

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

D.B. Civil Writ Petition No. 1004/2022

Parul Khurana D/o Shri Suresh Khurana, Aged About 26 Years,
33-A, Prem Nagar, Near Payal Cinema, District Sri Ganganagar.

-----Petitioner

Versus

1. High Court Of Judicature For Rajasthan At Jodhpur,
Through Its Registrar General.
2. The Registrar (Examination), Rajasthan High Court,
Jodhpur.

-----Respondents

For Petitioner(s) : Mr. Rakesh Arora through VC.

For Respondent(s) : -

**HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR BHARWANI**

J U D G M E N T

Judgment pronounced on ::: **27/01/2022**

Judgment reserved on ::: **19/01/2022**

BY THE COURT : (PER HON'BLE MEHTA, J.)

1. The respondents issued a recruitment notification dated 18.01.2020 inviting applications for recruitment to the post of Stenographer Grade-III (Hindi and English) in the Districts Courts and the District Legal Services Authorities. Reservations were provided for Divorcee category women in this recruitment process. The last date of submission of online application forms was 28.02.2020.

2. The petitioner claims that she was married to one Shri Vikash on 06.07.2018. However, the matrimonial relationship fell

out and thus, a customary divorce took place in the Society *Panchayat* on 17.09.2018 and an agreement was executed on the very same day for terminating the relations between the spouses. An application under Section 13B of the Hindu Marriage Act was filed on 12.07.2019 but could not be posted for second motion because of some dispute. The decree of divorce was passed on 13.08.2020. The delay occurred on account of COVID pandemic and the lockdown imposed pursuant thereto. As the application under Section 13B of the Hindu Marriage Act had already been filed long before submitting the application form in the recruitment process, the petitioner applied in the category of Divorcee Female. The result of the recruitment in question was declared on 30.06.2021. The petitioner was called for interview and document verification and was declared successful in the category of Divorcee Female. However, the previous result was cancelled and fresh result was declared because of some litigation, etc. The petitioner was again declared successful in the Divorcee Female category in the revised result and was called for interview and document verification vide Notice dated 07.12.2021. The final result was declared on 15.12.2021 wherein, a note was appended that the petitioner did not have the decree of divorce on the last date of submission of online application form i.e. 28.02.2020 and thus, she was not being considering in Divorcee Female category. Thereupon, The petitioner has approached this Court by way of this writ petition for assailing the notice dated 15.12.2021 whereby, the candidature of the petitioner has been rejected on the ground that she did not possess the decree of divorce on the last date of submission of online application form.

3. Shri Rakesh Arora, learned counsel representing the petitioner, vehemently and fervently urged that the respondents were totally unjustified in turning down the petitioner's candidature in the Divorcee Female category because she was already having a customary divorce agreement. As the application for divorce by mutual consent under Section 13B of the Hindu Marriage Act had also been filed well before issuance of the recruitment notification but could not be decided because of the prevailing COVID pandemic and hence, the petitioner ought to have been given appointment in the Divorcee Female category as per her merit. He submitted that there was no requirement in the recruitment notification that for applying in the Divorcee category, the aspirant must be holding the divorce decree. As the application had been preferred under Section 13B of the Hindu Marriage Act, grant of decree of divorce was a foregone consequence thereof. As a matter of fact, the divorce decree was granted on 13.08.2020 i.e. well before declaration of the result and thus, the impugned notice should be struck down and the respondents be directed to offer appointment to the petitioner as per her merit and performance against the seats reserved for Divorcee Female category.

4. We have given our thoughtful consideration to the submissions advanced by the petitioner's counsel and, have gone through the material placed on record.

5. The recruitment notification in question, in no uncertain terms, stipulated that the reservation was being offered to "Divorcee Female" category. For a person, applying in the said

category, the status of being divorced was imperative. There is nothing in law which can permit a candidate to apply in the said category in the expectancy that a decree would be granted.

6. Be that as it may. Since the petitioner was not a 'Divorced Female' as on the last date of submission of application forms, she was not entitled to apply in the said category and as a consequence, the respondents were absolutely justified in rejecting the petitioner's candidature in the category of Divorcee Female. Law in this regard is well settled by Hon'ble the Supreme Court in the case of **Ashok Kumar Sonkar vs. Union of India**, reported in **(2007)3 SCC 956** wherein, the Hon'ble Court was considering the aspect of the candidate not holding the requisite academic qualification by the last date of submission of the application forms. It was held that if the Rules and the recruitment notification are silent, the last date for considering the qualification would be the last date of submission of the application forms. In the present scenario, admittedly, the petitioner was not a Divorcee on the last date of submission of the application forms and thus, she was not entitled to apply in such category. As a matter of fact, she made a mis-statement of being divorced while applying against the seats reserved for Divorcee Female aspirants. Hence, the respondents were absolutely justified in rejecting the petitioner's candidature by the impugned notice dated 15.12.2021 which is perfectly in accordance with law.

7. In support of his contentions, Shri Rakesh Arora has placed reliance on the Single Bench Judgment in the case of **Reetu Kalasua Vs. State of Rajasthan & Ors.** reported in **2014 (3)**

WLC (Raj.) 137. It may be mentioned here that the Judgment of *Reetu Kalasua (supra)*, which in turn was rendered on the ratio of a Division Bench Judgment in the case of **State of Rajasthan & Ors. vs. Ms. Jamna Rajpurohit** reported in **2013(4) CDR 2275 (Raj.)** were both considered by a Division Bench in the case of State of **Rajasthan vs. Jagdish Prasad (D.B. Civil Special Appeal (Writ) No.611/2016) decided on 09.09.2016** and the Hon'ble Division Bench has declared the Judgment rendered in the case of Ms. Jamna Rajpurohit (*supra*) to be *per incuriam*. Manifestly thus, the judgment in the case of Reetu Kalasua (*supra*) relied upon by Shri Arora does not lay down the correct preposition of law and hence is of no help whatsoever to the petitioner.

8. As a consequence, the writ petition fails and is hereby dismissed as being devoid of merit.

(VINOD KUMAR BHARWANI),J

(SANDEEP MEHTA),J

30-Tikam Daiya/-

सत्यमेव जयते