

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 8131/2020

Mukesh Kumar Sharma S/o Mangal Chand Sharma Aged About
36 Years, R/o Pandya Bid Vali Dhani, Bagwada, Tehsil Amer,
District Jaipur, Rajasthan

-----Petitioner

Versus

1. The State Of Rajasthan, Through Principal Education Secretary, Government Secretariat, Jaipur, Rajasthan
2. The Director, Secondary Education, Rajasthan, Bikaner
3. Rajasthan Public Service Commission, Through Its Secretary, Ajmer

-----Respondents

For Petitioner(s)	:	Mr. Ram Pratap Saini Mr. Mukesh Kumar Sharma (petitioner present in person)
For Respondent(s)	:	Mr. Shreyansh Jain for Mr. Amit Lubhaya Mr. Bhavya Kala for Mr. Devansh Sharma, Dy.G.C.

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

25/02/2026

1. Instant writ petition is filed by petitioner with following prayers:

"It is therefore, most respectfully prayed that this Honible court may very graciously be pleased to accept and allow this writ petition and further be pleased to:

i. By an appropriate writ, order or direction in the nature thereof, the respondents be directed to give relaxation to the petitioner for one year by considering the Rule 6B of Rajasthan Civil Service

(Absorption of Ex-Serviceman) Rules, 1988 under the Notification dated 17.04.2018 for appointment on the post of Sr. Teacher Gr. II (Non TSP Area) Subject Sanskrit under Ex-Serviceman Category.

ii) By an appropriate writ, order or direction in the nature thereof, the respondents be directed to extend the joining date of the petitioner on the post of Sr. Teacher Gr. II Subject Sanskrit until he is relieved from the Armed Force department.

iii. By an appropriate writ, order or direction in the nature thereof, the respondents be directed to not to reject the appointment of the petitioner on the post of Sr. Teacher Gr. II Subject Sanskrit.

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. Learned counsel for petitioner and petitioner in person submits that petitioner has filed an application for post of Teacher Grade-II (Sanskrit) pursuant to advertisement (Annexure-1) and (Annexure-2). He further submitted that petitioner was selected and petitioner has applied for NOC but same has not been issued till the counselling which was scheduled on 13.12.2019. He further submitted that after the counselling the name of petitioner finds place at serial no. 2008 in merit list issued vide result dated 27.02.2020. He also submitted that as per notification dated 17.04.2018 the person who has retired or is retiring within forthcoming

one year after earning his/her pension on the basis of no objection certificate was eligible to apply for the post but has to submit proof of retirement to the selection committee. He further submitted that the petitioner has submitted NOC to claim appointment in Ex-serviceman category. He also submitted that the petitioner was not considered for appointment despite the petitioner was having NOC.

3. Learned counsel appearing on behalf of respondent no.3 RPSC has placed reliance upon notification dated 17.04.2018 whereby Rajasthan Civil Services (Absorption of Ex-serviceman) Rules, 1988 were amended and by insertion of Rule-6-B after Rule-6-A, it was mandatory for the petitioner to submit proof of retirement. He further submitted that the petitioner has concealed material facts and has not submitted any proof of retirement before appearing in the examination. He also submitted that the petitioner has failed to provide any proof of retirement till date of counselling i.e. 13.12.2019, thus, the petitioner was not given any reservation benefit of General Ex-serviceman category. He also submitted that the candidature of petitioner was not considered in light of Rule-6-B of Rules of 1988 and against Rule, the petitioner is not entitled for any relief.
4. Learned counsel appearing on behalf of respondent nos. 1 and 2 has placed reliance upon arguments advanced by learned counsel for respondent no.3 and he submitted that claim of Ex-serviceman quota, it is mandatory for the petitioner to comply with the provisions of the Rules, but

herein, the petitioner has not challenged the provisions of the Rules; therefore, he is not entitled to any relief.

5. Heard learned counsel for the parties and perused the material placed on record.
6. The brief facts of the case are that the RPSC invited applications for the post of Senior Teacher (Sanskrit) by advertisement dated 09.04.2018, which was further amended on 04.05.2018 by a subsequent corrigendum issued by the RPSC. The terms of the advertisement were modified.
7. Admittedly, the Rajasthan Civil Services (Absorption of Ex-Servicemen) Rules, 1988 were amended by notification dated 17.04.2018 and the amended provisions were included in the corrigendum dated 04.05.2018 so as to modify the advertisement dated 09.04.2018. The modified corrigendum is reproduced as under:

**क्रमांक : एफ.6 (33) परीक्षा/प्राध्यापक/संस्कृत
शिक्षा/74 दिनांक : 04.05.2018**

आयोग द्वारा जारी विज्ञान संख्या 02/2017-18 से 12/2017-18 एवं 01/2018-19 से 11/2018-19 तथा शुद्धि पत्र संख्या 01/2018-19 के संबंध में निम्नानुसार अधिसूचित किया जाता है –

(अ) राज्य सरकार की अधिसूचना दिनांक 17.04.2018 द्वारा राजस्थान सिविल सेवा (भूतपूर्व सैनिकों का आमेलन) नियम, 1988 के अन्तर्गत संशोधन किये गये हैं, जो कि निम्नानुसार है :—

1. राज्य के अधीन भूतपूर्व सैनिकों को लिए राज्य सेवाओं में पदों का 5 प्रतिशत व लिपिकवर्गीय और अधीनस्थ सेवाओं में पदों का 12.5 प्रतिशत आरक्षण दिया गया है।
2. ऊपरी आयु सीमा में निम्नानुसार शिथिलन दिया गया है :—

(क) राज्य सेवाओं के लिए —5 वर्ष (ख) राजस्थान पुलिस अधीनस्थ सेवा नियम, 1989 और राजस्थान कारागार अधीनस्थ सेवा नियम, 1998 को छोड़कर समस्त

अधीनस्थ सेवाओं के लिए— 15 वर्ष (ग) समस्त अन्य सेवाओं या पदों के लिए — 3 वर्ष की वृद्धि संहित सैन्य सेवाकाल के बराबर, परंतु यह की शिथिलीकरण के पश्चात यदि अनुज्ञेय आयु 50 से अधिक निकलती है तो ऊपरी आयु सीमा 50 वर्ष ही लागू होगी।

3. सेवानिवृत्ति के प्रमाण का प्रस्तुतीकरण — कोई व्यक्ति जो सेवानिवृत्त हो गया/गई है या आगामी एक वर्ष के भीतर—भीतर सेवानिवृत्त हो रहा है, सक्षम प्राधिकारी से प्राप्त निराक्षेप प्रमाणपत्र (N.O.C.) के आधार पर अपनी पेंशन अर्जित करने के पश्चात पद के लिए आवेदन करने का पात्र होगा/होंगी, किन्तु उसे समुचित चयन अभिकरण को सेवानिवृत्ति का प्रमाणपत्र प्रस्तुत करना होगा—

(क) मुख्य परीक्षा में उपस्थित होने से पूर्व, जहां चयन लिखित परीक्षा के दो प्रक्रमों और साक्षात्कार के माध्यम से होता है,

(ख) परीक्षा में उपस्थित होने से पूर्व, जहां चयन लिखित परीक्षा और साक्षात्कार के माध्यम से होता है,

(ग) लिखित परीक्षा या साक्षात्कार में उपस्थित होने से पूर्व, जहां चयन केवल लिखित परीक्षा या, यथास्थिति, केवल साक्षात्कार के माध्यम से होता है।

4. यदि किसी पद के लिए प्रतियोगी परीक्षा अर्हित करने के लिए एक प्रश्न पत्र में न्यूनतम अर्हक उत्तीर्ण अंक और/या कुल अंक, जहां कहीं भी विहित किए गए हो, तो 5 प्रतिशत या सुसंगत सेवा नियमों में यथाविहित, जो भी उच्चतर हो, का शिथिकरण भूतपूर्व सैनिकों को दिया जाएगा।

(ब) उक्त अधिसूचना के अनुसार आयोग द्वारा जारी किये गये विज्ञापन संख्या 2/2017-18 से 12/2017-18 एवं वि.सं. 1/2018-19 से 11/2018-19 के अंतर्गत जहां कहीं भी भूतपूर्व सैनिकों को आयु सीमा में छूट संबंधी प्रावधान उल्लेखित है, को विलोपित समझा जावे। आयोग द्वारा जारी किये गये उक्त विज्ञापनों में भूतपूर्व सैनिकों को उपरी आयु सीमा, आरक्षण इत्यादि का लाभ उक्त अधिसूचना 17.04.2018 के अनुसार देय होगा।

(स) उक्त अधिसूचना में किये गये प्रावधानों के फलस्वरूप आयोग द्वारा जारी **विज्ञापन संख्या 2/2017-18 से 12/2017-18 तक एवं 1/2018-19 व 2/2018-19 (भर्ती परीक्षा)** के तहत आवेदन करने की अंतिम दिनांक बढ़ाकर **15.05.2018** रात्रि 12:00 बजे तक की जाती है। इसके पश्चात लिंक निष्क्रिय हो जाएगा। (शेष विज्ञापनों के तहत विज्ञापन में अंकित ऑनलाइन आवेदन की अंतिम तिथि विज्ञापन अनुसार ही रहेगी)

(द) बिन्दु संख्या – 'स' में उल्लेखित विज्ञापनों के तहत ऑनलाइन संशोधन की दिनांक 16.05.2018 से 20.05.2018 की जाती है।

(य) संबंधित विभागों से उक्त अधिसूचना के परिप्रेक्ष्य में पदों का वर्गवार वर्गीकरण प्राप्त होने पर आयोग की वेबसाइट पर यथासमय अपलोड कर दिया जाएगा।
इसलिए पदों के वर्गवार वर्गीकरण का इंतजार किये बिना अभ्यर्थी उक्त समस्त विज्ञापनों के तहत आवेदन करें।

(र) शासन द्वारा सभी वर्ग के अभ्यर्थियों के आर्थिक स्थिति के दृष्टिगत लिए गए निर्णय के कम में जारी परिपत्र दिनांक 02.05.2018 के अनुसार सभी वर्ग के ऐसे अभ्यर्थी जिनके परिवार के **वार्षिक आय रुपये 2.50 लाख से कम** है, के लिए आवेदन शुल्क अनुसूचित जाति/अनुसूचित जनजाति के अभ्यर्थियों के समान ही होगा।

(ल) विज्ञापनों की अन्य शर्तें यथावत रहेगी।

8. The aforementioned clearly indicates that the original advertisement was modified and the last date was extended to 15.05.2018. The reservation for ex-servicemen is subject to the Rules of 1988 as amended on 17.04.2018. Rule 6B, which was inserted after Rule 6A, is reproduced as under, as the whole controversy surrounds the said Rule:

"6B. Submission of proof of Retirement.- A person who has retired or is retiring within forthcoming one year, after earning his/her pension on the basis of no-objection certificate (NOC) from the competent authority, shall be eligible to apply for the post but he/she shall have to submit proof of retirement to the appropriate selection agency:-

- (a) before appearing in the main examination, where selection is made through two stages of written examination and interview;
- (b) before appearing in examination where selection is made through written examination and interview;
- (c) before appearing in written examination or interview where selection is made through only written examination or only interview, as the case may be."

9. In the present case, the petitioner was declared successful after counselling, but he failed to produce proof of retirement as mandated under Rule 6-B of the Rules of 1988. The Rule clearly lays down that a person who has retired or is retiring within the forthcoming one year after earning pension on the basis of an NOC from the competent authority shall be eligible to apply for the post, but he has to submit proof of retirement. The selection agency, as per the conditions prescribed in clauses (a), (b) and (c) of Rule 6-B of the Rules of 1988, has demanded proof of retirement, and the petitioner has not submitted any such proof as required under the Rules. The petitioner has not submitted any document to show that within one year he is likely to be supernnauted and he had applied on the basis of a NOC. The document (Annexure-4) only indicates that the petitioner filed Annexure-3 and Annexure-4 to show his claim and candidature on the post of ex-serviceman. However, the petitioner did not submit any proof of retirement as mandated under Rule 6-B. The Rule is very clear that the petitioner is required to submit proof of retirement before appearing in the main examination where selection is made in two stages, or before appearing in the examination where selection is made through written examination and interview, or before appearing in written examination or interview where selection is made through written examination or interview.

10. Since, the petitioner has not satisfied the conditions prescribed under Rule 6-B of the Rules of 1988, as mandated in the advertisement. Therefore, the petitioner is not entitled to any relief by invoking the extraordinary jurisdiction of this Court.
11. In view of discussion made hereinabove, the writ petition is hereby dismissed.
12. Misc. application, if any, also stands disposed of.

(ASHOK KUMAR JAIN),J