

IN THE SUPREME COURT OF INDIA
EXTRAORDINARY APPELLATE JURISDICTION
Special Leave Petition (Civil) No 21592 of 2013

Biswajit Prasad

... Petitioner(s)

Versus

The Gauhati High Court and Ors

... Respondent(s)

WITH
Special Leave Petition (Civil) No 29275 of 2013

Special Leave Petition (Civil) No 31763 of 2013

ORDER

- 1 Delay condoned.
- 2 The selection which is in question in the present batch of cases is to the Grade-I service of the Assam Judicial Service, Tripura Judicial Service and Mizoram Judicial Service, which is governed by the Assam Judicial Service Rules 2003¹.
- 3 The relevant dates for the purpose of evaluating the merits of the petitioners are as follows :
 - (i) On 18 January 2011, an advertisement was issued under the 2003 Rules. This was followed by the written examination which consisted of four papers. Of these, Paper-IV was for language proficiency for the region;
 - (ii) On 29 October 2011, the viva voce was conducted for 19 candidates;
 - (iii) On 25 November 2011, the Committee for Recruitment of Judicial Officers conducted its meeting for selection of candidates for direct recruitment to Grade-I of the Assam Judicial Service, Tripura Judicial Service and Mizoram

1 “2003 Rules”

Judicial Service for 2011;

- (iv) On 1 December 2011, a select list of successful candidates was published in which five candidates were notified to have been selected.
- 4 After withdrawing a petition which was filed before this Court under Article 32 of the Constitution, the petitioners moved the High Court in a petition under Article 226 of the Constitution.
- 5 During the course of the hearing of the petitions, the High Court directed the disclosure of marks, following which marks were disclosed to the unsuccessful candidates who were before the High Court. The petitioners failed before the High Court.
- 6 The submission which has been urged in the proceedings before this Court is that after the interview was conducted on 29 October 2011, a cut off of 40% marks was prescribed by the Committee for Recruitment on 25 November 2011. In order to support the submission, counsel relied upon the counter affidavit which was filed before the High Court.
- 7 In order to obviate any controversy on the factual aspect, Mr P I Jose, counsel appearing on behalf of the High Court, has placed on the record copies of the minutes of the proceedings of the Committee for Recruitment of Judicial Officers held on 25 November 2011. The submission which has been urged on behalf of the High Court is that in Paper-IV, which was a qualifying examination for language proficiency, a cut off of 35% was adopted.
- 8 The Minutes which have been placed on the record make it abundantly clear that no cut off was prescribed for the interview and the merit list was drawn up on the basis of a cumulative aggregation of the marks which were obtained in

the three papers of the written test and the interview marks.

- 9 The selection in the present case pertains to the year 2011. The officers who were selected in pursuance of the selection process have already taken charge. The High Court has also apprised this Court that subsequently two further selections have taken place for the State Judicial Service.
- 10 In view of the above factual background, the issue which was sought to be raised in the reference to the Constitution Bench in **Tej Prakash Pathak v Rajasthan High Court**² would not arise in the facts of the present batch of cases.
- 11 The petitions are accordingly dismissed.
- 12 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Hrishikesh Roy]

.....J.
[Pamidighantam Sri Narasimha]

.....J.
[Pankaj Mithal]

.....J.
[Manoj Misra]

New Delhi;
July 13, 2023
-S-

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
Writ Petition (Civil) No 735 of 2021

Somya and Ors

... Petitioner(s)

Versus

High Court of Gujarat and Ors

... Respondent(s)

WITH

Writ Petition (Civil) No 1073 of 2022

Writ Petition (Civil) No 1146 of 2022

ORDER

- 1 Learned counsel appearing on behalf of the petitioners are agreed in stating before the Court that the issue which has been raised in the reference to the Constitution Bench in **Tej Prakash Pathak v Rajasthan High Court**³ does not arise in this batch of cases. Hence, it has been submitted that the matter may be placed before an appropriate Bench for disposal.
- 2 Mr Nikhil Goel, learned counsel appearing on behalf of the High Court of Gujarat, also has no objection to this course of action.

3 (2013) 4 SCC 540

3 Hence, these three petitions shall be delinked from the batch of cases before the Constitution Bench and shall be placed by the Registry before a bench of two-Judges after seeking directions on the administrative side. The Registry shall do so within a period of two weeks.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Hrishikesh Roy]

.....J.
[Pamidighantam Sri Narasimha]

.....J.
[Pankaj Mithal]

.....J.
[Manoj Misra]

New Delhi;
July 13, 2023
-S-

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No 4403 of 2023
(Arising out of SLP (C) No 4999 of 2018)

**National Council of Educational Research
and Training and Another**

Appellants

Versus

Parth Trivedi and Others

Respondents

ORDER

1 Leave granted.

2 In 2013, the National Council of Educational Research and Training issued an advertisement seeking applications from candidates for the National Talent Search Examination⁴. During the course of the examination, candidates were subjected to two objective type tests, namely, (i) a mental ability test; and (ii) a scholastic aptitude test. The first and second respondents who were students at the Class ten stage, applied for the NTSE. Provisional results were declared. A decision was taken to the effect that the marks secured in the English language would be treated only for the purpose of qualification. The first and second respondents did not qualify at the examination.

4 "NTSE"

However, they obtained information under Right to Information Act, in pursuance of which they were intimated that the marks which were scored in the language test were not taken into account in the final selection.

- 3 The respondents instituted a writ petition before the Rajasthan High Court. They were aggrieved by the fact that the language test was only a qualifying test and not for computing the aggregate marks in the preparation of the merit list. It appears, during the course of submissions of the appellants, that the decision to treat the language test only for qualification was taken by a committee on the basis of representations received on behalf of the students to the effect that treating the language test of English for the purpose of computing the merit list would cause serious prejudice to students particularly from a rural background.
- 4 The Single Judge of the High Court allowed the petition under Article 226 of the Constitution and directed the appellants to determine the merit of the first and second respondents afresh after considering the marks which were scored in the language test. This decision was taken on the basis of the judgment of this Court in ***K Manjusree vs State of Andhra Pradesh and Another***⁵. The writ appeal was dismissed by the Division Bench.
- 5 On 12 February 2018, notice was issued in these proceedings under Article 136 of the Constitution and the contempt proceedings which were initiated before the High Court were stayed. The proceedings have been tagged together with Civil Appeal No 2634 of 2013⁶ in which a reference has been

5 (2008) 3 SCC 512

6 *Tej Prakash Pathak vs Rajasthan High Court*

made to the Constitution Bench on the basic issue as to whether the rules of the game can be changed midway after the selection process has been initiated. In the present case, despite service, none has appeared on behalf of the first and second respondents.

- 6 We are not inclined to go into the broader question which was raised on the reference to the Constitution Bench in the facts of the present case. Counsel appearing on behalf of the appellants submitted that the judgment of the learned Single Judge would result in a situation where the entire result would have to be redone despite the fact that a conscious decision was taken in the interest of the students not to treat the language test as a merit based test but only for the purpose of qualification.

- 7 If the judgment of the Single Judge were to be upheld, as has been done by the Division Bench, the result would have to be recast at this point of time, nearly eight years after the examination has been concluded. In the meantime, following the declaration of the results the award of scholarships following the NTSE has already taken place to a large number of students situated all over the country. In this backdrop and without this Court expressing any opinion on the broader question of law which was sought to be raised, we are of the considered opinion that it would be appropriate to set aside the impugned judgment of the High Court which we accordingly do.

8 The appeal shall stand disposed of in the above terms.

9 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Hrishikesh Roy]

.....J.
[Pamidighantam Sri Narasimha]

.....J.
[Pankaj Mithal]

.....J.
[Manoj Misra]

New Delhi;
July 13, 2023
CKB

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO 421 OF 2016

Subhagam Kumar

... Petitioner

Versus

**High Court of Judicature at Patna through
Its Registrar General**

... Respondent

ORDER

- 1 The issue which has been raised in the reference to the Constitution Bench in ***Tej Prakash Pathak Vs Rajasthan High Court***⁷ does not arise in the present case.

- 2 Hence, the Writ Petition is de-tagged from the batch of matters and shall be placed before an appropriate two-Judge Bench by the Registry at an early date within two weeks.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Hrishikesh Roy]

.....J.
[Pamidighantam Sri Narasimha]

.....J.
[Pankaj Mithal]

.....J.
[Manoj Misra]

New Delhi;
July 13, 2023
GKA

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

WRIT PETITION (CIVIL) NO 165 OF 2017

Avinash Kumar

... Petitioner

Versus

**High Court of Judicature at Patna through
Its Registrar General**

... Respondent

O R D E R

- 1 The petitioner did not qualify in the selection process for district judges through direct recruitment in 2015-2016. However, it is common ground that he has since qualified and joined service in the subsequent batch of 2017.
- 2 There was no provision for re-evaluation of the answer sheets at the relevant time.
- 3 In view of the fact that the petitioner has joined service after being successful in a subsequent batch, no case for the exercise of jurisdiction under Article 32 is made out.
- 4 The Writ Petition is accordingly dismissed.
- 5 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Hrishikesh Roy]

.....J.
[Pamidighantam Sri Narasimha]

.....J.
[Pankaj Mithal]

.....J.
[Manoj Misra]

**New Delhi;
July 13, 2023**

GKA

ITEM NO.501

COURT NO.1

SECTION XV

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

Civil Appeal No(s).2634/2013

TEJ PRAKASH PATHAK & ORS.

Appellant(s)

VERSUS

RAJASTHAN HIGH COURT & ORS.

Respondent(s)

WITH

C.A. No. 2636/2013 (XV)

C.A. No. 2635/2013 (XV)

SLP(C) No. 21592/2013 (XIV)

(WITH IA No. 2/2013 - PERMISSION TO FILE ANNEXURES)

SLP(C) No. 29275/2013 (XIV)

SLP(C) No. 31763/2013 (XIV)

(WITH IA No. 1/2013 - CONDONATION OF DELAY IN FILING)

W.P.(C) No. 421/2016 (X)

W.P.(C) No. 165/2017 (X)

(WITH IA No. 132815/2021 - CLARIFICATION/DIRECTION)

C.A. No. 4403/2023 @ SLP(C) No. 4999/2018 (XV)

W.P.(C) No. 735/2021 (X)

(WITH IA No. 28154/2022 - APPLICATION FOR PERMISSION, IA No. 33539/2022 - CLARIFICATION/DIRECTION, IA No. 76629/2021 - STAY APPLICATION)

W.P.(C) No. 1073/2022 (X)

(WITH IA No. 8802/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 185951/2022 - EX-PARTE AD-INTERIM RELIEF)

W.P.(C) No. 1146/2022 (X)

(FOR ADMISSION and IA No.202533/2022-EX-PARTE AD-INTERIM RELIEF)

Date : 13-07-2023 These matters called on for hearing today.

CORAM :

**HON'BLE THE CHIEF JUSTICE
 HON'BLE MR. JUSTICE HRISHIKESH ROY
 HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
 HON'BLE MR. JUSTICE PANKAJ MITHAL
 HON'BLE MR. JUSTICE MANOJ MISRA**

For Appellant(s)

**Mr. Rishabh Sancheti, Adv.
 Ms. Padma Priya, Adv.
 Mr. Anchit Bhandari, Adv.
 Mr. Suyash Jain, Adv.
 Mr. Chirag Kalani, Adv.
 Mr. K. Paari Vendhan, AOR**

Ms. Shraddha Deshmukh , AOR

**Ms. Neelam Rathore, Adv.
 Ms. Sandhya Kohli, Adv.
 Mr. Lovekesh Aggarwal, Adv.
 Mr. Shubham Seth, Adv.
 Mr. Anuj Panwar, Adv.
 Mr. Nikilesh Ramachandran, AOR**

**Mrs. B. Sunita Rao, AOR
 Mr. Ranjeet Kumar, Adv.
 Mr. Anand Kumar, Adv.
 Ms. Jaya Kiran, Adv.
 Ms. Jyoti Singh, Adv.
 Mr. Mithilesh Kumar, Adv.
 Mr. Pritish Roy, Adv.**

**Mr. Rameshwar Singh Malik, Sr. Adv.
 Mr. Jitesh Malik, Adv.
 Mr. Abhaya Nath Das, Adv.
 Mr. Yogendra Kumar Verma, Adv.
 Mr. Satish Kumar, AOR**

**Mr. Ashok Panigrahi, Adv.
 Mr. Sanjeev Kumar, AOR
 Mr. Vivek Kumar, Adv.
 Mr. Naik H.k., Adv.
 Mr. Ajay Amritraj, Adv.**

**Mr. Chetan Garg, Adv.
 Mr. Ranjit Kumar, Adv.
 Mr. Ajay Vikram Singh, AOR**

Dr. Ritu Bhardwaj, Adv.

Mr. Mohan Kumar, AOR
Mr. Anurag Katarki, Adv.
Mr. Amit Kumar, Adv.
Ms. Neetu Singh, Adv.
Ms. Asia Beg, Adv.

Mr. Vivek Narayan Sharma, Adv.
Mrs. Mahima Bhardwaj Kalucha, Adv.
Mr. Dinesh Sharma, Adv.
Mr. Ajay Singh, Adv.
Ms. Laksha Bhavnani, Adv.
Mr. Adhiraj Wadhera, Adv.
Mr. Rohit Sharma, Adv.
Mr. Devendra Singh, AOR

Mrs. Haripriya Padmanabhan, Adv.
Mr. Kuriakose Varghese, Adv.
Mr. V. Shyamohan, Adv.
Mr. Shrutanjaya Bhardwaj, Adv.
Ms. Aishwarya Hariharan, Adv.
Mr. Vishal Sinha, Adv.
Mr. Akshat Gogna, Adv.
Ms. Isha Ghai, Adv.
For M/S. Kmp Law

Mr. Raghenth Basant, Adv.
Ms. Liz Mathew, AOR
Ms. Mallika Agarwal, Adv.

Mr. P. V. Dinesh, AOR
Ms. Oommen Anna A, Adv.
Ms. Urvashi Chauhan, Adv.

For Respondent(s) Mr. K.M. Nataraj, ASG

Ms. Diksha Rai, AOR
Ms. Ragini Pandey, Adv.

Mr. P. I. Jose, AOR
Mr. James P. Thomas, Adv.
Mr. Ravi Sagar, Adv.
Mr. Remish Lakra, Adv.

Mr. Rameshwar Prasad Goyal, AOR

Mr. Nikhil Goel, AOR
Ms. Naveen Goel, Adv.
Mr. Kartik Kaushal, Adv.

Mr. Adhitya Koshy Roy, Adv.
Ms. Sidhi Gupta, Adv.

Mr. Pawanshree Agrawal, Adv.
Mr. Sunil Kumar Jain, AOR
Mr. Rashika Swarup, Adv.

Mr. Gaurav Agrawal, AOR

Ms. Deepanwita Priyanka, AOR

Mr. Debojit Borkakati, AOR

Mr. Lalit Kumar, AOR
Mr. Anil Kumar, AOR

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

SLP(C) No. 21592/2013, SLP(C) No. 29275/2013, SLP(C) No. 31763/2013

- 1 Delay condoned.
- 2 The Special Leave Petitions are dismissed in terms of the signed order.
- 3 Pending application, if any, stands disposed of.

W.P.(C) No. 735/2021, W.P.(C) No. 1073/2022, W.P.(C) No. 1146/2022

- 4 In terms of the signed order, these petitions shall be delinked from the batch of cases and shall be placed before a bench of two-Judges after seeking directions on the administrative side. The Registry shall do so within a period of two weeks.

C.A. No. 4403/2023 (@SLP(C) No. 4999/2018)

5 Leave granted.

6 The appeal is disposed of in terms of the signed order.

7 Pending application, if any, stands disposed of.

W.P.(C) No. 421/2016

8 In terms of the signed order, the Writ Petition is de-tagged from the batch of matters and shall be placed before an appropriate two-Judge Bench by the Registry at an early date within two weeks.

W.P.(C) No. 165/2017

9 The Writ Petition is dismissed in terms of the signed order.

10 Pending application, if any, stands disposed of.

Civil Appeal No(s).2634/2013, C.A. No. 2636/2013, C.A. No. 2635/2013

11 Arguments heard in part.

12 List the appeals for further hearing on 18 July 2023 as part-heard matter.

**(SANJAY KUMAR-I)
DEPUTY REGISTRAR**

**(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR**

(Five signed orders are placed on the file)