



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

S.B. Civil Writ Petition No. 9374/2021

Shri Pankaj Vasita S/o Shri Rakesh Vasita, Aged About 29 Years,
By Caste Dhobi, Resident Of House No. 101, Jogiwada, Udaipur
(Raj.).

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary,
Department Of Local Self Government, Government Of
Rajasthan, Jaipur (Rajasthan).
2. The Director Cum Joint Secretary, Department Of Local
Self-Government, G-3, Rajmahal Residential Area, C
Scheme, Near Civil Line Phatak Jaipur-16 (Rajasthan).
3. Nagar Nigam Udaipur, Through Its Commissioner, Nagar
Nigam, Town Hall Road, Jaipur (Raj.).

-----Respondents

For Petitioner(s) : Mr. Vikram Sharma.
Mr. Jhamak Nagda.
For Respondent(s) : Mr. Anurag Shukla.

HON'BLE MR. JUSTICE ARUN MONGA

Order(Oral)

07/03/2025

1. Petitioner herein, an aspirant to become a Safai Karamchari, *inter alia*, seeks issuance of an appropriate writ, order, and/or direction commanding the respondents to consider his candidature for appointment to the post of Safai Karamchari under the reserve category of Physically Disabled Person (Handicapped) with all consequential benefits as given to his counterparts pursuant to advertisement No.1/2018.

2. Relevant facts first. On 13.04.2018, the respondents issued Advertisement No. 1/2018 for the recruitment of Safai



Karamcharis in 184 municipalities across Rajasthan. As per the advertisement, a bona fide resident of Rajasthan with one year of experience was eligible. Reservations were provided for SC, ST, OBC, PwD, women, widows, and divorced women. Selection was to be made through a lottery system under the Rajasthan Nagar Palika (Safai Karamchari Seva) Niyam, 2012.

2.1. The petitioner, being eligible and a bona fide resident of Udaipur, applied under the Persons with Disabilities (PwD) category due to 90% hearing impairment and also under the Scheduled Caste (SC) category. Despite submitting his application under the PwD category, his name was erroneously recorded under only the SC category in the official checklist. Consequently, his candidature was considered only in the SC lottery, where he was not selected, even though 35 posts were reserved for PwD candidates, and only 10 applications were received.

2.2. Upon learning of the error, the petitioner submitted a representation to Respondent No.3, who acknowledged the mistake and wrote to Respondent No.2 on 27.08.2020 and 13.10.2020, requesting appropriate consideration.

2.3. In response, Respondent No.2 sought clarifications regarding (i) whether the petitioner had applied under the PwD category and submitted a disability certificate, (ii) who was responsible for the error, and (iii) what action was taken against the responsible officials. Respondent No.3, in its reply dated 23.11.2020, confirmed that the petitioner had applied under PwD, but due to a software error, his name was wrongly categorized. An inquiry committee was constituted to investigate the matter.



2.4. Despite repeated requests and official correspondence, no corrective action was taken, and the petitioner was not appointed. A legal notice was sent to the respondents on 07.04.2021, but no response was received. Hence the instant petition.

3. Candid stand taken in the reply, which is contained in para 1 thereof, reads as under:

"That the contents of Para no. 1 of the writ petition are denied for want of knowledge although it was true that petitioner applied for the post of physically disabled person in SC category but his name was selected in SC category in the lottery system but his number was not selected in lottery. It is also mentioned that his category was not verified by the inspection committee in specially-able category by mistake."

4. In the aforesaid backdrop, I have heard the rival contentions and gone through the case record.

5. From the reply, it is clear that the respondents have, on oath, admitted that, due to a mistake on their part, the candidature of the petitioner could not be considered in the Physically Handicapped category. Instead, he was treated as a candidate in the SC category, and when the draw of lots was conducted in the said category, his name did not make it on the select list.

6. Being so, I see no reason why the petitioner's claim of being treated as physically handicapped can not be accepted, especially when his disability is otherwise not disputed. Furthermore, special provisions are created under Sections 32 and 33 of the Disabilities Act, 1995. Same being apposite are reproduced hereinbelow:-

"32.Identification of posts which can be reserved for persons with disabilities.-

Appropriate Governments shall -



(a) identify posts, in the establishments, which can be reserved for the persons with disability;

(b) at periodical intervals not exceeding three years, review the list of posts identified and up-date the list taking into consideration the developments in technology.

33.Reservation of posts.-

Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent for persons or class of persons with disability of which one per cent each shall be reserved for persons suffering from-

(i) blindness or low vision;

(ii) hearing impairment;

iii) locomotor disability or cerebral palsy, in the posts identified for each disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section."

7. Apropos, I am of the view that, at this stage, instead of passing any drastic directions for conducting the entire draw of lots of the Safai Karamcharis all over again, suffice to meet the ends of justice and to balance the equities, the claim of the petitioner be rather accepted for his appointment as Safai Karamchari in the Physically Handicapped category.

8. Accordingly, the petition is allowed. The respondents are directed that upon verification of his medical certificate and other documents including the work certificate, in case, the same are found to be genuine, the petitioner shall be accorded the benefit of appointment within a period of 30 days from the date he approaches the respondents with a web-print of the instant order.

9. Needless to say, petitioner shall be accorded seniority and notional benefits with effect from the same date when the other candidates were appointed without any financial benefits on the principle of "no work, no pay."



10. In the parting, I may hasten to add here that this Court is conscious of the fact that the petitioner did not participate in the draw of lots, and therefore, it may appear to be unfair that without participating in the draw of lots, he is being given benefit by virtue of the mandamus of this Court of being appointed on the post. Such are the vagaries of the litigation that sometimes, it results in fortuitous benefits in favour of the candidates as is the case herein, coupled with the fact that petitioner deserves humanitarian outlook being a disabled person (90% hearing impairment) as is borne out from his medical certificate. In any case, it transpires that the number of posts reserved in Physically Handicapped category out numbered the actual number of Physically Handicapped applicants.

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

(ARUN MONGA),J

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Whether fit for reporting : Yes / No.