

(2025) 10 RAJ CK 1241

In the Rajasthan High Court, Jaipur Bench

Case No : Civil Writ Petition No. 14072 Of 2025

Jai Singh

APPELLANT

Vs

Rajasthan High Court

RESPONDENT

Date of Decision : 31-10-2025

Acts Referred:

Negotiable Instruments Act, 1881 — Section 138

Citation : (2025) 10 RAJ CK 1241

Hon'ble Judges : Baljinder Singh Sandhu, J; Sanjeev Prakash Sharma, Acj

Bench : Division Bench

Advocate : Tribhuvan Narayan Singh, Shailesh Prakash Sharma, Avi Sharma

Final Decision : Disposed Of

Judgement

Baljinder Singh Sandhu, J

1. Petitioners have preferred the present writ petition with following prayers:-

"It is therefore most humbly and respectfully prayed that this Hon'ble Court may graciously be pleased to accept and allow this writ petition and further it is humbly prayed that:

(i) by an appropriate writ, order or direction the action of the respondents of not considering the petitioners as eligible for the recruitment by promotion through qualifying test for the vacant posts of Assistant Stamp Reporter and Court Fee Examiners in pursuance of advertisement dated: 27-08-2025 (Annexure: 03) be declared arbitrary, discriminatory, illegal, wrong and void.

(ii) by an appropriate writ, order or direction the respondents be directed to consider the petitioners as eligible employees of Rajasthan High Court and allow the petitioners to participate and submit in prescribed form in the recruitment by promotion through qualifying test for the vacant posts of Assistant Stamp Reporter and Court Fee Examiners in pursuance of advertisement dated: 27-08-2025 (Annexure: 03) in accordance with Rule (4-A) Assistant Stamp

Reporter and Court Fee Examiners of the Rajasthan High Court Staff Service Rules, 2002 (Annexure: 04).

(iii) by an appropriate writ, order or direction the respondents be directed that in case the petitioners are found eligible as per their qualifying test or any other eligibility as required then the petitioners be granted promotion on the post of Assistant Stamp Reporter and Court Fee Examiners with all consequential benefits flowing thereof.

(iv) any other relief which the Hon'ble Court deems fit be passed in favour of the petitioners. Hence, the petitioner aggrieved of the same, prefers the present Writ Petition. Hence, this Writ Petition."

2. Petitioners herein were initially appointed to the post of Library Restorer. Thereafter, they were further granted benefit of 1st Assured Career Progression (ACP) on completion of nine years of continuous service vide order dated 06.07.2022, and petitioner no. 4, thereafter has been promoted to the post of cataloguer-cum-classifier vide order dated 04.06.2025.

3. Reproduced below is the table showing the status of the petitioners as set out in Para 2 of the petition:-

4. The petitioners have approached this Court stating that the respondents issued Advertisement dated 27.08.2025 under the

Rajasthan High Court Staff Service Rules, 2002 (for short "the Rules of 2002") inviting applications for recruitment by way of promotion through qualifying test for the post of Assistant Stamp Reporter and Court Fee Examiners (L-11 in Pay Level-37800-119700 & Grade Pay 4200/-) on the criteria of Seniority cum Merit. The Advertisement included the list of eligible candidates, however the names of the petitioners were not included. It is stated that clause (4-A) of the order dated 05.12.2002 issued under the Rules of 2002, provides for the recruitment to the post of Assistant

Stamp Reporter and Court Fee Examiners (herein after referred to as Assistant Stamp Reporter) by promotion from amongst the Judicial Assistants or Officials in the equivalent or above grade, but below that grade of Assistant Stamp Reporter. The Judicial Assistants are placed in the grade, now Pay Level-08, and the Assistant Stamp Reporter is placed at Pay Level-11 in the pay matrix. The petitioners after having granted the first ACP are now placed at Pay Level-08, hence, being at equal Pay Level to the Judicial Assistants, are entitled for consideration for promotion to the post of Assistant Stamp Reporter and their non consideration and non-inclusion, in the list of eligible candidates issued along with the Advertisement, is not justified.

5. A representation raising the said grievance was filed before the respondents requesting for inclusion of their names in the eligibility list and to permit them to participate in the recruitment process, however their grievance was not addressed. Hence the present writ petition is filed.

6. Reply to the writ petition was filed by the respondents stating that the recruitment is being conducted in accordance with the Rules of 2002 and under the order dated 05.12.2002. Part- I Clause (4-A) provides for the recruitment by promotion to the post of Assistant Stamp Reporter, and only the official belonging to the Ministerial Cadre under this Part can be considered. It is alleged that the Library Restorer falls in Part-IV of the order i.e. Library Staff, which is a different cadre altogether. Since the petitioners do not belong to the Ministerial Staff Cadre, they are not entitled to be considered for promotion to the post of Assistant Stamp Reporter. Further, since the petitioners were granted benefit of ACP after completion of nine years of service, bringing them equivalent to grade/ Pay Level-08, without being actually promoted, they cannot be considered equivalent to the post or grade of Judicial Assistant. It is also stated that the candidature of petitioner No.4-Gayatri Sharma cannot be considered as she is a probationer on the post of cataloguer-cum-classifier.

7. Perused the record and heard counsels for the parties.

8. The controversy involved in the present writ petition is regarding the consideration of the petitioners, who are Library Restorer having granted the grade/ Pay Level-08 by way of grant of ACP, and cataloguer-cum-classifier on probation, for promotion to the post of Assistant Stamp Reporter as per clause (4-A). The High Court of Judicature for Rajasthan has framed the Rules of 2002 for regulating the recruitment and other conditions of service of the persons serving in the establishment of the Rajasthan High Court. Schedule-I appended with the rules provides for different post including Gazetted posts, non-gazetted posts, Court Manager, Technical Posts, Class-IV posts, Part Time Staff/ Contractual Basis Posts and E-Court Posts.

9. The Chief Justice while exercising power under Rule 4, 5, 7 and 22 has issued the order dated 05.12.2002 prescribing the method of recruitment and qualifications for appointment to various posts specified in the second column of Schedule-I. Different cadres of posts prescribed under the order are:

- (a) Part-I Ministerial Staff,
- (b) Part-II Junior Personal Assistant Staff,
- (c) Part-III Accounts Staff,
- (d) Part-IV Library Staff,
- (e) Part-V Computer Staff,
- (f) Part-V-(B) E-Courts Posts,
- (g) Part-VI Technical Staff,
- (h) Part-VII Class IV Staff
- (i) Part-VIII Part Time Staff.

10. The Services under the establishment of the Rajasthan High Court have been distributed into several cadres in different parts as specified above. Part-I, which provides for Ministerial Staff consists of various posts including the post of Assistant Stamp Reporter and Court Fee Examiners and Judicial Assistants. In Schedule-I under the head of "Non Gazetted posts", Assistant Stamp Reporter is shown at serial no. 9 and Judicial Assistant at serial no. 15, and cataloguer-cum-classifier at serial no. 14.

11. Part-IV provides for Library Staff, and post of Library Restorer in Schedule-I is shown under the head of Technical Post at Sr. No.6. The post of cataloguer-cum-classifier, is also shown under said head, but not shown as technical post under Schedule-I.

12. The recruitment to the post of Assistant Stamp Reporter is provided in clause (4-A) of the order dated 05.12.2002. It will be instructive to reproduce the relevant rule (4-A) :

"(4-A) ASSISTANT STAMP REPORTER AND COURT FEE EXAMINERS- Recruitment to the post of Assistant Stamp Reporter and Court fee Examiners shall be made by promotion on the recommendation of a Committee nominated by the Appointing Authority adjudging suitability of the candidates on the Criteria of seniority-cum-merit from amongst the Judicial Assistants or officials in the equivalent or above grade, but below the grade of Assistant Stamp Reporter and Court Fee Examiners, who have secured 40% of marks in the qualifying test in the following subjects:- 1. Rajasthan High Court Rules, 1952 Chapters 4 (Affidavits), 5 (Jurisdiction of Judges sitting alone or in Division Bench), 9 (appeals and applications), 10 (appeal or applications by or against legal representatives), 11 (presentation of appeals and applications), 18 (proceedings other than original trials), 21 (Habeas Corpus), 22 (directions, orders or writs under Art.226 of the Constitution) and 23 (appeals to the Supreme Court of India). 2. Limitation Act, and 3. Raj. Court-fees and Suits Valuation Act."

13. The controversy hinges upon the interpretation of clause (4-A) of the order, giving rise to following questions for adjudication :-

(1) Whether under clause (4-A) only the officials in the Part-I Ministerial Staff, having equivalent or above grade to that of the Judicial Assistants, are eligible for promotion to the post of Assistant Stamp Reporter and the officials in the other cadres under the same order are not?

(2) Whether the petitioners, who have been given the benefit of first ACP and not actually promoted, are entitled for consideration for promotion under clause (4-A)?

(3) Whether the petitioner No. 4, who has been promoted on the post of Cataloguer cum Classifier in pay level-08, but is a probationer, can be considered for promotion under the Rules of 2002.

CONSIDERATION OF THE QUESTION NO.1

14. Bare reading of the recruitment to the post of clause (4-A) clearly states that Assistant Stamp Reporter is by way of promotion, on the recommendation of the Committee, on the criteria of seniority cum merit, amongst the Judicial Assistants, or Officials in the equivalent or above grade, but below the grade of Assistant Stamp Reporter. The condition specifically provides for eligible officials, first the Judicial Assistants and second, the officials in equivalent or above grade of Judicial Assistants, but the below the Assistant Stamp Reporter. The condition does not name any other post to be considered along with the Judicial Assistants, but provide for the officials in the equivalent or above grade.

15. The clear and unambiguous language of criteria of clause 4-A shows that the eligibility for promotion is not provided on the basis of post but on the basis of grade. It does not restrict the consideration to the posts under the cadre of Ministerial Staff, but explicitly includes other officials also of the equivalent grade. Meaning thereby that all the officials who are holding the post having equal or above grade of Judicial Assistant are eligible and are entitled for consideration. Further there is no other provision under order 05.12.2002 restricting such consideration only for Ministerial Staff Posts.

16. Hence, while providing the promotional avenues to the post of Assistant Stamp Reporter a wider zone of consideration has been given for the officials in the equal or above grade to the Judicial Assistants.

17. The respondents have contended that the expression 'official in the equivalent or above grade' pertains exclusively to ministerial posts, and Library Restorers and Catalogers-cum-Classifiers, holding technical posts from a different cadre, are not eligible for promotion the Ministerial Staff Part-I cadre. However, this argument is untenable and cannot be sustained in view of the plain language of the rules, which do not provide for any such classification nor impose any such restriction. Clause (4-A) brings within its ambit other officials in the equivalent and above grades as well. While examining the scheme of order dated 05.12.2002 in its entirety, we find that in relation to recruitment and qualification for appointment to the other posts, the feeder posts are specifically prescribed by name, and the technical posts are also prescribed as feeder post for the purpose of promotion in many Ministerial Staff cadre posts. For this purpose it will be appropriate to reproduce the clauses relating to posts of Judicial Assistants and Upper Judicial Assistants shown under Part-I Administrative Staff:-

“(2) JUDICIAL ASSISTANTS-Recruitment to the post of Judicial Assistants shall be made by promotion on the recommendation of a Committee nominated by the Appointing Authority adjudging suitability of the candidates on the criteria of seniority-cum-merit from amongst the Junior Judicial Assistants, Housekeeper, Enquiry Clerk, EPABX Operator and Record Weeder.

(6-A) UPPER JUDICIAL ASSISTANT- Recruitment to the

post of Upper Judicial Assistant shall be made by promotion on the recommendation of a Committee nominated by the Appointing Authority

adjudging suitability of the candidates on the criteria of seniority-cum-merit from amongst the Judicial Assistants, Care Taker and Computer Informer.”

18. Judicial Assistant and Upper Judicial Assistant are the posts under Ministerial Staff, however the feeder post of Judicial Assistant is EPABX Operator which is a technical post in Schedule-I. Similarly Upper Judicial Assistant is also Ministerial Staff Post and the feeder post is computer Informer, which is a technical post. Thus as per the scheme of the order of 2002, there is no specific bar for post of specific cadre to have the promotional avenue in other cadre. Rather there are specific provision providing for inter-cadre promotional channels. Therefore the argument of the respondent is without any substance and logic and the same being contrary to rules is not sustainable.

19. As observed above, the clause 4-A itself does not restrict the consideration only to the post under the cadre of Ministerial Staff. It is a settled principle of statutory interpretation that where the language of a rule or statute is clear and unambiguous, the plain and ordinary meaning of the words must be given effect to, without recourse to external aids or assumptions about legislative intent. The Court cannot add or insert words in a statute, which is not there. Therefore, clause 4-A has to be read as it is, without adding or deleting anything into it.

20. The law in this regard is well settled. The Hon’ble Apex court in the case of Dadi Jagannadham V Jammulu Ramlu (2001) 7 SCC 71 (para 13) has clearly held that the court cannot add words to a statute or read words into it which are not there, especially when the literal reading produces an intelligible result. It cannot aid the legislature's defective phrasing of an Act, or add and ammend, and, by construction, make up deficiencies which are there.

21. In Sangeeta Singh V Union of India (2005) 7 SCC 484, the Hon’ble Supreme Court again articulated this principle and held as under:-

“5. It is a well-settled principle in law that the court cannot read anything into a statutory provision or a stipulated condition which is plain and unambiguous. A statute is an edict of the legislature. The language employed in a statute is the determinative factor of legislative intent. Similar is the position for conditions stipulated in advertisements.

6. Words and phrases are symbols that stimulate mental references to referents. The object of interpreting a statute is to ascertain the intention of the legislature enacting it. (See Institute of Chartered Accountants of India v. Price Waterhouse [(1997) 6 SCC 312 : AIR 1998 SC 74] .) The intention of the legislature is primarily to be gathered from the language used, which means that attention should be paid to what has been said as also to what has not been said. As a consequence, a construction which requires for its support, addition or substitution of words or which results in rejection of words as meaningless has to be avoided. As observed in Crawford v. Spooner [(1846) 6 Moo PC 1 : 4 MIA 179] the courts cannot aid the legislature's defective phrasing of an Act, they cannot add or mend, and by construction make up deficiencies which are left

there. (See *State of Gujarat v. Dilipbhai Nathjibhai Patel* [(1998) 3 SCC 234 : 1998 SCC (Cri) 737 : JT (1998) 2 SC 253] .) It is contrary to all rules of construction to read words into an Act unless it is absolutely necessary to do so. [See *Stock v. Frank Jones (Tipton) Ltd.* [(1978) 1 All ER 948 : (1978) 1 WLR 231 (HL)]] Rules of interpretation do not permit the courts to do so, unless the provision as it stands is meaningless or of doubtful meaning. The courts are not entitled to read words into an Act of Parliament unless clear reason for it is to be found within the four corners of the Act itself. (Per Lord Loreburn, L.C. in *Vickers Sons and Maxim Ltd. v. Evans* [1910 AC 444 : 79 LJKB 954 (HL)] , quoted in *Jumma Masjid v. Kodimaniandra Deviah* [1962 Supp (2) SCR 554 : AIR 1962 SC 847]).”

22. This principle was reiterated in *Re:Expeditious Trial of Cases Under Section 138 of NI ACT 1881* [2021 INSC 257] by the Hon’ble Apex Court, and it was held:-

“20.Conferring power on the court by reading certain words into provisions is impermissible. A judge must not rewrite a statute, neither to enlarge nor to contract it. Whatever temptations the statesmanship of policy-making might wisely suggest, construction must eschew interpolation and evisceration. He must not read in by way of creation. The Judge’s duty is to interpret and apply the law, not to change it to meet the Judge’s idea of what justice requires. The court cannot add words to a statute or read words into it which are not there.”

23. In view of the above, while giving effect to the plain meaning of the language incorporated in Clause 4-A, of order dated 05-12-2002, issued under the rules of 2002 this Court concludes that officials who hold the post equivalent to or in above grade to that of the Judicial Assistant, but below the grade of assistant stamp reporter and court fee examiner, even in other cadres under the order, are eligible for consideration for promotion to the post of Assistant Stamp Reporter cum Court Fee Examiners. Hence, the non consideration of the petitioners’ candidature for promoting to the said post, simply on the ground that they do not belong to the cadre of Ministerial Staff and they are from different cadre of library staff and holding a technical post, is not sustainable and is declared illegal.

CONSIDERATION OF THE QUESTION NO. 2

24. Now, we consider the question two as to whether the petitioners, who have been granted the first ACP and fixed at L-08 in pay matrix, equivalent to grade of Judicial Assistant, shall be entitled for consideration for promotion to the post of Assistant Stamp Reporter, although they have not been actually promoted.

25. The tabular chart reproduced in para No.3 of this judgment shows that all petitioners were originally appointed and holding the post of Library Restorer since the year 2013. Out of them, Petitioner No.4 Gayatri Sharma, has now been promoted to cataloguer cum classifier vide order dated 06.07.2022. They were granted the benefit of first ACP and were fixed at Pay Level-08. They have not

been granted the

regular promotion to the higher post carrying Pay level-08, equivalent to the grade of Judicial Assistants. ACP is not a regular promotion and it only allows financial up-gradation, hence, it cannot be equated with the regular promotion. Even after the grant of financial up-gradation, the employees continue to hold the original post on regular basis with the same designation, qualification and duties. Therefore, the employee cannot be treated to be regularly promoted and to hold the promoted post, and by all means they hold the original post upon which he/she is recruited. All the petitioners, except petitioner No.4, are holding the post of Library Restorer upon which they have been originally appointed, and they have not been actually promoted to the higher post which carries the Pay Level-08, equivalent to the grade of Judicial Assistants. For the purpose of promotion to a higher post, the Official has to hold the feeder post and should be actually selected or promoted on that post. In the present case the petitioners have only been fixed in the Pay Level-08 vide order dated 06.07.2022, which is equivalent to the grade of Judicial Assistants.

26. In such circumstances, the Library Restorers/Officials, who are not holding the actual post carrying the equivalent or above grade to the Judicial Assistants, cannot be held entitled for promotion to the Assistant Stamp Reporters. If the same is permitted, the same would allow them to be directly promoted to the next higher post, by leaping one post, without being actually promoted to the feeder post for Assistant Stamp Reporter. In the pay matrix, the post of Assistant Stamp Reporter is fixed at Pay Level-11 and Pay Level of the Library Restorers is 05. The Library Restorers are yet to be actually promoted to the next post, which would carry a Pay Level-08, equivalent to the grade of Judicial Assistants. Hence, without being actually promoted to the posts carrying a grade equivalent to or above the posts of Judicial Assistants, they cannot be directly considered for the promotion to the next higher post, namely Assistant Stamp Reporter, which carrying Pay Level-11.

27. It will be relevant to refer to the judgment of the Hon'ble Apex Court in the Union of India Vs. EX. HC/GD Virender Singh reported in 2022 INSC 850, wherein the Hon'ble Court while considering the MACP/ACP Schemes, observed that the Scheme is only an incentive scheme devised with all objects to remove stagnation in the services and to give the benefit in the form of financial up-gradation. It was observed that this financial up-gradation does not amount to regular or actual functional promotion. The relevant para no. 3 of the judgment

is reproduced below for ready reference:-

"3. The second question is covered by a three Judge Bench decision of this Court in Union of India and Others v. M.V. Mohanan Nair, which judgment explicates the similarities and the difference between the Assured Career Progression Scheme, the erstwhile scheme which was replaced by the MACP Scheme. In a nutshell, it can be stated that the MACP Scheme, like the ACP Scheme, is an incentive

scheme devised with the object of ensuring that the employees who have stagnated for lack of adequate promotional avenues are given benefit in the form of financial upgradation. The financial upgradation is personal, does not amount to regular or actual functional promotion, and does not require creation of a new post. It has no relevance to the seniority position and principles of reservation are not applicable. Financial upgradation is granted to only those employees who have not received actual or functional promotion even after completion of the requisite service period, though otherwise, they fulfil the prescribed conditions for promotion....”

28. In view of the findings recorded above and the observation of the Hon'ble Apex court, we can safely conclude that the officials who have only been given the benefit of ACP, cannot be said to have been actually promoted and holding the post of which benefit of ACP has been given, and hence cannot be considered for further promotion. Considering the case of the petitioners in light of the above, we hold that, since the petitioners were given the benefit of ACP while holding the post of Library Restorer vide order dated 06.07.2022 which is having a Pay Level-05, and they having not been actually promoted to the post carrying equivalent and above grade to Judicial Assistants, L-08, they cannot be considered for promotion to the next higher

post, which is the post of Assistant Stamp Reporter. Hence, they are held not eligible for consideration for promotion to the said post. The Question No.2 is answered accordingly.

CONSIDERATION OF THE QUESTION NO.3

29. So far as the case of petitioner No.4-Gayatri Sharma is concerned, she was initially appointed on the post of Library Restorer on 01.04.2013, later on she was given the benefit of ACP on completion of nine years of service vide order dated 06.07.2022 and fixed in pay Level – 08. Thereafter, she has been regularly promoted to the post of Cataloguer-cum-Classifier in the Pay Level-08 on 04.06.2025 (Annexure-2).

Therefore, she is on post equivalent to the grade of Judicial Assistants, as the Judicial Assistant also carries the Pay Level-08. One of the ground of denial of her candidature in the reply submitted by the respondents is that she holds the post of Cataloguer cum Classifier, which is a technical post specified in the cadre of Library Staff, and hence she cannot be considered for promotion in the cadre of Ministerial Staff. This ground does not survive in view of the Answer to the question No.(i).

30. Secondly, she has been denied the right of her consideration on the ground that she is on probation of one year upon her promotion to the post of Cataloguer-cum-Classifer vide order dated 04.06.2025, and she has not yet been confirmed on the said post. Here it will be worthwhile to reproduce the relevant portion of Rule 17, Rule 18 and Rule 22 of the Rules of 2002:-

"17. PROBATION. (1) All persons appointed to the post in the service by direct recruitment against a substantive vacancy shall be placed on probation for a period of two years and those appointed to the post in service by promotion/ transfer against the substantive vacancy shall be placed on probation for a period of one year.

Provided that-

(i)

(ii)

(2) During the period of probation specified in sub-rule

(1) each probationer may be required to pass such examination and to undergo such training if any as the Chief Justice from time to time, specify.

Explanation....

(3) If it appears to the Chief Justice, at any time, during or at the end of the period of probation that a member of the service has not made sufficient use of his opportunities or that he has failed to give satisfaction the Appointing Authority may revert him to the post held substantively by him immediately preceding his appointment, provided he holds a lien thereon or in other cases may discharge or terminate him from Service:

Provided that

Provided further.....

(4).....

(5) A probationer reverted or discharged from Service during or at the end of the period of probation under sub-rule (2) shall not be entitled to any compensation.

(6)

Provided that

(7)

18. CONFIRMATION. A probationer shall be confirmed in his appointment at the end of his period of probation, if-

(a) he has passed the examination and undergone the training prescribed under rule 16 (2), if any, completely; and

(b) the Appointing Authority is satisfied that his integrity is unquestionable and that he is otherwise fit for confirmation.

22. PROMOTION:- Subject to the requirement of efficiency, promotion shall ordinarily be made according to seniority. An Official may receive special promotion for recognized merit irrespective of the grade to which he may belong,

or of his seniority within his grade.”

On conjoint reading of the provisions of Rules of 2002 makes is clear that the rules require a specific act on the part of the appointing authority to issue an order of confirmation, upon being satisfied about the integrity, and if the candidate is otherwise found to be fit for confirmation. That apart as per Rule 17 (3) the Chief Justice can revert the employee to his substantive post held prior to promotion, if in his opinion service of the employee is unsatisfactory. Moreover there is no deemed confirmation merely on completion of period of probation. In absence of an order of confirmation the person does not acquire the status of a confirmed employee on the promoted post.

31. The primary guidelines and directions on the principle of confirmation of a probationer were laid down by the Hon’ble Supreme Court in High Court Madhya Pradesh and Ors. vs. Satya Narain Jhavar, (2001) 7 SCC 161. The Hon’ble court held as under -

"11. The question of deemed confirmation in service jurisprudence, which is dependent upon the language of the relevant service rules, has been the subject-matter of consideration before this Court, times without number in various decisions and there are three lines of cases on this point.

One line of cases is where in the service rules or in the letter of appointment a period of probation is specified and power to extend the same is also conferred upon the authority without prescribing any maximum period of probation and if the officer is continued beyond the prescribed or extended period, he cannot be deemed to be confirmed. In such cases there is no bar against termination at any point of time after expiry of the period of probation. The other line of cases is that where while there is a provision in the rules for initial probation and extension thereof, a maximum period for such extension is also provided beyond which it is not permissible to extend probation. The inference in such cases is that the officer concerned is deemed to have been confirmed upon expiry of the maximum period of probation in case before its expiry the order of termination has not been passed. The last line of cases is where, though under the rules maximum period of probation is prescribed, but the same requires a specific act on the part of the employer by issuing an order of confirmation and of passing a test for the purposes of confirmation. In such cases, even if the maximum period of probation has expired and neither any order of confirmation has been passed nor has the person concerned passed the requisite test, he cannot be deemed to have been confirmed merely because the said period has expired."

32. The Hon'ble Supreme Court while considering all the landmark judgments on this point, summarised the law in Durgabai Deshmukh Memorial Sr. Sec. School Vs J.A.J Vasu Sena reported in 2019 INSC 937, and held as under:-

35. Admittedly, the appointment letter does not stipulate that the first respondent shall be confirmed upon the expiry of the probationary period. Rule 105(2) stipulates that an order of confirmation may be issued "if the work and

conduct of an employee during the period of probation is found to be satisfactory". Rule 105(2) lays down a condition precedent to the issuance of an order of confirmation. It is only if the appointing authority is satisfied with the performance of the probationer that an order of confirmation may be issued. Rule 105(2) contains an explicit stipulation requiring the issuance of an order of confirmation by the appointing authority upon its assessment that the performance of the probationer has been satisfactory. The mere continuation of the services of a probationer beyond the period of probation does not lead to a deemed confirmation in service. It is only upon the issuance of an order of confirmation by the appointing authority that probationer is granted substantive appointment in the post.

36. In *GS Ramaswamy v Inspector General of Police*, a Constitution Bench of this Court considered the promotions of Sub-Inspectors of Police under Rule 486 of the Hyderabad District Police Manual which stipulated that all officers who are promoted will be on probation for a period of two years and that they may be reverted during the aforesaid period if their work and conduct is not found satisfactory. Noting that the Rule stipulated that "promoted officers will be confirmed at the end of their probationary period if they have given satisfaction", this Court held thus:

"8... Therefore even though a probationer may have continued to act in the post to which he is appointed on probation for more than the initial period of probation, he cannot become a permanent servant merely because of efflux of time, unless the Rules of service which govern him specifically lay down that the probationer will be automatically confirmed after the initial period of probation is over...It is true that the words used in the sentence set out above are not that promoted officers will be eligible or qualified for promotion at the end of their probationary period which are the words to be often found in the Rules in such cases; even so, though this part of Rule 486 says that "promoted officers will be confirmed at the end of their probationary period", it is qualified by the words "if they have given satisfaction". Clearly therefore the Rule does not contemplate automatic confirmation after the probationary period of two years, for a promoted officer can only be confirmed under this Rule if he has given satisfaction. This condition of giving satisfaction must be fulfilled before a promoted officer can be confirmed under this Rule and this condition obviously means that the authority competent to confirm him must pass an order to the effect that the probationary officer has given satisfaction and is therefore confirmed."

(Emphasis supplied)

38. It emerges from the consistent line of precedent of this Court that where the relevant rule or the appointment letter stipulates a condition precedent to the confirmation of service, there is no deemed confirmation of service merely because the services of a probationer are continued beyond the period of probation. It is only upon the issuance of an order of confirmation that the

probationer is granted substantive appointment in that post.....”

42 Admittedly, no order of confirmation was issued by the appointing authority. The case of the first respondent falls squarely within the third category of cases enumerated in Satya Narayan Jhavar wherein though the rules prescribe a maximum period of probation and the probationer is continued beyond the expiry of the probationary period, the substantive appointment of the probationer is subject to a specific act on the part of the appointing authority of issuing an order of confirmation. In the absence of an order of confirmation, the first respondent did not acquire the status of a confirmed employee.

49. We hold and declare that:

(i) The words “by another year” in Rule 105(1) of the 1973 Rules stipulate that the maximum period of probation permissible is two years. The limit equally applies to minority institutions covered by the first proviso to Rule 105; and

(ii) Rule 105(2) stipulates a condition precedent to the issuance of an order of confirmation. The continuation of the services of a probationer beyond the period of probation does not amount to a deemed confirmation of service. It is only upon the issuance of an order of confirmation by the appointing authority that a probationer is confirmed in service.”

33. In the light of the legal position settled by the Hon’ble Supreme Court, it emerges that the condition of satisfactory service must be fulfilled before a promoted Officer can be confirmed under the Rules, until then he cannot acquire a status of confirmed employees. Consequently, when an employee does not acquire the status of the confirmed employees on the feeder post, he/she cannot be considered for promotion to the higher post. When we consider the facts of the present case in light of the observations made above, it is found that there is a clear stipulation in the promotion order dated 04.06.2025 of the petitioner no.4 and read with the mandate of Rule 18, a specific order of confirmation is to be passed by the appointing authority for her confirmation. In the present case the petitioner no.4 has not even completed the probation period, and has not been confirmed on the post of Cataloguer-cum-Classifier in pay level-08, and hence she cannot be considered for promotion to the next higher post. Therefore she is held to be not eligible for consideration for promotion to the post of Assistant Stamp Reporter and Court Fee Examiners. The question is answered accordingly.

34. Having answered the three questions framed by us, and in view of findings recorded therein, we hold that the non-consideration of the candidature of the petitioners on the ground that the petitioners do not belong to the cadre of Part-I Ministerial Staff, is not sustainable and it is held that the officials outside the cadre are eligible for consideration under clause 4-A. However, in view of the service record of the petitioners, they are held to be not eligible for consideration for promotion. And in view of the answer to question No.2 petitioners are not eligible as, vide order 06.07.2022 they have not been regularly promoted to the post carrying grade/pay level-08, equivalent to Judicial Assistant, and have only

been given the benefit of ACP. Further, in view of the answer to question No.3, the petitioner No.4 is not eligible as she is on probation and has not been confirmed on the promoted feeder post.

35. Therefore, in view of the reasons assigned above, and the answer to the question no.2 and 3 it is held that the petitioners are not eligible for consideration for promotion to the post of Assistant Stamp Reporter and court fee examiners. Hence the writ petition filed by the petitioners is dismissed.

36. All the Pending applications, if any, stand disposed of.