HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 3527/2024

1. Brijsundar Regar S/o Dalchand, Aged About 29 Years, R/o Village Dehit, Tehsil Talera, District Bundi, Rajasthan.
2. Puran Singh Rathore S/o Hem Singh, Aged About 26 Years, R/o Vpo Amarsar, Tehsil Bidasar, District Churu, Rajasthan.
3. Dama Ram S/o Kesha Ram, Aged About 25 Years, R/o Jakhdon Ki Dhani, Barmer, Rajasthan.
4. Satya Jeet Yadav S/o Sajan Singh Yadav, Aged About 27 Years, R/o Village Milakpur, Tehsil Behror, District Alwar, Rajasthan.
5. Jodhraj Choudhary S/o Hansraj Choudhary, Aged About 26 Years, R/o Village Lakholai, Tehsil Deoli, District Tonk, Rajasthan.
6. Rajendra S/o Rewant Ram, Aged About 26 Years, R/o Vpo Sinod, Tehsil And District Nagaur, Rajasthan.
7. Pramod Kumar Pingoliya S/o Rameshwar Prasad Pingoliya, Aged About 25 Years, R/o Vpo Hastera, Via Govindgarh, Tehsil Chomu, District Jaipur, Rajasthan.
8. Rahul Kumar S/o Gyanchand, Aged About 24 Years, R/o Chimni Ka Kuwa, Dhanna Talai, Tonk, Rajasthan.
9. Suresh Kumar S/o Teja Ram, Aged About 24 Years, R/o Vpo Sankad, Tehsil Sanchore, District Sancore, Rajasthan.
10. Dinesh Gander S/o Jitendra Gander, Aged About 22 Years, R/o Rameswer Mandir Ke Piche, Chandpole, Jodhpur, Rajasthan.
11. Sumit Kumar S/o Mansingh, Aged About 26 Years, R/o Vpo Mahpalwas, Tehsl Surajgarh, District Jhunjhunu, Rajasthan.
12. Ganesh Kumar Saini S/o Raju Lal Saini, Aged About 24 Years, R/o Ward No. 02, Dhani Bewadi, Garhmora, District Karauli, Rajasthan.
13. Jagpal S/o Dungar Ram, Aged About 24 Years, R/o Village Bheser Khutdi, Block Mathaniya, Distict Jodhpur, Rajasthan.
14. Shubham Chittora S/o Shyam Sundar Chittora, Aged About 29 Years, R/o Vpo Barundhan, Tehsil Talera, Dsitrict

Bundi, Rajasthan.

15. Gowardhan Lal Saini S/o Bhanwar Lal Saini, Aged About 25 Years, R/o Ahinsa Nagar, Jaipur Road, Kekri, Dstrct Kekri, Rajasthan.

16. Sugna D/o Shiv Ram, Aged About 23 Years, R/o 61, Ward No. 30, Begsar, Maulasar, District Nagaur, Rajasthan.

----Petitioners

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Animal Husbandry Department, Government Secretariat, Jaipur.

2. The Director, Department Of Animal Husbandry, Government Of Rajasthan, Jaipur.

3. Rajasthan Staff Selection Board, Through Its Secretary, Agriculture Management Institute Building, Durgapura, Jaipur, Rajasthan.

----Respondents

Connected With

S.B. Civil Writ Petition No. 3521/2024

Sanju Kumari Daughter Of Shri Devkaran Singh, Aged About 34 Years, Resident Of Kishorpura, Tehsil Chirawa, District Jhunjhunu (Raj.)

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Animal Husbandry Department, Govt. Secretariat, Jaipur (Raj.)

2. Director, Animal Husbandry Department, Govt. Of Raj. Jaipur (Raj.)

3. Joint Director, Animal Husbandry Department, Churu (Raj.)

4. Secretary, Rajasthan Subordinate And Ministerial Service Selection Board, Rajasthan Krishi Prabandh Sansthan Parisar, Durgapura, Jaipur (Raj.)

----Respondents

S.B. Civil Writ Petition No. 3522/2024

Sirvista Shivran Daughter Of Shri Birbal Singh, Aged About 23 Years, Resident Of Village Kue Ke Paas, Dagra, District Sikar

(Raj.)

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Animal Husbandry Department, Govt. Secretariat, Jaipur (Raj.)
2. Director, Animal Husbandry Department, Govt. Of Raj., Jaipur (Raj.)
3. Joint Director, Animal Husbandry Department, Churu (Raj.)
4. Secretary, Rajasthan Subordinate And Ministerial Service Selection Board, Rajasthan Krishi Prabandh Sansthan Parisar, Durgapura, Jaipur (Raj.)

----Respondents

S.B. Civil Writ Petition No. 3529/2024

Asha Kumari Daughter Of Shri Chandgi Ram Dhayal, Aged About 25 Years, Resident Of Village Dhayalo Ka Bass, Kari, Tehsil Nawalgarh, District Jhunjhunu (Raj.)

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Animal Husbandry Department, Govt. Secretariat, Jaipur (Raj.)
2. Director, Animal Husbandry Department, Govt. Of Raj. Jaipur (Raj.)
3. Joint Director, Animal Husbandry Department, Churu (Raj.)
4. Secretary, Rajasthan Subordinate And Ministerial Service Selection Board, Rajasthan Krishi Prabandh Sansthan Parisar, Durgapura, Jaipur (Raj.)

----Respondents

S.B. Civil Writ Petition No. 3536/2024

1. Bhuvnesh Mehara D/o Onkar Lal Mehara, Aged About 24 Years, R/o Village Golana, Tehsil Khanpur, District Jhalawar, Rajasthan.
2. Rakesh Yadav S/o Babulal Yadav, Aged About 25 Years, R/o Dhani Shyolala Wali, Near Eat Bhatta Bai Pass Road, Narayanpur, Tehsil Narayanpur, District Kotputli Behror, Rajasthan.

3. Nagina Bano D/o Gani, Aged About 24 Years, R/o Village Harsolaw, Tehsil Merta City, District Nagaur, Rajasthan.

4. Balram Choudhary S/o Ramsahay, Aged About 22 Years, R/o Village Kuredi, Tehsil Peeplu, District Tonk, Rajasthan.

5. Mahendra Mehariya S/o Sukhh Dev Ram, Aged About 29 Years, R/o Mehariyo Ka Bas, Vpo Indwar, Tehsil Merta City, District Nagaur, Rajasthan.

6. Meghraj Kushwah S/o Amarchand Kushwah, Aged About 22 Years, R/o Vpo Kundi, Tehsil Atru, District Baran, Rajasthan.

7. Dashrath S/o Teekam Singh, Aged About 22 Years, R/o Village Madoli, Post Sewar, District Bharatpur, Rajasthan.

8. Teeja Kumari D/o Mohan Lal, W/o Suresh Kumar, Aged About 25 Years, R/o Ward No. 03, Village Panditanwali, Tehsil Pilibangan, District Hanumangarh, Rajasthan.

9. Reshma Meena D/o Onkar Singh Meena, Aged About 25 Years, R/o Biletha, Tehsil Jahazpur, Bhilwara, Rajasthan.

10. Navrtan Vaishnav S/o Jagdish Prasad, Aged About 22 Years, R/o Village Sankariya, Tehsil Kekri, District Ajmer, Rajasthan.

11. Mahendra Kumar Dhakar S/o Dhanraj Dhakar, Aged About 23 Years, R/o Village Daulta, Post Ambapura, Tehsil Deoli, District Tonk, Rajasthan.

12. Lalit Nagar S/o Ramsahay Nagar, Aged About 24 Years, R/o Village Manpura, Post Khanpura, Tehsil Nainwa, District Bundi, Rajasthan

13. Anil Kumar Meena S/o Ram Niwas Meena, Aged About 22 Years, R/o Village Vinayaka, Tehsil Pipalda, District Kota, Rajasthan.

14. Sonam D/o Nizamuddin, Aged About 29 Years, R/o 1-F-78, Chatrapura Talab, Vigyan Nagar, Kota, Rajasthan.

15. Ashok Kumar S/o Lashmana Ram, Aged About 28 Years, R/o Village Deegonv, Post Karda, Tehsil Raniwara, District Jalore, Rajasthan.

16. Savita Gurjar D/o Rajaram Gurjar, Aged About 22 Years, R/o Ward No. 11, Chak Chamroli, Sothana, Jaipur, Rajasthan.

----Petitioners

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Animal Husbandry Department, Government Secretariat, Jaipur.
2. The Director, Department Of Animal Husbandry, Government Of Rajasthan, Jaipur.
3. Rajasthan Staff Selection Board, Through Its Secretary, Agriculture Management Institute Building, Durgapura, Jaipur, Rajasthan.

----Respondents

S.B. Civil Writ Petition No. 3646/2024

Pradeep Nath Yogi S/o Laxman Nath Yogi, Aged About 33 Years, R/o Sabalpura, Badawat, Tehsil Asind, District Bhilwara, Rajasthan.

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Animal Husbandry Department, Government Secretariat, Jaipur.
2. The Director, Department Of Animal Husbandry, Government Of Rajasthan, Jaipur.
3. Rajasthan Staff Selection Board, Through Its Secretary, Agriculture Management Institute Building, Durgapura, Jaipur, Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Ram Pratap Saini Ms. Komal Kumari Giri with Mr. Bajrang Sepat Mr. Himanshu Jain with Ms. Apporva Agarwal Mr. Rishiraj Maheshwari Mr. Yashraj Kumawat
For Respondent(s)	:	Ms. Priyanka Pareek, AGC Mr. Nalin G. Narain, AGC with Mr. Arpit Jain Mr. Manish Bhardwaj

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HON'BLE MR. JUSTICE SAMEER JAIN

Order

Reserved On : 28/05/2024

Prounounced On : 11/07/2024

1. In the present batch of writ petitions, the scope of the controversy involved is identical and therefore, with the consent of learned counsel appearing on behalf of both the sides, the petitions are being jointly taken up for final disposal. For efficacious disposal and recording of arguments, S.B. Civil Writ Petition No. 3527/2024 titled as Brijsundar Regar vs. State of Rajasthan, is being taken up as the lead case.

2. The petition is filed with the following prayers:-

> i) Issue an appropriate writ, order or direction in the nature thereof thereby, the respondents be directed to continue the petitioners on the post of Livestock Assistant in pursuance of appointment orders dated 13.10.2022.
> ii) Issue an appropriate writ, order direction in the nature thereof thereby, the impugned Revised Result dated 01.03.2024 (Annex.11) and impugned order dated 02.03.2024 (Annex.12) be declared illegal and may kindly be quashed and set aside qua the petitioners as the similar controversy has already been resolved by the Hon'ble Supreme Court in the case of Anmol Kumar Tiwari & Ors. vs. The State of Jharkhand and Ors, Civil Appeal No. 429-430 of 2021 as also by this Hon'ble Court in the case of Chhotu Ram Regar and Anr. vs. State of Raj. & Ors. S.B. Civil Writ Petition No. 6614/2017, decided on 2.5.2017 wherein such type of termination orders have been held to be illegal.
> iii) Issue and appropriate writ, order or direction in the nature thereof thereby, the respondents may kindly be directed not to oust the petitioners from the post of Livestock Assistant due to revised result.
> iv) Issue an appropriate writ, order or direction in the nature thereof thereby, the respondents may kindly be directed to fill up the vacant posts of Livestock Assistant by following the reservation policy as rules.
> v) 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 petitioners.
> vi) Cost of the writ petition be also awarded in favour of the petitioners."

3. Learned counsel for the petitioners submitted that on 11.03.2022, the respondent-Rajasthan Staff Selection Board (hereinafter, RSSB) published an advertisement for recruitment on

the post of Livestock Assistant under the Rajasthan Animal Husbandry Subordinate Service Rules, 1977, by way of which, a total of 1136 posts were advertised. Eventually, by way an amended advertisement dt. 27.05.2022, the total number of vacancies increased to 1436 posts. The petitioners before this Court appeared in the requisite examination on 04.06.2022. On 07.07.2022, the respondents issued the final answer key. Thereafter, on the basis of the said answer key, the respondent-RSSB issued the final result on 13.10.2022, by way of which the petitioners were selected on the posts so advertised, having been declared meritorious. Consequently, the respondent-RSSB issued appointment orders in favour of the petitioners, resulting into the petitioners being posted at different locations, in accordance with their merit positions.

4. It was further submitted that pursuant to their appointment, the petitioners had been rendering their services with utmost efficiency for an approximate period of one year. In the meanwhile, one petition, namely **S.B. Civil Writ Petition No. 10276/2022** titled as **Praveen Senwar vs. State of Rajasthan** along with other petitions, came to be filed before this Court. In the said petition, a challenge was raised against the answer key so released by the respondent-RSSB, more particularly qua Question Nos. 6 and 38. However, the Coordinate Bench found no substance in the petition and vide order dated 28.09.2022, dismissed the petition. Against the said order of dismissal, an appeal was preferred before the Hon'ble Division Bench namely **D.B. Special Appeal Writ No. 847/2022** titled as **Suman and Ors. vs. State**

of Rajasthan and Ors., which conversely, vide order dated 02.02.2023, allowed the appeal. Subsequently, an appeal was preferred against the order dated 02.02.2023 before the Hon'ble Apex Court. However, the said SLP came to be dismissed vide order dated 06.10.2023. Therefore, the order passed by the Hon'ble Division Bench dated 02.02.2023 in **Suman (Supra)** was maintained and interference was extended in the answer key qua Question Nos. 6 and 38.

5. Resultantly, in light of the aforesaid orders, the respondent-RSSB issued the revised result for the advertised posts on 01.03.2024 by way of which the RSSB withdrew the recommendations of 52 candidates. Accordingly, on 02.03.2024, despite the fact that the petitioners had rendered efficient service for a period of one year, the respondents issued an order terminating the services of the petitioners, in accordance with the revised result of the concerned examination and in sync with the consequent decisions of the Hon'ble Division Bench and the Apex Court.

6. At this juncture, learned counsel for the petitioners submitted that if the appointment, joining, training and rendering of services by the petitioners for a period of one year was as per the due selection process *sans* concealment and/or misrepresentation/fraud, then in light of the dictum enunciated in **S.B. Civil Writ Petition No. 5355/2013** titled as **Sanju Nama vs. State of Rajasthan and Anr**., **Rajesh Kumar and Ors. vs. State of Bihar and Ors.** reported in **(2013) 4 SCC 690** and **Vikas Pratap Singh and Ors. vs. State of Chattisgarh and**

Ors. reported in **(2013) 14 SCC 494**, the services of the petitioners who were regularly appointed ought not to be discontinued, despite the change in merit. Rather, the same should be continued. Moreover, in an eventuality where the same is not possible on account of non-existence of vacancies, such appointees should be adjusted against the future vacancies as the nature of job is recurring. In this regard, reliance was also placed upon the dictum enunciated in **D.B. Civil Appeal No. 793/2014** titled as **Mohan Lal vs. RSRTC**. Lastly, learned counsel for the petitioners submitted that considerations such as other candidates being in the revised merit list cannot outweigh the accumulated rights of the petitioners, as said candidates were not parties in the earlier rounds of litigation before this Court. Therefore, such candidates cannot seek a relief at such a belated stage. Hence, in cumulative light of the above, it was prayed that the instant petition be allowed in terms of the prayers so advanced.

7. *Per contra*, learned counsel for the respondents vehemently opposed the prayers advanced by the petitioners and consequently, prayed for the dismissal of the instant petition. In this regard, learned counsel submitted that during the pendency of the present proceedings, in compliance with the directions of this Court, the respondents formulated a high-level committee in order to explore the possibility of adjusting the petitioners against future vacancies. However, the said possibility cannot fruition for the reason that in light of the dictum enunciated by the Division Bench in **D.B. Special Appeal Writ No. 847/2022 titled as Suman and Ors. vs. State of Rajasthan and Ors.,** which was

subsequently upheld by the Hon'ble Apex Court, a fresh/revised merit list was prepared by the respondents, in which, the petitioners were found not to be meritorious. Moreover, as per the appointment letters issued to the petitioners by the respondents, it was made rather clear that the petitioners appointment shall be subject to any litigation. Moreover, said litigation was not confined to any particular individual(s) as well. Subsequently, the dictum enunciated by the Division Bench vide order dated 02.02.2023, came to be confirmed/upheld by the Hon'ble Apex Court vide order dated 06.10.2023. Therefore, as on date, the revised merit list so prepared in pursuance of said judgments, is final, which ousts the candidatures of the petitioners on account of them being non-meritorious. Learned counsel further submitted that the petitioners were merely rendering their services on probation, not having been confirmed in service yet. Lastly, it was averred that as per the revised merit list, in between the petitioners and the selected candidates, there lies the candidature of 285 candidates who are more meritorious than the petitioners. Therefore, giving appointment to the petitioners shall not only be arbitrary and unjust on account of them being non-meritorious, but also discriminatory qua said 285 candidates.

8. In this background, learned counsel prayed that the instant petition be dismissed and the appointments as per the revised merit list be finalized expeditiously, looking to the public interest.

9. Heard and considered.

10. Upon an assiduous perusal of the record of the instant petition coupled with the arguments advanced by the learned

counsel for both the sides, this Court deems it appropriate to dismiss the instant petition, for the following reasons, namely:-

10.1. That the appointment letter, as issued to the petitioners in pursuance of the erstwhile merit list, marked as Annexure-6 dt. 13.10.2022, made it unequivocally and categorically clear that such appointment shall be contingent and/or conditional to any subsequent litigation before the Court. Therefore, the appointment conferred vide letter dt. 13.10.2022 was not absolute, being subject to the caveat of any further litigation before the Court. The relevant extract of the appointment letter, marked as Annexure-6, is reproduced herein-under:-

> " 1. यह नियुक्ति पूर्णतया अस्थायी है।
> 5. उक्त चयनित अभ्यर्थियों की नियुक्ति इस भर्ती से संबंधित माननीय न्यायालय में दायर वाद संख्या 8050@2022 एवं अन्य fopkjk/khu@nkयर होने वाली रिट याचिकाओं के निर्णयाधीन रहेगी।
> 13. परिवीक्षाकाल (Probation Period) में सेवाऐं संतोषजनक नहीं होने की स्थिति में निमानुसार परिवीक्षाकाल (Probation Period) बढाया जायेगा या बिना कारण बताये सेवाएँ समाप्त की जा सकती है। "

10.2. That upon a further perusal of Annexure-6 i.e. appointment letter dt. 13.10.2022, it is also made clear that the said letter in no uncertain terms outlined that the petitioners could be ousted from service, without any recorded reason, during the period of probation. It is also an undisputed fact that at the time when the petitioner's termination letter was issued, the petitioners were rendering their services on probation.

10.3. That cumulatively, it can be deduced in no uncertain terms that the appointment letter dt. 13.10.2022 created no vested right of appointment in favour of the petitioners. Rather, such right was

contingent upon further litigation before this Court coupled with the expiry of the period of probation.

10.4. That subsequent to the issuance of the said appointment letter dt. 13.10.2022, certain litigation ensued before this Court qua the correctness of the answer key, especially qua Question Nos. 6 and 38. In this regard, one petition, namely **S.B. Civil Writ Petition No. 10276/2022** titled as **Praveen Senwar vs. State of Rajasthan** along with other petitions, came to be filed before this Court. In the said petition, a challenge was raised against the answer key so released by the respondent-RSS, more particularly qua Question Nos. 6 and 38. However, the Coordinate Bench found no substance in the petition and vide order dated 28.09.2022, dismissed the petition. Against the said order of dismissal, an appeal was preferred before the Hon'ble Division Bench namely **D.B. Special Appeal Writ No. 847/2022** titled as **Suman and Ors. vs. State of Rajasthan and Ors**., which conversely, vide order dated 02.02.2023, allowed the appeal. Subsequently, an appeal was preferred against the order dated 02.02.2023 before the Hon'ble Apex Court. However, the said SLP came to be dismissed vide order dated 06.10.2023. Therefore, the order passed by the Hon'ble Division Bench dated 02.02.2023 was maintained and interference was extended in the answer key qua Question Nos. 6 and 38.

10.5. The Division Bench, in **Suman (Supra)** vide order dated 02.02.2023 held as under:-

> "Consequently, the impugned order passed by the learned Singled Bench dated 28/09/2022 is also reserved.

> The answer (B) Suratgarh adopted in the preliminary answer key is the correct answer to the question No. 38 and thus, the result shall be revised by adopting the said answer. **The answer key and the reshuffled result/merit list to be prepared as a consequence of the above revision shall be declared and uploaded on the website of the Board at the earliest**."

10.6. That subsequent to the passing of the order dt. 02.02.2023 and the same having been confirmed by the Hon'ble Apex Court on 06.10.2023, the respondent-RSSB issued the revised result for the advertised posts on 01.03.2024. As per the said revised result, the petitioners candidature was ousted on account of them lacking merit. Moreover, between the selected candidates as per the revised result and the petitioners, lay the candidature of 285 other candidates who are placed higher on merit than the petitioners. Therefore, the arguments advanced by the petitioners qua adjustment qua future vacancies cannot be countenanced, especially looking to the fact that the said adjustment shall be discriminatory to the rights of the said 285 candidates who are more meritorious than the petitioners.

10.7. That the judgments as relied upon by the petitioners qua the petitioners adjustment against future vacancies cannot be further countenanced for the reason that in the facts and circumstances of the present case, it is made abundantly clear that the very appointment letter issued in favour of the petitioners, marked as Annexure-6 dt. 13.10.2022, made it rather clear that the said appointment shall not be final insofar as the same would be contingent upon any further litigation before this Court or the Hon'ble Apex Court. Furthermore, the said

appointment letter also provided for termination of services, without any notice period and/or reasons to be recorded in writing, during the sustenance of the period of probation, which was admittedly ongoing. Therefore, the aspect of adjustment qua future vacancies ought not to be entertained.

11. As a result, in cumulative light of the aforesaid, the instant petitions are dismissed. Pending applications, if any, stand disposed of.

(SAMEER JAIN),J

ANIL SHARMA /334-339