

---

**(2013) 05 RAJ CK 0176**  
**In the Rajasthan High Court**  
**Case No : Civil Writ Petition No. 2105 of 2013**

|                  |    |            |
|------------------|----|------------|
| Pradeep Kumar    | Vs | APPELLANT  |
| State and Others |    | RESPONDENT |

---

**Date of Decision :** 22-05-2013

**Acts Referred:**

**Citation :** (2013) 3 CDR 1634

**Hon'ble Judges :** Munishwar Nath Bhandari, J

**Bench :** Single Bench

**Advocate :** Ashok Kumar Bansal, for the Appellant; M.F. Baig, Dy. Govt. Counsel, for the Respondent

**Final Decision :** Allowed

---

## Judgement

Munishwar Nath Bhandari, J.—With the consent of parties, the writ petition is heard finally. It is a case where petitioner remained successful in selection for the post of Teacher Gr. II (Mathematics). The appointment order was issued followed by posting order. The petitioner was allowed to join but later on asked not to work due to the pendency of criminal case u/s. 498A & 406 IPC.

2. Learned counsel submits that matter has already been settled with the wife and the compromise has also been filed in the Court. In any case, one cannot be debarred to work due to pending criminal case only. It is in view of the fact that even character certificate cannot be denied to a convict unless one is involved in the case of moral turpitude or violence. It is with an object to bring even a convict to mainstream. For ready reference, Rule 12 of Rajasthan Education Subordinate Service Rules, 1971 is quoted hereunder:

12. Character.--The character of a candidate for direct recruitment to the Service, must be such as will qualify him for employment in the Service. He must produce a certificate of good character from the Principal, academic officer of the University or College or School in which he was last educated and two such certificates written not more than six months prior to the date of application,

from two responsible persons not connected with his College or University or School and not related to him.

Note.--(1) A conviction by a Court of Law need not in itself involve the refusal of a certificate of good character. The circumstances of the conviction should be taken into account and if they involve no moral turpitude or association with crimes of violence or with movement which has its object the overthrow by violent means of the Government as by law established, the mere conviction need not be regarded as disqualification.

(2) Ex- prisoner who by their disciplined life while in prison and by their subsequent good conduct, have proved to be completely reformed should not be discriminated against, on grounds of their previous conviction for purposes of employment in the Service. Those who are convicted of completely reformed on the production of a report to that effect from the Superintendent of police of that district.

(3) Those convicted of offences involving moral turpitude shall be required to produce a certificate from the Superintendent, After-Care-Home, endorsed by the Inspector General of prisons, to the effect that they are suitable for employment as they have proved to have been completely reformed by their disciplined life while in prison and by their subsequent good conduct in an After-Care-Home.

3. The perusal of rule makes it clear that even a conviction by Court of Law need not in itself involve refusal of a certificate of good character. In view of the above and if facts of this case are looked into, the petitioner is not even a convict but a criminal case is pending for offence u/s. 498A & 406 IPC in that also a compromise has already been taken place between husband and wife followed by decree by the Family Court and even a compromise has been submitted in the Court hearing criminal case. Looking to the aforesaid and in view of judgment of this Court in the case of Rajesh Kumar vs. State of Rajasthan & Ors., reported in 2012 WLC (Raj.) UC-568, the petitioner is held entitled to continue on the post, though it may be subject to final outcome of the criminal case. The writ petition is accordingly allowed. The respondents are directed to allow the petitioner to work at the place of his posting. The intervening period would be treated as working for all practical purposes other than actual wages.