



2025 INSC 551

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 733/2024

REKHA SHARMA

PETITIONER (s)

VERSUS

HIGH COURT OF JUDICATURE FOR
RAJASTHAN & ANOTHER

RESPONDENT(s)

O R D E R

The Petitioner obtained her law degree on 11.06.2016. She was issued a disability certificate by the Department of Medical Health, Government of Rajasthan, certifying 40% low-vision disability.

2. An advertisement was issued on 22.07.2021 for the recruitment of Civil Judges. A total of 89 posts were advertised for the year 2020, including 4 posts reserved for Persons with Benchmark Disability (PwBDs). Additionally, 31 posts were advertised for 2021, with 1 post reserved for PwBDs.

3. Pursuant to the advertisement, the Petitioner applied under the category of Economically Weaker Sections (EWS) with Benchmark Disability and appeared for the Preliminary Examination held on 28.11.2021. The results, declared on 11.01.2022, did not specify the cut-off marks

for PwBD candidates, although cut-off marks for other categories were published.

4. Being aggrieved, the Petitioner filed D.B. Civil Writ Petition No. 1868/2022 before the High Court, which was dismissed on 06.04.2022. Being aggrieved by the order dated 06.04.2022, the petitioner filed a Special Leave Petition before this Court (later numbered as Civil Appeal No. 5051 of 2023) challenging the non-declaration of separate cut-off marks for PwBDs in the Preliminary Examination of Rajasthan Judicial Services, 2021. The same was dismissed on 21.08.2024.

5. During the pendency of the said appeal, the High Court issued Detailed Advertisement No. 783/2024 dated 09.04.2024 for recruitment to the post of Civil Judge Cadre, Rajasthan Judicial Services. The advertisement notified 222 vacancies (83 for 2022, 57 for 2023, and 82 for 2024), out of which 9 posts were reserved for PwBDs, including 2 posts for blind and low vision candidates.

6. On 05.06.2024, the Petitioner received her Admit Card for the Preliminary Examination. The result declared on 15.07.2024 showed that she had qualified under the vertical category of EWS. Subsequently, the petitioner received her Admit Card for the Main Examination on

12.08.2024. The results of the Main Examination were declared on 01.10.2024, and the said result did not include the name of the petitioner among the qualified candidates.

7. Being aggrieved by the non-declaration of a separate cut-off marks for PwBDs in the Main Examination, the Petitioner filed I.A. No. 237785 of 2024 in Suo Motu Writ Petition (Civil) No. 6 of 2024 before this Court. However, this Court, in the said Suo Motu Writ Petition (Civil) No. 6 of 2024, directed the petitioner to file a substantive writ petition.

8. Thereafter, the petitioner approached the High Court through Writ Petition (Civil) No. 16764 of 2024, praying for separate cut-off marks to be declared for PwBD candidates to qualify for the interview for the Rajasthan Judicial Services Exams 2024. The High Court in Writ Petition (Civil) No. 16764 of 2024 permitted the petitioner to participate in the interview for the Rajasthan Judicial Services Exams 2024. Following the same, the petitioner was issued a call letter for the Interview for the Rajasthan Judicial Services 2024.

9. Thereafter, on 27.10.2024, the final results of the Rajasthan Judicial Services Exams 2024 were notified,

whereby the cut-off marks for the Mains stage for PwBD category was set as 121.5 marks. The petitioner had secured 119 marks. Accordingly, the name of the petitioner was not found in the above list of selectees. At this stage, the petitioner contended that the minimum qualifying marks are 117.25 as per clause 23 of the Advertisement, which mandates 35% aggregate marks for SC/ST and PwBD candidates, and 40% for others, hence the petitioner is eligible for being selected. Being aggrieved, the petitioner made a representation on 28.10.2024; however, the same was futile. Hence, this instant writ petition has been preferred by the petitioner.

10. The petitioner has sought the following reliefs:

"a) Pass a writ order declaring that the denial of the benefit of reservation for Persons with Benchmark Disabilities (PWBDs) to the Petitioner in the result of the Civil Judge Cadre of the Rajasthan Judicial Service Examination, 2024, as arbitrary, unlawful, and violative of the Petitioner's fundamental rights under Articles 14, 16 and 21 of Constitution of India;

b) Issue a writ in the nature of mandamus directing the Respondents to revise the cut-off marks for Persons with Benchmark Disabilities in a rational manner and thereafter to consider the candidature of the Petitioner against the same; and

c) In the alternative to Prayer(b), issue a writ of mandamus to the Respondents directing them to appoint the Petitioner against the unfilled vacancy for blind and low vision candidates in

the Rajasthan Judicial Services Examination, 2024.

d) Pass such other and further orders as this Hon'ble Court may deem fit and proper in the interest of justice."

This Writ Petition has been filed by the petitioner by invoking Article 32 of the Constitution of India.

11. We have heard learned senior counsel and learned counsel for the petitioner and learned counsel for the respondent-High Court and perused the material on record.

12. During the course of submissions, our attention was drawn to the reply filed by respondent Nos.1 and 2 by learned senior counsel and learned counsel for the petitioner. It was pointed out that two posts were reserved for candidates having disability of blind and low vision and in those posts two candidates namely, Anu Meena and Siddharth Sharma, who have secured higher marks than the petitioner herein have been accommodated; that consequently the petitioner herein could not be selected to the post owing to being less meritorious to Anu Meena and Siddharth Sharma. In this regard, it was further contended that Anu Meena belongs to Scheduled Tribe category and although has a blind and low vision disability, she ought to have been selected in the

Scheduled Tribe category on the basis of vertical reservation only rather than in the disability category, if that had been done then the candidate Siddharth Sharma and the petitioner herein could have been accommodated in the disability category (blind and low vision) in respect of which two posts have been reserved. Learned senior counsel and learned counsel for the petitioner, therefore, contended that in the absence of Anu Meena being accommodated in the Scheduled Tribes category and secondly, the petitioner having secured the minimum qualifying marks (119 marks), appropriate orders may be made so as to also accommodate the petitioner in any of the posts that are available in the disability category itself as six posts in the disability category not having been filled have now been carried forward for the next recruitment. It was contended that alternatively, a direction may be issued to create a supernumerary post so as to also accommodate the petitioner herein.

13. *Per contra*, learned counsel for the respondents drew our attention to the fact that the candidates, Anu Meena and Siddharth Sharma have been more meritorious in the recruitment process; they are also persons with blind and low vision disability. In the circumstances, they have been accommodated in the disability category which is a

form of horizontal reservation. That no fault can be found with the non-consideration of the petitioner herein in respect of the said posts as only two posts have been reserved for persons with blind and low vision disability. In the circumstances, learned counsel for the respondents submitted that there is no merit in this Writ Petition and hence, the same may be dismissed.

14. What emerges from the submissions made on behalf of the petitioner as well as the respondents herein is the fact that the petitioner herein has secured the minimum qualifying marks being 119 which is an undisputed fact. Secondly, although only two posts were reserved for persons with disability of being blind and having low vision, the fact remains that the candidate Anu Meena who has secured 137 marks belongs to the Scheduled Tribes category and she could have been considered in that category, in which event two posts would have been remained available for persons with blind and low vision disability and the petitioner herein could have been one of the persons who could have been accommodated. In this regard, our attention was drawn to the Office Memorandum dated 27.09.2022 and particularly paragraph '4(i)' of the said Office Memorandum which reads as under:

“(i). In line with the spirit of the O.M. No.36035/2/2017-Estt.(Res.), dated 15.1.2018, and O.M. No.36012/1/2020-Estt(Res-II), dated 17.5.2022 on the subject, the concept of own merit for PwBD shall be implemented in all direct recruitment examinations, including the CSE and promotions, wherever applicable. In other words, PwBD category candidates selected without relaxed standard, along with other unreserved candidates, will not be adjusted against the reserved share of vacancies. The reserved vacancies will be filled up separately from amongst the eligible candidates with benchmark disabilities, who are lower in merit than the last unreserved candidate in general merit list, but otherwise found suitable for appointment, if necessary, by relaxed standards.”

15. Having regard to the purpose and object what has been stated above, we find that the interest of justice would be met in this case if we exercise our powers under Article 142 of the Constitution of India and direct the respondents herein to accommodate the petitioner herein in one of the posts, either in any of the vacant posts which are available in the reserved category for persons with disability or to create a supernumerary post and appoint her as a Civil Judge (Junior Division).

16. We say so for the reason that the petitioner has secured, as seen above, the minimum qualifying marks and therefore calls for the consideration of this Court. We also say this having regard to the fact that the petitioner belongs to the EWS category and is also having

blind and low vision disability. In our view, she ought to be considered for the said post and hence, having regard to the peculiar facts of this case we direct the respondents to also appoint the petitioner herein to said post.

17. We are also conscious of the fact that we have issued the directions to the respondents herein having regard to the facts and circumstances of this case and that the peculiar facts of this case have to be borne in mind so as to support the directions which we have issued to the respondents herein. The respondents shall issue the appointment order in respect of the petitioner herein within a period of two weeks from when the notification of appointment of the other candidates is issued by the State Government.

The Writ Petition is disposed of in the aforesaid terms.

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

....., J.
(B.V. NAGARATHNA)

....., J.
(SATISH CHANDRA SHARMA)

NEW DELHI;
APRIL 15, 2025

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (CIVIL) NO. 733/2024

REKHA SHARMA

Petitioner(s)

VERSUS

HIGH COURT OF JUDICATURE FOR RAJASTHAN & ANOTHER

Respondent(s)

(IA No. 253126/2024 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 253124/2024 - EXEMPTION FROM FILING O.T.)

Date : 15-04-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

For Petitioner(s) Mr. Shadan Farasat, Sr. Adv.
Mr. Talha Abdul Rahman, AOR
Mr. Rahul Bajaj, Adv.
Mr. Taha Bin Tasneem, Adv.
Mr. Amar Jain, Adv.
Mr. Harshit Anand, Adv.
Mr. Faizan Ahmad, Adv.

For Respondent(s) Mr. Mukul Kumar, AOR
Mr. Abhinandan Basu, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The Writ Petition is disposed of in terms of the
signed non-reportable order.

Pending application(s), of any, shall stand disposed
of.

(RADHA SHARMA)
ASTT. REGISTRAR-cum-PS

(DIVYA BABBAR)
COURT MASTER (NSH)

(SIGNED NON-REPORTABLE ORDER IS PLACED ON THE FILE)