



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

S.B. Civil Writ Petition No. 13427/2022

Nidhesh Kumar Parashar S/o Shri Hari Lal Parasar, Aged About 28
Years, R/o Hotel Atithi, In Front Of Subhash Park, Sirohi.

-----Petitioner

Versus

1. The State Of Rajasthan, Through The Secretary To The Government, School Education, Secretariat, Jaipur.
2. The Rajasthan Staff Selection Board, Jaipur, State Krishi Prabandh Sansthan Parisar, Durgapura, Jaipur.
3. The Director, Secondary Education Rajasthan, Bikaner.

-----Respondents

For Petitioner(s)	:	Mr. V.L.S. Rajpurohit
For Respondent(s)	:	Mr. N.K. Mehta with Mr. Bhupesh Charan

HON'BLE MR. JUSTICE ARUN MONGA

Order (Oral)

20/05/2026

1. The petitioner herein seeks issuance of an appropriate writ, order or direction directing the respondents to consider the petitioner's candidature and grant him appointment on the post of Physical Training Instructor Grade-III pursuant to the Direct Recruitment Examination-2018 conducted under Advertisement No. 09/2018 dated 04.05.2018 (Annexure-1), and further to declare the impugned Office Order dated 04.08.2022 (Annexure-7) as illegal and to quash and set aside the same.
2. The respondents issued Advertisement No. 09/2018 dated 04.05.2018 for recruitment to 4,500 posts of Physical Training Instructor (PTI) Grade-III — 3,930 for non-scheduled areas and 570 for scheduled areas. The petitioner applied, appeared in the examination on

30.09.2018, secured 224.9584 marks, and his Roll No. 505796 was included in the tentative final list dated 29.01.2019 (drawn at 1.5 times the vacancies for document verification). His documents were duly verified.

2.1. The petitioner later learnt that several selected candidates either did not join or failed document verification, leaving some posts vacant. Claiming entitlement against these vacancies, he served a legal notice. Although the respondents cancelled certain appointments for non-joining vide office order dated 16.06.2022, the petitioner's candidature was still not considered despite the available vacancies.

2.2. Aggrieved, the petitioner (with others) filed SBCWP No. 16557/2021, disposed of on 21.07.2022 with liberty to file representations. His representation was rejected vide office order dated 04.08.2022 on the ground that a fresh recruitment process had begun through Advertisement No. 08/2022, so the earlier process could not continue.

2.3. The petitioner asserts this stand is contradicted by the respondents' own conduct i.e even after Advertisement No. 08/2022 dated 16.06.2022, respondent No. 2 continued the 2018 recruitment by recommending 22 candidates (office order dated 08.07.2022) and making further recommendations (office order dated 29.07.2022) against non-joining vacancies, yet the petitioner was not considered. Hence, the present writ petition.

3. Heard learned counsel for both parties and perused the record.

4. While supporting the petition, learned counsel for the petitioner argues that the order dated 04.08.2022 is arbitrary and violative of Articles 14 and 16, since the petitioner's documents were verified yet his candidature was not considered against existing vacancies. The

petitioner scored 224.9584 marks, above the General Category cut-off of 212.9933. As several selected candidates (particularly from outside Rajasthan) did not join or complete verification, posts fell vacant, and the petitioner, higher in merit and eligible, had a legitimate right to be considered.

4.1. The justification in the impugned order is belied by the respondents' own conduct in continuing the 2018 recruitment (recommendations dated 08.07.2022 and 29.07.2022) even after issuing the fresh advertisement. Relying on the Circular dated 26.04.2018, learned counsel for the petitioner argued that the earlier process and waiting list lapse only when the next examination is *held*. Since the examination under Advertisement No. 08/2022 was scheduled for 25.09.2022 and not yet conducted, the 2018 process remained operative and the petitioner ought to have been considered.

5. Opposing the petition, the learned counsel for the respondents, relying on the contents of the reply, contends that the selection was conducted by the respondent-Board, appointments were issued per vacancy and reservation roster, recommendations from the reserve list (sent on 03.03.2021 and 01.02.2022) did not include the petitioner's name, and fresh recruitment was notified on 16.06.2022 after sanction to fill 5,546 posts. Petition is thus liable to be dismissed at this belated stage.

6. Having heard as above and after perusal of the case file, I am unable to accept that the petitioner, being on the waiting list, ought to have been considered against vacancies caused by non-joining main-list candidates.

7. The order dated 04.08.2022 recorded that the petitioner sought appointment against 21 unfilled posts by operating the waiting list; that

the representation was examined in light of departmental rules and policy; that reserve/waiting list recommendations had already been made (district allocation to 91 candidates on 10.06.2021 and 27 candidates on 31.03.2022) without the petitioner's name; and that, per the Personnel Department Circular dated 27.12.2021, the reserve list may operate only up to 8 months from the original recommendation or the date of the fresh examination, whichever is earlier. The Circular dated 26.04.2018 also clarified that a fresh recruitment process causes the previous selection and waiting list to lapse, with the date of *holding* the next examination treated as the date of initiation of fresh recruitment. I find nothing wrong with the reasoning assigned in the impugned order.

8. The petitioner's reliance on the Circular dated 26.04.2018 is, in any event, of no assistance to him. While that Circular treats the date of *holding* the next examination as the point at which the earlier process lapses, it does not confer any vested right upon a waiting-list candidate to be appointed within that interregnum; it merely prescribes the outer limit until which a reserve list *may* be operated. The right to be considered from a waiting list is neither absolute nor indefinite, and operation of such a list is always subject to administrative requisition, the availability of vacancies, and the temporal limits prescribed by policy , here, the eight-month outer limit under the Personnel Department Circular dated 27.12.2021, which had long expired by the time the petitioner pressed his claim. Moreover, the respondents' isolated recommendations of 08.07.2022 and 29.07.2022 cannot be read as a general revival of the 2018 process enuring to the petitioner's benefit, particularly when the reserve list recommended by the Board on 03.03.2021 and 01.02.2022 never contained his name. A waiting-list

candidate cannot, by pointing to the appointment of others, claim parity where his own name was never forwarded by the recommending authority. Coupled with the categorical position, that no vacancy now subsists, the petitioner has been unable to establish either a subsisting vacancy or an enforceable right to be appointed against one.

9. Waiting list cannot remain operative in perpetuity, especially as the selection relates to 2018 and nearly eight years have since elapsed. On a query by the Court, it emerges that no post is lying vacant; the allegedly unfilled posts have been filled per the merit list from among eligible candidates who responded to the call. On all these counts, the writ petition fails and is accordingly dismissed. All pending applications also stand disposed of.

(ARUN MONGA),J