. Merely because, revaluation result has come later on, it will not make them eligible as on cut-off date and revaluation result cannot relate back.

8.7 In view of the law, as noticed above, in Jitendra Kumar Shrotriya (supra) and Jenany J.R. (supra), this Court is of the firm view that the petitioners' candidature cannot be said to have acquired eligibility post facto upon declaration of result of revaluation. The result of revaluation cannot relate back to the date when the original result was declared as such a view would not only go contrary to the view taken by the Apex Court in Jenany J.R. (supra), but examine from other angle also, such a view would be unjustified: a situation is possible that revaluation result is declared of a candidate after a period of six months and in the meanwhile, entire selection process is over, therefore, can it be said that such revaluation result will make an ineligible candidate eligible and the entire selection process should be conducted individually for him? The answer is 'No'. The law as laid down by court must meet all contingencies and circumstances.

8.8 Although in the present case, result of revaluation was declared on the next day after the cut-off date, treating him eligible would be too dangerous a proposition of law and would unsettle the settled position that a person's candidature must be examined only on the cut-off date. In view thereof, all these writ petitions fail and the same are accordingly dismissed."

14. It was held in the case of **Lalit Kishore** (supra) that if result of re-evaluation is declared after the cut-off date, then such candidates cannot be treated as eligible and treating them as eligible would be against the settled position of law, hence, a person's candidature must be examined only on the cut-off date.



15. The aforesaid order dated 23.10.2020, passed by the Co-ordinate Bench, was assailed by one of the candidates in the case of **Dipesh Kushwah Vs. State of Rajasthan and Ors.**, by way of filing **D.B. Civil Special Appeal (Writ) No.104/2021**. The Special Appeal was dismissed by the Division Bench of this Court vide order dated 15.04.2021, holding as under:-

"Appellant had applied for the post of Lab Technician in pursuance to the advertisement issued on 12.06.2020. Last date for submission of the application form was 30.07.2020. As per the advertisement, a candidate was required to possess all the necessary educational qualifications till the last date for submission of application form. Admittedly, when the result of Diploma in Medical Laboratory Technology Part-II (Main) Examination was declared on 08.07.2020, the appellant was declared as "Fail". Thereafter, appellant sought re-evaluation and was declared as "Pass". The result of re-evaluation was declared on 31.07.2020, whereas, the last date for submission of application form was 30.07.2020. Thus, on the last date for submission of application form, appellant was not having the necessary qualification for the post of Lab Technician.

Learned Single Judge, while basing reliance on the decision of the Hon'ble Supreme Court in **Jenany J.R. Vs. S. Rajeevan & Others, (2010) 5 SCC 798**, had held that the reevaluation result would not relate back to the date of original declaration of result. Hence, the appellant cannot be said to be eligible for the post of Lab Technician, as he had been declared as "Pass" after the last date for submission of application form.

In the present case, since the appellant did not have the necessary qualification till the last date for submission of application form, his candidature has been rightly not considered for the post of Lab Technician.

Learned Single Judge had, thus, rightly dismissed the writ petition filed by the appellant.



No ground for interference is made out.”

16. The issue involved in this petition has already been decided by the Hon’ble Apex Court way back in the year 2010 itself in the case of **Jenany J.R. Vs. S. Rajeevan & Ors.** reported in **(2010)**

5 SCC 798, where it has been held in Paras 15 to 21, as under:-

“15. Vide the impugned order passed by Division Bench, it was unduly impressed by the fact that the appellant herein was appointed only on 23.10.2003 (the date when she actually joined service) and before that date respondent No. 1 had already acquired basic requisite qualification for being appointed as H.S.A (Hindi). According to the Division Bench, 1.7.2003 would only signify with regard to vacancy of the post of H.S.A but relevant date would be the date when the appellant had actually joined. This appears to be misconception of the Division Bench of the High Court. Note (2) is clear, unambiguous and leaves no amount of doubt that relevant date would be when the vacancy occurs. Division Bench of the High Court has completely misread the said Note (2).

16. In our considered opinion, giving a true and literal meaning to Note (2), the relevant date would be the date when the vacancy had arisen i.e., 1.7.2003 and not the date when the appellant actually joined the service.

17. We may profitably quote a passage from Craies on Statute Law:

“ ‘...It is the duty of courts of justice to try to get at the real intention of the legislature by carefully attending to the whole scope of the statute to be construed’... that in each case you must look to the subject-matter, consider the importance of the provision and the relation of that provision to the general object intended to be secured by the Act, and upon a review of the case in that aspect decide whether the enactment is what is called imperative or only directory.”



18. At this point of time we may further usefully quote the words of Oliver Wendell Holmes:

"It is sometimes more important to emphasize the obvious than to elucidate the obscure."

19. To reiterate, we may once again emphasise that after careful scanning of Note (2), the obvious is the date when the vacancy occurs and not subsequent events that might have taken place after the date vacancy had occurred.

20. In fact, this aspect of the matter was duly considered by District Education Officer as also by State Government, who held against respondent No. 1. The Learned Single Judge had also correctly considered this aspect of the matter and thus, dismissed the writ petition filed by respondent No. 1.

21. Thus, looking to the matter from all angles, we are of the considered view that the impugned order passed by Division Bench cannot be sustained. The same is hereby set aside and quashed, instead the order passed by learned Single Judge is restored meaning thereby that the writ petition preferred by respondent No. 1 stands dismissed."

17. The counsel for the petitioner has placed reliance upon three judgments passed by different Co-ordinate Benches of this Court in the case of **Parmila Rani** (supra) and **Kaushalya Bai** (supra) & **Ashok Kumar Meena** (supra), wherein contrary views have been taken that revised marks after re-evaluation should be reckoned and would be reverted back to the original result wherein the candidate is declared as 'fail'. If in re-evaluation result any candidate is declared as 'pass' then his/ her result of re-evaluation would relate back to the date of declaration of the actual result.



But, in none of these judgments, the judgment passed by the Apex Court in the case of **Jenany J.R.** (*supra*) was brought into notice before the Co-ordinate Benches and these judgments were passed in ignorance of the above judgment of Hon'ble Apex Court. There is no contradiction in views of the Hon'ble Apex Court, on the issue involved in these writ petitions and the only view that holds the field is that the re-evaluation result would not relate back to the date of original declaration of result. Hence, one cannot claim himself/ herself as eligible for the advertised post, as he or she had been declared as "pass" after the last for submission of their application form.

18. Article 141 of the Constitution of India states that the law declared by the Honb'le Supreme Court is binding on all Courts within the territory of India. This ensures consistency and uniformity in the application of law across the country.

19. In the country governed by the Rule of Law, the finality of a judgment is absolutely imperative and it is not permissible for the parties to re-open the concluded judgments of the Court. It would also nullify the doctrine of '*stare decisis*' a well-settled valuable principle of precedent which cannot be departed from unless there are compelling reasons to do so. The judgments of the Court and particularly of the Honb'le Apex Court of a country cannot and should not be unsettled lightly.

20. The hallmark of a judicial pronouncement is its stability and finality. Judicial verdicts are not like sand dunes which are subject to the vagaries of wind and weather.



21. Thus, it is not permissible for the parties to re-open the concluded judgments as the same would not only tantamount to an abuse of the process of law and Court, but would also have a far reaching adverse effect on the administration of justice.

22. Looking to the settled position of law, with regard to the issue in question, involved in this petition, which has already been set at rest in the case of **Jenany J.R.** (supra), by the Hon'ble Supreme Court, this Court finds no valid reason to take a different view, following the mandate contained under Article 141 of the Constitution of India.

23. In view of the discussions made hereinabove, this Court finds no merit and substance in this writ petition and the same is liable to be and is hereby rejected.

24. Stay application and all pending application(s), if any, also stand dismissed.

(ANOOP KUMAR DHAND),J

Aayush Sharma /10