

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 4779/2025

Manoj Kumar Sharma S/o Jagannath Sharma, Aged About 42 Years, R/o -11, Govind Nagar, Mansarovar Jaipur- 302020 At Present Posted As Teacher L-2, English Govt. Upper Primary School Shreeramganj, Nimeda, Block Phagi, District Jaipur.

----Petitioner

Versus

1. State Of Rajasthan, Through Chief Secretary Government Of Rajasthan, Government Secretariat, Jaipur.
2. Director Of Elementary Education Rajasthan, Bikaner.
3. Chief District Education Officer (Elementary Education), Jaipur, Shiksha Sankul, Jaipur
4. Zila Parishad Jaipur, Through Its Chief Executive Officer, Sawai Jai Singh Hwy, Bani Park, Jaipur, Rajasthan 302016

----Respondents

Connected With

S.B. Civil Writ Petition No. 4819/2025

Jaibhagwan Basniwal S/o Devkaran Basniwal, Aged About 35 Years, R/o- Vpo Nareda The. Kotputli, District Kotputli Behror 303105, At Present Posted As Teacher L-2 English Govt. Ups, Hanuman Nagar Kairli Block- Viratnagar, District Kotputli Behror

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, School Education And Libraries Department And Panchayati Raj (Elementary Education) Government Secretariat, Jaipur.
2. Director Of Elementary Education, Rajasthan, Bikaner.
3. Chief District Educational Officer (Elementary Education), Khedki,veerbhan, Kotputli, Behrod
4. Zila Parishad Jaipur, Through Its Chief Executive Officer, Sawai Jai Singh Hwy, Bani Park, Jaipur, Rajasthan 302016

----Respondents

S.B. Civil Writ Petition No. 4825/2025

Reenu Malhotra D/o Rajendra Kumar Malhotra, Aged About 39 Years, R/o- 14, Baba Deep Singh Colony, Street No.2, Near

Sacred Heart Convent School, Sri Ganganagar (335001), At Present Posted As Teacher L-2, English, Govt. Upper Primary School, Nopura, Hasteda, Block - Govindgarh, District Jaipur

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, School Education And Libraries Department And Panchayati Raj (Elementary Education) Government Secretariat, Jaipur.
2. Director Of Elementary Education Rajasthan, Bikaner.
3. Chief District Educational Officer, Jaipur
4. Zila Parishad Jaipur, Through Its Chief Executive Officer, Sawai Jai Singh Hwy, Bani Park, Jaipur, Rajasthan 302016

-----Respondents

S.B. Civil Writ Petition No. 4826/2025

Jitendra Sharma S/o Vijay Sharma, Aged About 41 Years, R/o- Plot No. 60, Green Park 1St, Benad Road, Dadi Ka Phatak, Jhotwara, Jaipur, Rajasthan, Pin - 302012, At Present Posted As Teacher L-2, English Govt Upper Primary School Borai (405536), Panchayat Padasoli, Block - Bassi, District - Jaipur

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, School Education And Libraries Department And Panchayati Raj (Elementary Education) Government Secretariat, Jaipur.
2. Director Of Elementary Education, Rajasthan, Bikaner.
3. Chief District Educational Officer, Siksha Sankul, Jaipur
4. Zila Parishad Jaipur, Through Its Chief Executive Officer, Sawai Jai Singh Hwy, Bani Park, Jaipur, Rajasthan 302016

-----Respondents

S.B. Civil Writ Petition No. 4847/2025

Suman Rani D/o Dharm Veer, Aged About 45 Years, R/o- Ward No-6 Luna Ram Mittal Wali Gali, Sangaria-335063, At Present Posted As Teacher L-2 English, Govt Senior Secondary School Sawaimadhosinghpura, Biharipura, Block-Mauzamabad, District-Jaipur

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, School Education And Libraries Department And Panchayati Raj (Elementary Education) Government Secretariat, Jaipur.
2. Director Of Elementary Education, Rajasthan, Bikaner.
3. Chief District Educational Officer, Siksha Sankul Jaipur.
4. Zila Parishad Jaipur, Through Its Chief Executive Officer, Sawai Jai Singh Hwy, Bani Park, Jaipur, Rajasthan 302016

-----Respondents

S.B. Civil Writ Petition No. 4848/2025

Rama Devi D/o Bhagwan Dass, Aged About 30 Years, R/o - 725 B, Sindhi Colony, Adarsh Nagar, Jaipur Pin-302004 At Present Posted As Teacher L-2, English Govt. Girls Upper Primary School Badwa, Bassi, Block- Bassi, District, Jaipur

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, School Education And Libraries Department And Panchayati Raj (Elementary Education) Government Secretariat, Jaipur.
2. Director Of Elementary Education, Rajasthan, Bikaner.
3. Chief District Educational Officer (Elementary Education), Jaipur, Siksha Sankul Jaipur.
4. Zila Parishad Jaipur, Through Its Chief Executive Officer, Sawai Jai Singh Hwy, Bani Park, Jaipur, Rajasthan 302016

-----Respondents

S.B. Civil Writ Petition No. 4918/2025

Sonia Sharma D/o Om Prakash Sharma, Aged About 36 Years, R/o- 3/114 Rhb Colony, Hanumangarh Junction, 335512, At Present Posted As Teacher L-2 English, Govt. Girls Upper Primary School Gunavata, Labana, Bolck-Amber, Distrit Jaipur.

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, School Education And Libraries Department And Panchayati Raj (Elementary Education) Government Secretariat, Jaipur.
2. Director Of Elementary Education, Rajasthan Bikaner.
3. Chief District Educational Officer, Siksha Sankul Jaipur.

4. Zila Parishad Jaipur, Through Its Chief Executive Officer,
Sawai Jai Singh Hwy, Bani Park, Jaipur, Rajasthan 302016

-----Respondents

S.B. Civil Writ Petition No. 4974/2025

Seema Gupta D/o Shiv Charan Gupta, Aged About 45 Years, R/o-
Plot No. 21, Rameshwaram Colony, Bankli Ki Dhani, Charan
Nadi- 2 Murlipura Scheme, Jaipur 302039 At Present Posted As
Teacher L-2 English, Mggs, Vijaipura Raithal (Jalsu), District
Jaipur.

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, School
Education And Libraries Department And Panchayati Raj
(Elementary Education) Government Secretariat, Jaipur.
2. Director Of Elementary Education, Rajasthan Bikaner.
3. Chief District Educational Officer, Siksha Sankul Jaipur.
4. Zila Parishad Jaipur, Through Its Chief Executive Officer,
Sawai Jai Singh Hwy, Bani Park, Jaipur, Rajasthan 302016

-----Respondents

S.B. Civil Writ Petition No. 5079/2025

Nirupma Agrawal D/o Jagdish Prasad Gupta, Aged About 40
Years, R/o Ghanta Ghar Kirana Store, Deeg, Bharatpur-321203
At Present Posted As Teacher L-2 English, Govt. Upper Primary
School Keshupura, Tunga Block, Jaipur

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, School
Education And Libraries Department And Panchayati Raj
(Elementary Education) Government Secretariat, Jaipur.
2. Director Of Elementary Education, Rajasthan Bikaner.
3. Chief District Educational Officer, Siksha Sankul Jaipur.
4. Zila Parishad Jaipur, Through Its Chief Executive Officer,
Sawai Jai Singh Hwy, Bani Park, Jaipur, Rajasthan 302016

-----Respondents

S.B. Civil Writ Petition No. 5127/2025

Sarita Sharma D/o Om Prakash Sharma, Aged About 47 Years,

R/o- 629, Mahaveer Nagar, Tonk Road, Jaipur 302018, At Present
Posted As Teacher L-2, English In Govt. Girls Sr. Sec. School,
Akoda, Block- Sambhar Lake, District-Jaipur.

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, School Education And Libraries Department And Panchayati Raj (Elementary Education) Government Secretariat, Jaipur.
2. Director Of Elementary Education, Rajasthan Bikaner.
3. Chief District Educational Officer, Siksha Sankul Jaipur.
4. Zila Parishad Jaipur, Through Its Chief Executive Officer, Sawai Jai Singh Hwy, Bani Park, Jaipur, Rajasthan 302016

-----Respondents

S.B. Civil Writ Petition No. 5128/2025

Rahul Walia S/o Naresh Walia, Aged About 31 Years, R/o Gali No. -2, Grewal Colony Near Ramesh Dairy, Begu Road Sirsa (Haryana) Pin- 125055, At Present Posted As Teacher L-2 English, Govt. Upper Primary School Kalyanpura, Mangalwada Block-Mauzamabad, District-Jaipur.

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, School Education And Libraries Department And Panchayati Raj (Elementary Education) Government Secretariat, Jaipur.
2. Director Of Elementary Education, Rajasthan Bikaner.
3. Chief District Educational Officer, Jaipur
4. Zila Parishad Jaipur, Through Its Chief Executive Officer, Sawai Jai Singh Hwy, Bain Park, Jaipur, Rajasthan 302016

-----Respondents

For Petitioner(s)	:	Dr. Abhinav Sharma, Adv. with Ms. Puja Sharma, Adv., Mr. Akshaya Varma, Adv. & Mr. Vishal Choudhary, Adv.
For Respondent(s)	:	Mr. Divyanshu Gupta, AGC, Mr. Jitendra K. Takar, Adv. & Mr. Sachin Singh, Adv. for Mr. S. S. Naruka, AAG

HON'BLE MR. JUSTICE ANAND SHARMA**Judgment****10/03/2026**

1. All the above writ petitions involve almost similar facts, same cause of action and questions for consideration; therefore, they have been heard together and are being decided by this common order. For convenience, facts stated in S.B. Civil Writ Petition No.4779/2025 are being taken into consideration.
2. The petitioners have come out a prayer that the respondents be directed to grant the petitioners notional seniority and notional pay fixation with effect from the year 2018-2019 i.e. the year when the other similarly situated persons were appointed on the post of Teacher Grade-III Level-II.
3. It is stated that one advertisement was issued in the year 2016, whereby applications were invited from all eligible candidates for recruitment on the post of Teacher Grade-III on as many as 4960 vacancies. It is submitted that although, Rajasthan Educational Subordinate Service Rules, 1971 (for short 'the Rules of 1971') provides for preparation of waiting list to the extent of 50% of the vacancies advertised, yet such list was not prepared at the relevant time and despite the fact that number of candidates, who were included in the main select list and were also offered appointment, did not join, only on account of the fact that the respondents omitted to prepare waiting list, appointments were not given to the petitioners, whereas persons, whose names were included in the main select list were appointed in the year 2018.
4. Learned counsel for the petitioner submits that under these circumstances, finding no other alternative, the petitioners

approached this Court by way of filing S.B. Civil Writ Petition No.17360/2018 (**Urmila Devi & Ors. Vs. State of Rajasthan & Ors.**). The said writ petition was allowed by the Co-ordinate Bench of this Court and the respondents were directed to prepare waiting list and to operate the same in accordance with the rules. The said judgment was put to challenge by the respondents by way of filing D.B. Special Appeal (Writ) No.924/2019, in which respondents could not succeed and the appeal was dismissed vide order dated 07.01.2020. It is also submitted that the respondents although challenged the order passed by the Division Bench of this Court by way of filing SLP for the Hon'ble Supreme Court, yet it was withdrawn. Hence, the judgment delivered by Single Bench of this Court in the case of **Urmila Devi (supra)** has attained finality. Learned counsel further submits that after loosing at all the levels, the respondents issued order dated 02.11.2021, whereby after preparing the waiting list and operating the same in compliance of judgment delivered by this Court, the petitioners were appointed on the post of Teacher Grade-III Level-II, yet instead of granting the benefits to the petitioners from the same year and date on which the other persons, who were selected and appointed pursuant to same advertisement, petitioners were allowed benefit of pay fixation and seniority only from their date of appointment.

5. Learned counsel submits that the appointment of the petitioners was delayed only on account of non compliance of mandatory rule with regard to preparation of waiting list, which is solely attributable to the respondents and such omission was also not approved by this Court in the judgments referred hereinabove, therefore, the petitioners cannot be made to suffer only on

account of delay caused by the respondents and they are entitled for the same benefits which have been given to the others, who were appointed pursuant to same advertisement.

6. Learned counsel for the respondents vehemently opposed the writ petitions and submitted that the claim put forward by the petitioners is totally misconceived and their writ petitions is liable to be dismissed. It is submitted that admittedly, the petitioners were not selected in the main select list and only after judgment delivered by this court, a waiting list was prepared and their names were included in the waiting list. Learned counsel submits that the candidates, who were appointed pursuant to a waiting list cannot claim parity with those, who were selected and the appointed pursuant to main select list. Petitioners have rightly been given benefits from the date of their appointment and they cannot claim benefit of the period prior to their appointment.

7. Learned counsel submits that the petitioners in their memo of writ petitions has referred and relied upon certain judgments, which are not applicable in the present case and are distinguishable for the reasons that the petitioners are claiming parity on the basis of such judgments where the petitioners were sailing in the same boat and were belonging to the same select list, which is not there in the instant case. In the present case, the petitioners were the beneficiaries of waiting list and not of the select list. Learned counsel submits that for claiming parity, a candidate is required to show that he is fulfilling all the conditions required under Article 14 i.e. he should fall in the same class with person in respect of whom parity is being claimed.

8. Heard learned counsel for the parties and perused the record.

9. The facts are not much in dispute and it has been admitted by learned counsel for the respondents that initially, while undertaking the recruitment process, the respondents did not prepare waiting list and it was prepared only after the judgment delivered by Co-ordinate Bench of this Court in the case of **Urmila Devi (supra)**, further confirmed by the Division Bench of this Court as well as when the SLP filed by the respondent-department was dismissed as withdrawn.

10. Rule 20 of the Rules of 1971 mandates for preparation of reserve list/waiting list to the extent of 50% of the advertised vacancy. Thus, firstly the respondents violated the mandatory rule of preparation of waiting list and only after the directions given by this Court further confirmed by the Higher Courts, waiting list was prepared and appointment was given to the petitioners in the year 2021. In such process, more than 3 years have elapsed and there is no allegation by the respondents that such delay is attributable to the petitioners. It is settled proposition of law that a person cannot be made to suffer for the delay caused by the other party. Moreso, when Rule 29(3) of the Rules of 1971 provides for that the seniority interse of persons appointed to a post by direct recruitment on the basis of one and the same selection shall follow the order in which their names have been placed in the list prepared under Rule 20. As observed hereinabove, Rule 20 also lays down provision for preparation of waiting list. Thus, combined reading of Rule 20 and 29 of the Rules of 1971 makes it clear that irrespective of the fact that the persons were appointed through

main select list or waiting list, so far as grant of seniority is concerned, benefits shall be given to them in accordance with Rule 29(3) and their names shall be placed in the seniority list following the order, in which their names were there in the select list or the waiting list. Thus, merely for the reasons that the persons, whose names were appearing in the main select list were given appointment in the year 2018 and waiting list candidates were appointed in the year 2021 and would not permit the respondents to assign seniority and to grant other benefits to the petitioners treating them to be persons of subsequent recruitment year. It is informed by learned counsel for the petitioners that in the meanwhile, two more advertisements were issued and appointments pursuant thereto were made by the respondents. Thus, in case, the stand of the respondents to assign seniority and to grant other benefits vide order dated 02.11.2021 is taken to be correct then the petitioners, who were although appointed in pursuance of advertisement issued in the year 2016, will be treated to be juniors of the persons, who were appointed pursuant to subsequent advertisement and recruitment process. Such treatment is apparently discriminatory and is in violation of Article 14 and 16 of the Constitution of India.

11. Learned counsel for the petitioners has relied upon orders passed by Co-ordinate Bench of this Court at Principle Seat, Jodhpur in the case of **Minaxi & Ors. Vs. State of Rajasthan & Ors.** (S.B. Civil Writ Petition No.4499/2022) decided on 07.05.2022 and **Geeta Rani Vs. State of Rajasthan & Ors.** (S.B. Civil Writ Petition No.12508/2022), which pertain to same recruitment year and notional benefits were directed to be given in

respect of persons, who although participated pursuant to same advertisement but were appointed later on for one or another reasons. Learned counsel for the respondents submitted that both the aforesaid orders passed by the Co-ordinate Bench of this Court relate to the persons, whose names were already appearing in the select list and rather they were higher in merit than the persons earlier appointed. The objection raised by learned counsel for the respondents is not sustainable in view of Rule 20 and 29 of the Rules of 1971.

12. On perusal of record, this Court finds that the petitioners have also placed on record certain orders, collectively marked as Annexure-7, to demonstrate that in earlier instances where appointment orders were issued with delay, the respondents themselves granted notional benefits of seniority and pay fixation so as to maintain parity with those candidates who had been appointed immediately upon completion of selection process. The said documents clearly indicate that the respondents have, in comparable circumstances, recognized the principle that a candidate should not be placed at a disadvantage on account of administrative delay attributable to the authorities. Hence, there remains no justifiable basis to deny similar treatment to the present petitioners.

13. In the entire reply or during the course of arguments, learned counsel for the respondents could not point out anything, which refers to any deficiency or any fault on the part of the petitioners, which prompted the respondents to delay the appointment of the petitioners. In fact, the sole reason is that the mandatory rule for preparation of waiting list was not followed by

the respondents and since, it was followed only after the judgment given by this Court, therefore, the petitioners cannot be permitted to suffer for the delay occurred in between.

14. From the above discussion and analysis, this Court observes that in the present case it is not in dispute that the Statutory Rules governing the recruitment process mandatorily required the preparation and operation of a waiting list. The failure of the respondents to comply with the said statutory mandate became the principal cause for the delay in the appointment of the petitioners. It is only after the intervention of this Court, the respondents proceeded to issue appointment orders in favour of the petitioners. In the interregnum, a period of three years had elapsed and two more recruitments pursuant to subsequent advertisements had also taken place. Such delay is clearly attributable solely to the inaction and non-compliance on the part of the respondents and cannot, by any stretch of imagination, be fastened upon the petitioners. The petitioners, having been duly selected and subsequently appointed from the waiting list pursuant to the same advertisement and recruitment process, cannot be made to suffer adverse consequences for the lapse committed by the authorities themselves. Merely because the petitioners were placed in the waiting list and their appointments came to be issued belatedly owing to respondents' own default, they cannot be treated differently from the candidates appointed from the main list. The principle of parity and equal treatment, therefore, requires that the petitioners should also be extended the same notional benefits of seniority and pay fixation so as to

place them at par with other candidates appointed pursuant to the same recruitment process.

15. Consequently, the petitioners are entitled to be accorded notional benefits of seniority and pay fixation from the date on which other similarly situated candidates, appointed pursuant to same recruitment process, were granted appointment. However, it is made clear that since the petitioners did not actually work prior to issuance of their appointment order, they shall not be entitled for actual payment of salary or other monetary benefits.

16. Accordingly, in view of above, writ petitions filed by the petitioners are hereby allowed. Necessary orders shall be passed by the respondents within a period of 60 days from the date of receipt of certified copy of this judgment.

17. Pending application(s), if any, stand(s) disposed of.

18. Copy of this order be placed in each file.

(ANAND SHARMA),J