



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

S.B. Civil Writ Petition No. 20295/2025

Shivangi Pathak D/o Tej Prakash Pathak, aged about 22 years,
resident of D-226 Sushant City, Pali Road, Jodhpur.

----Petitioner

Versus

1. The Rajasthan Public Service Commission through its
Chairman, Ajmer.
2. The Secretary Rajasthan Public Service Commission,
Ajmer.

----Respondents

Connected With

S.B. Civil Writ Petition Nos. 75/2025, No.20456/2024,
No.20541/2024, No.20580/2024, No.20586/2024,
No.20598/2024 & No. 20611/2024

For Petitioner(s)	:	Mr. Pravin Vyas Mr. Jitender Singh Bhaleria Mr. Laxman Singh Jodha
For Respondent(s)	:	Mr. Raj Singh Bhati Mr. Ritu Raj Singh Bhati – AGC Mr. Khet Singh Rajpurohit - RPSC

HON'BLE MR. JUSTICE ARUN MONGA

Judgment (Oral)

15/01/2025

1. The petitioners, recent law graduates, are before this Court seeking the issuance of an appropriate writ or direction commanding the respondents to permit their participation in the selection process for the post of Assistant Prosecution Officer (APO), a recruitment exercise qua which is being conducted after a decade-long hiatus. Their online applications were provisionally accepted on the condition that they obtain their law degrees by the date of the preliminary examination, scheduled for 19.01. 2025. In the interim period between submitting their applications and the preliminary examination, the petitioners have successfully



completed their law degrees. However, at the time of submitting their applications, they were still students awaiting their final law examinations.

2. Vide this common judgment, above detailed/numbered bunch of eight petitions are being decided together as similar facts and issues are involved therein. For the sake of brevity, facts and recitals are being taken from the earliest of the writ petition bearing number S.B. Civil Writ Petition No. 20295/2024.

3. Relevant facts, shorn of unnecessary details, for the purpose of adjudication of controversy herein are that on 07.03.2024 Rajasthan Public Service Commission (for short 'RPSC') issued an advertisement for 181 post of Assistant Prosecution Officer (for short 'APO'). Pursuant to the advertisement, the petitioner submitted her online application form on 18.03.2024. In the education qualification column, she indicated that her under graduation (LL.B.) result is awaited.

3.1. On 19.11.2024, the RPSC issued a press note announcing that the preliminary examination for the post of APO would be held on 19.01.2025. The note clarified that if candidates wish to make any changes in their online application forms, they could do so between 20.11.2024 to 26.11.2024, by paying a fee of Rs.500/-. It was also clarified that the candidates who do not have the required prescribed qualification/experience for the aforesaid post, may withdraw their online application during this period. Failure to do so would result in disqualification from future examinations and possible prosecution under Section 217 BNS.

3.2. On 29.11.2024, another press note was issued by the RPSC, stating that under the Rajasthan Prosecution Subordinate Service



Rules, 1978 there is no provision to allow those candidates to participate in selection process, who are appearing in the final year of prescribed educational qualification or those who have not yet acquired the required qualification by the date of the selection examination.

3.3. The press note further clarified that, in the sequence of the said recruitment notification, only those candidates who have acquired the required educational qualification by the last date of application will be considered eligible for this recruitment. Therefore, candidates, who do not have the educational qualification by the last date of application, are required to withdraw their online application form between 30.11.2024 to 09.12.2024 at 12:00 PM. After this deadline, the link will automatically become inactive. Petitioner, as on the last date of online application did not have the LL.B. degree as she was yet to appear in the final examination of her degree. She acquired the required qualification on 22.08.2024. Hence this petition.

4. In response to the petition, the same is being opposed essentially on the ground that in case there is any ambiguity with regard to the cut off date, the same is to be treated as last date for applying online on the post in question i.e. 12.04.2024. Reliance in this respect has been taken to a judgment rendered by Supreme Court in *Ashok Kumar Sonkar vs. Union of India & Ors.* : (2007) 4 SCC 54.

4.1. Furthermore, the stand taken in the reply is that so far as the press note dated 19.11.2024 is concerned, the aforesaid press note was with regard to only online correction in the already submitted application form i.e. name, father's name, date of birth



and gender. However, there was no change in the other terms and conditions with regard to the eligibility prescribed in the advertisement. Further, while issuing the aforesaid press note, the candidates were instructed/advised to withdraw their application forms in case they have submitted applications despite not having prescribed educational qualification/experience as per advertisement on the last date of application forms.

4.2. Another press note dated 29.11.2024 was categorically with regard to the withdrawal of the application forms by those aspiring candidates, who are not having requisite educational qualification prescribed in the Rules as well as in the advertisement on the last date of submission of application forms. Admittedly, in the present case, the petitioner herself has stated that she was pursuing her final year examination and was not having requisite educational qualification on the last date of submitting application form. As such, the press note dated 29.11.2024 cannot be said to be illegal or contrary to any provisions of the Rules of 1978 or the eligibility conditions prescribed in the advertisement dated 07.03.2024.

4.3. The advertisement as well as relevant rules nowhere prescribe that even the candidates pursuing their final year examination are entitled to fill up the online application forms, whereas it was categorically mentioned in the advertisement that the candidates should apply only he/she has requisite educational qualification, age etc.

4.4. Since the relevant Rules do not provide any relaxation in educational qualification till the date of competitive examination or at any late stage and more particularly even there is no provision in the rules, as such the Commission has rightly informed that



only the candidates having requisite educational qualification upto the last date of application form would be considered eligible.

5. In the aforesaid backdrop, I have heard the rival contentions of learned counsel for the parties and gone through the respective pleadings as well as the record appended therewith.

6. First and foremost reference may be had to certain relevant clauses of advertisement and the applicable guidelines, English translated version¹ thereof, is reproduced hereinbelow:-

“Advertisement

dated 07.03.2024

Application Process

1. *Before filing the online application form for the above post, the candidate must first study the instructions for filing the online application form, detailed advertisement and related service rules available on the Commission's website <https://rpsc.rajasthan.gov.in> Candidates should apply online only after that. The instructions for applicants available on the Commission's website will be considered a part of the advertisement.*

Verification of Certificates:-

7. *Educational/pre-educational qualification/experience should be acquired till the last date of application/exam date/interview date (whichever is mentioned in the advertisement) and all other certificates like category/class/caste/scheduled area category (certificate in prescribed format issued by competent authority as per rules), age (secondary examination certificate for calculation of age), outstanding sportsperson (certificate as per guidelines available on the commission's website), disability (disability certificate of 40 percent or more issued by competent medical officer of any state of the whole of India in which category of disability is clearly mentioned), state employee, non-gazetted employee, ministerial employee, departmental employee etc. should be issued as per rules.*

(emphasis supplied)

“Guidelines as on 08.08.2024 (as per official website of RPSC)

2. *General Guidelines regarding eligibility for the post, probation, pay scale and ineligibility for appointment: -*

Educational Qualification and Experience:-

The educational qualification and experience mentioned in the advertisement issued by the Commission should be acquired by the candidates till the date specified in the advertisement.

¹ As provided by learned counsel for the petitioner.





Provided that a person who has appeared or is appearing in the final year examination of the course, which is the requisite educational qualification for the post as mentioned in the rules or Schedule for direct recruitment, shall be eligible to apply for the post.

But where the selection is to be done through two stages i.e. written examination and interview, before appearing in the main examination (like RAS-RTS and A.En. Exam)

Where selection is made through written test and interview, before appearing for interview (e.g. Assistant Professor College Education/ Department of Medical Education)

Where selection is made through written examination only or interview only, as the case may be, proof of acquiring the requisite educational qualification will have to be produced before appearing in the written examination or interview (for recruitment through written examination only e.g. Professor-School Education & Senior Teacher / posts to be filled through interview only)."

(emphasis supplied)

7. Subsequent to the aforesaid advertisement read with guidelines, a corrigendum dated 19.11.2024 was issued, the English translation² of which reads as under:-

"Press-note

Date: 19.11.2024

Rajasthan Public Service Commission, Ajmer

The Commission proposes to conduct the Assistant Prosecution Officer Home Department (Prosecution) Competitive (Preliminary) Examination, 2024 on 19.01.2025.

As per the conditions mentioned in the advertisement issued for the said examination, an opportunity is being provided to make online corrections in the name, photo, father's name, date of birth and gender of the candidate from 20.11.2024 to 28.11.2024. Candidates seeking correction can make online corrections in the application form of the concerned examination by depositing a fee of Rs. 500/- through e-mitra/online banking and by logging in through the Apply Online Link available on the Commission's online portal <http://rpsc.rajasthan.gov.in> or by logging in from the SSO Portal and selecting the Recruitment Portal available in Citizen Apps (G2C).

Use only the option of online correction for the said exam. Offline corrections will not be accepted. The above mentioned online correction opportunity is only a convenience for the benefit of the candidates. Corrections will be valid only in accordance with the eligibility conditions mentioned in the advertisement issued for the

² As provided by learned counsel for the petitioner.





exam. The conditions of the advertisement will remain as before. In case of any technical difficulty regarding the above correction, you can contact recruitmenthelpdesk@rajasthan.gov.in by e-mail or on phone no. 9352323625 and 7340557555.

Also, candidates who have applied online despite not possessing the educational qualification/experience as per the advertisement, action can be taken against such candidates under Section 217 of the Bhartiya Nyaya Sanhita and to debar them from the upcoming recruitment examination of the Commission. Therefore, such candidates can also withdraw their online application form by logging on to the SSO Portal from 20.11.2024 to 26.11.2024, selecting the Recruitment Portal and clicking on the Withdraw Button available in front of the concerned examination under My Recruitment Section.”

8. Another corrigendum dated 29.11.2024 was issued by the RPSC, English translation³ of which reads as below:-

“Dt. : 29.11.2024

Advertisement number 19/2023-24 dated 07.03.2024 was issued by the Commission for recruitment to a total of 181 posts of Assistant Prosecution Officer for Home (Prosecution) Department under Rajasthan Prosecution Subordinate Service Rules, 1978. The educational qualification in the said service rules is as follows:-

1. *Degree in Law (Professional) or integrated Law Course from a University established by law in India.*
2. *Working Knowledge of Hindi written in Devnagri Script and knowledge of Rajasthani dialects and social customs of Rajasthan.*

In the said service rules there is no provision for the candidates who are/have already acquired the educational qualification till the date of examination and are appearing in the final year of educational qualification.

In the sequence of the said recruitment notification, it is clarified again that only those candidates who have acquired the educational qualification till the last date of application will be considered eligible under this recruitment. Therefore, those candidates who do not have the educational qualification till the last date of application, should withdraw their online application form from 30.11.2024 to 09.12.2024 at 12:00 PM. After the said date, the link will automatically become inactive.”

9. Before proceeding with merits of the case and rival stands taken, it would be relevant to note that following observation was

³ As provided by learned counsel for the petitioner.



made by this Court vide order dated 10.12.2024 while issuing notice:-

“ *Prima facie there appears to be ambiguity in Clause 11 of the application procedure advertised by the respondents for selection on the post of Assistant Prosecution Officer which requires consideration.*
Issue notice.
Notice regarding stay as well.
Liberty is granted to serve through nominated counsels
Mr. K.S. Rajpurohit accepts notice on behalf of
respondent – RPSC and seeks time to file reply.
Post it on 07.01.2025.
To be shown in supplementary list.
Meanwhile, till the next date of hearing, no
precipitative steps be taken qua the candidature of the
petitioners by the respondents.”

10. Apropos, after hearing the rival contentions, though the stand taken by the respondent is that there is no ambiguity, but a careful and deeper perusal of the aforesaid advertisement read with guidelines viz a viz the corrigendum would reveal that the said stand is completely contradictory. It has been taken just for the sake of it. Reliance has also been placed on the applicable Rules describing academic qualification for making recruitment on the post of APO, which reads as under:-

“**12. Academic qualifications :-**
A candidate for direct recruitment to the posts enumerated in Schedule-I, shall possess:-
(i) the qualification and experience given in column 4 of the Schedule-I;
(ii) working knowledge of Hindi written in Devnagari script and knowledge of Rajasthan dialects and social customs of Rajasthan.”

Schedule-I, Column-4 as amended reads as under:-

Schedule-I

<i>S. No.</i>	<i>Name of the post</i>	<i>Method of recruitment with percentage</i>	<i>Minimum qualification</i>	<i>Post from which promotion is to be made</i>	<i>Minimum qualification and experience for</i>	<i>Remarks</i>



					<i>promotion</i>	
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>
<i>1.</i>	<i>Assistant Prosecution Officer</i>	<i>100% by direct recruitment</i>	<i>Degree in law (Professional) or Integrated Law Course from a University established by law in India.</i>			



11. A perusal of the above clearly reveals in no manner of doubt that for the purpose of determining the eligibility for a candidate to participate in the selection process he must have a degree in law. To that extent there is no quibble. However, the problem which has been compounded by the contradictory stand taken by the RPSC is with regard to the cut off date for passing the degree of aforesaid qualification.

12. The genesis of it can be traced from the time when the candidates were asked to fill up the online application forms. In the event RPSC so desired that only those who had the degree as on the date of applying online, in that case they should not have given the candidate option to click on the column of appearing in the final examination and accepting the fees. Being fully conscious that the candidate did not have a degree, it allowed him/her to fill up the form without taking any undertaking or a declaration that as on the date of application he/she had got the degree or not.

13. On the other hand, option was provided whether the candidate wanted to click on having a degree as on that date or he was appearing in the final examination. Thus, creating two



categories of candidates, ones who were having a degree and the others who were yet to acquire the same subsequently, but prior to the date of examination and/or the interview as the case may be. The same is fortified by the conduct of the RPSC in stating in the very opening Clause-1 of the advertisement that a candidate must study the instructions before filling the online application, which are contained on the website i.e. <http://rpsc.rajasthan.gov.in>. A click of mouse on the website would open up the detailed guidelines, the relevant of which, has since already been extracted hereinabove. Same is not being repeated for sake of brevity.

14. Guideline No.2 thereof clearly states, in as many words, that a person, who is appearing in the final examination, shall be eligible to apply for the post. Provided, where the selection is made through written test and interview, in that event proof of acquiring the requisite education qualification shall have to be produced before appearing in the written examination or the interview as the case may be.

15. Furthermore, Clause-7 of the advertisement also is in consonance with the guidelines, inasmuch as, it clearly states that the educational qualification should be acquired till the last date of application/exam date/interview date (whichever is mentioned in the advertisement). Any candidate, who would read the Clause-7, *ibid* would opt for cut off date which last of the three, since there is no clarity as to what is the last date. The RPSC itself stated it to be either last date of application or date of



examination or date of interview, especially when read in the light of Guideline No.2, *ibid*.

16. Admittedly, when the advertisement was issued on 07.03.2024, candidates, including the petitioner, were permitted to fill up the online application form. Accordingly, the petitioner submitted her application. The preliminary examination is now slated on 19.01.2025. Therefore, once the petitioner was allowed to submit the online application, she cannot be now be deemed ineligible after eight months. The selection process, which began with the issuance of the advertisement, must be completed in accordance with the conditions mentioned therein. Trite it may sound, but Rules of the game cannot be changed once the whistle has been blown and match has begun.

17. Adverting now to the reliance placed on Supreme Court's judgment in Ashok Kumar Sonkar (*supra*), relevant of which, is reproduced hereinbelow:-

"6. The question as to what should be the cut-off date in absence of any date specified in this behalf either in the advertisement or in the reference is no longer res integra. It would be last date for filing application as would appear from the discussions made hereinafter. The question came up for consideration, inter alia, before a 3-Judge Bench of this Court in Ashok Kumar Sharma and Another Vs. Chander Shekher and Another, wherein Thommen, J. speaking for himself and Ramaswami, J. opined:

11. Possession of requisite educational qualification is mandatory. The same should not be uncertain. If an uncertainty is allowed to prevail, the employer would be flooded with applications of ineligible candidates. A cut-off date for the purpose of determining the eligibility of the candidates concerned must, therefore, be fixed. In absence of any rule or any specific date having been fixed in the advertisement, the law, therefore, as held by this Court would be the last date for filing the application."

18. The aforesaid judgment is clearly distinguishable in facts of present case. I am of the view that Ashok Kumar was a case



where there was no cut off date provided by the recruitment agency. Therefore, it was held that, in such an event, the last date of filling up the application form shall be deemed to be the cut off date. Here is a case where last date has been provided in the advertisement itself by stating that the requisite qualification must be acquired either till the last date of application/or examination date/or interview date and it was in this context that Guideline No.2 envisages that a candidate who was appearing in the last year/semester of the law examination was entitled to fill up the online application form.

19. Aside all above, it so appears that the RPSC realized the fallacy of the contradictory stand taken by it, which resulted in issuance of corrigendum dated 29.11.2024, wherein it was stated that those, who had applied online without having the degree, should withdraw their application, failing which, action will be taken under Section 271 of the Bharatiya Nyaya Sanhita. The corrigendum dated 29.11.2024 is, therefore, in clear contradiction with the Clause-1 of advertisement read with Clause-7 of the advertisement in the light of Guideline No.2 of the guidelines, which have already been dealt with hereinabove.

20. The position that emerges thus is that the RPSC has been blowing hot and cold by way of its contradictory stand leading to two interpretations i.e. one on the basis of guidelines & the advertisement and second on the basis of corrigendum dated 19.11.2024.

21. I may hasten to add here that in the event, two interpretations are possible than the one which is more benevolent to the participating candidates has to be adopted. Accordingly, I



am of the view that the benefit of contradiction since has to be necessarily given to the candidates and not to the RPSC. The stand taken in the reply filed by the RPSC is a clear after thought and does not sustain the judicial scrutiny.

22. As regards the reliance placed under Rule 12 of the Rules of 1978, the same is also completely misplaced, inasmuch as, what is envisaged under the Rule *ibid* is that a candidate must have the requisite qualification and it does not specify the cut off date. The cut off date being procedural part has to be dealt with by way of guidelines and the advertisement.

23. Accordingly, it is held that all those candidates, who were appearing in final examination of the LL.B. degree, their online application was rightly accepted originally. It further held that they are eligible in terms of Clause-1 & 7 of advertisement read with Guideline No.2 and Rule 12 of the Rules of 1978. All three i.e. advertisement, guidelines and Rules have to be read and interpreted harmoniously. Those who shall have the degree as per the guidelines and the advertisement, either on date of examination or interview, whichever is later, they have to be allowed the benefit of what has been stated in Clause-1 read with Clause-7 and Guideline No.2. Therefore, to that extent the corrigendum dated 19.11.2024 followed by another corrigendum dated 29.11.2024 are held to be contrary to the earlier advertisement and Guideline No.2 and thus not applicable and binding on the candidates, as long as they have the requisite qualification as on the date of examination or the date of interview (whichever is later) in terms of Clause-7 of the advertisement.



24. To sum up:

- i. the advertisement and guidelines provided by the RPSC allowed candidates appearing in their final year of the qualifying examination to apply, provided they acquired the degree by the examination date. This permission is in tune with and aligns with Guideline No.2 and Clause-7 of the advertisement. Subsequent corrigenda issued by the RPSC contradicted these provisions, creating confusion. The petitioners acted in good faith, relying on the initial guidelines.
- ii. The petitioners have already acquired the requisite qualification (law degree) on 22.08.2024, well before the preliminary examination scheduled for 19.01.2025. This complies with the advertised conditions allowing candidates to submit proof of qualification before the examination.
- iii. Clause-7 and Guideline No. 2 allow educational qualifications to be acquired by the last date of application, exam date, or interview date (whichever applies). This lack of specificity in defining the cut-off date for qualifications benefits the petitioners, as they fulfilled the eligibility criteria before the examination.
- iv. The RPSC accepted the petitioners' applications, explicitly allowing applicants who were in the final year of their qualifying exam. This created a legitimate expectation that candidates acquiring



qualifications before the examination would be considered eligible.

- v. The corrigenda dated 19.11.2024 and 29.11.2024 altered the eligibility requirements mid-process, unfairly prejudicing candidates who relied on the original guidelines. This violates principles of natural justice and fair play.
- vi. As noted in the discussion/observation above, if two interpretations of a guideline are possible, the one favorable to candidates should be adopted. Principle of interpretation envisages that the one which benevolent and supports candidates' eligibility must be resorted to, for that creates larger talent pool and give rise to healthy competition for selection of the best available to serve the state/general public.
- vii. The RPSC's inconsistent change of stance is nothing but reflective of administrative oversight rather than a well-considered policy. Candidates should not suffer due to such errors, as their actions were in compliance with the original advertisement.
- viii. Supreme Court in *Ashok Kumar Sharma v. Chander Shekher*, rather emphasizes clarity and fairness in determining eligibility cut-off dates, where not provided. In the instant case same has been clearly provided in the Clause-7 of the advertisement read with guideline 2, *ibid*.



25. Accordingly, all the petitions are allowed. The respondents are directed to issue the admit cards to the petitioners, who shall be allowed to appear in the forthcoming preliminary examination, which is slated on 19.01.2025. It is also directed that the petitioner in CWP No.75/2025 : Mansi Vyas Vs. State of Rajasthan shall also be allowed to participate in the examination based on her earlier online application form, which though subsequently she had withdrawn pursuant to the corrigendum dated 19.11.2024 on parity with the other co-petitioners by issuing her an admit card.

26. All the pending application(s), if any, shall stand disposed of.

(ARUN MONGA),J

170 to 177-AK Chouhan/-

Whether fit for reporting : Yes / No