
(2025) 01 RAJ CK 1656

In the Rajasthan High Court, Jodhpur Bench

Case No : Civil Writ Petition No. 4203 Of 2018

Pukhraj Purohit And Ors.

APPELLANT

Vs

State Of Rajasthan And Ors.

RESPONDENT

Date of Decision : 08-01-2025

Acts Referred:

Citation : (2025) 01 RAJ CK 1656

Hon'ble Judges : Arun Monga, J

Bench : Single Bench

Advocate : Gourav Thanvi, Rajvendra Mulewa

Final Decision : Disposed of

Judgement

Arun Monga, J

1. Petitioners herein, inter-alia, seek directions commanding the respondents to accord them appointment to the post of Nurse Grade-II, based on their past work experience with effect from Uploaded on 27.02.2025 after substitution of words 'the work experience certificate dated' with the words 'their past work experience with effect from' 06.10.2008, pursuant to an advertisement dated 04.05.2007 (Annex.1).

2. Briefly speaking, relevant facts are that recruitment of 2,500 GNM posts was advertised on 04.05.2007 for Sub-health Centers in 24 districts under National Rural Health Mission. The petitioners, being eligible, applied for these positions.

2.1 Although the respondents issued an office order on 06.10.2008 appointing selected candidates, but the petitioners were not included as the selection was made intermittently.

Various writ petitions were also filed during that period. Subsequently, by this Court's Larger Bench judgment dated 07.12.2016 in S.B. Civil Writ Petition No. 6207/2009, the respondents were directed to make the selection at the district level. Following this decision, the respondents issued appointment orders even to

the petitioners on 02.12.2016. The petitioners joined the services as GNMs.

2.2 In 2013, the respondents issued a notification for regular GNM recruitment by granting bonus marks for past experience. While similarly situated candidates appointed in 2008 were awarded bonus marks, but the petitioners, appointed later in 2016, were denied equivalent bonus marks w.e.f. same date as the ones appointed in 2008. Hence, the instant petition.

3. Opposing the petition, stand taken by respondents is that advertisement dated 26.02.2013 for filling 15,773 posts of Nurse Grade-II, with bonus marks provided for experience certificates ranging from one, two and three years, i.e. 5 marks for one year, 10 marks for two years and 15 marks for more than three years of experience.

3.1. The Department of Finance reduced the number of vacancies to 11,259, and the recruitment was conducted for these 11,259 posts. It is important to note that the advertisement clearly mentioned that the number of vacancies could be increased or reduced.

3.2. In the 2018-19 budget session, the State Government announced 4,514 additional posts of Nurse Gr. II. Later, the Department of Finance sanctioned 2,043 more posts on 29.05.2018. A fresh advertisement was then issued on 30.05.2018 for filling a total of 6,557 posts. Bonus marks were granted to all eligible candidates as per the rules.

3.3. The petitioners have filed the present writ petition seeking appointments based on the advertisement dated 26.02.2013. However, the claim for appointment under the 26.02.2013 advertisement is without merit. Hence petitioner is not entitled to any indulgence from this Court.

4. In the aforesaid backdrop, I have heard rival contentions of learned counsel for the petitioners as well as learned counsel for the respondents.

5. Without any further ado, at the very outset, I may observe that the petitioners are seeking notional benefit of past 10 years of service prior to their appointment on the ground that, though they were throughout available to serve, but for no fault of them, they were kept out of service, as in the earlier result declared by the respondents for no fault of theirs, they were not selected. Subsequently, in the revised result, they stood selected. The contention being that the petitioners, having successfully challenged the earlier result, stood vindicated that they were meritorious to be selected at the first instance. Therefore, being throughout available to work, they ought to get the notional benefit for the period they remained out of service.

6. The said controversy, in fact, has already been put to rest by a coordinate order/judgment rendered in Manisha Jangir Vs. State of Rajasthan: SBCWP No.15767/2018. A perusal of the judgment reveals that, in the said case, the counter-part of the petitioners stood selected in both the pre-revised as well as the revised result. Whereas, the petitioners were selected only in the revised

result, and to that extent, in fact, the case of the counterpart, i.e., Manisha Jangir, in the order/judgment Ibid, stood on better footing, and yet this court declined to interfere.

7. Relevant part of the order/judgment, ibid, is reproduced hereinbelow:-

"17. Heard learned counsel for the parties and perused the material available on record.

18. The conundrum which is required to be solved in the present case is the expression used by co-ordinate Bench of this Court while deciding petitioner's case – "notional benefit, if so available as per the scheme".

19. A perusal of the order dated 07.12.2016 reveals that no clear-cut direction was given by this Court for grant of notional benefit for the experience and it was circumscribed/qualified by the phrase "if so available as per the scheme". Neither the scheme nor any policy or circular issued by the State Government contain any stipulation regarding notional experience. Hence, the benefit of purported notional experience cannot be allowed to her.

20. That apart, the petitioner's contractual engagement had come to an end on 31.03.2009, wherafter the writ petition which she had filed remained pending without any interim order.

21. It was during the pendency of the writ petition, that the petitioner had applied for the post of Nurse Grade – II, pursuant to the advertisement dated 26.02.2013. She had naturally claimed bonus marks on the experience so far gained (one year and nine months).

22. Petitioner could otherwise not claim any bonus marks for the experience, which she is claiming based on the stipulation contained in the order dated 07.12.2016, passed in her writ petition.

23. In the opinion of this Court, the petitioner cannot claim more than what she had claimed in her application. That apart, the petitioner's stand that she should be given benefit of notional experience is fallacious, inasmuch as she came to be appointed on contractual basis as late as on 04.11.2016.

24. That apart, the note appended with petitioner's appointment order dated 04.11.2016 divests the petitioner of right (if any) to claim notional experience, even if there is some substance in petitioner's contention that while disposing of her writ petition vide order dated 07.12.2016, the High Court had issued direction to the respondent – State to give notional benefits.

25. The reliance of petitioner's counsel upon the judgment dated

3. 01.2020, passed by Coordinate Bench of this Court in the case of Naveen Patidar Vs. State of Rajasthan & Ors. : S. B. Civil Writ Petition No. 10729/2018, lends little help to her case, because, in the case of Naveen Patidar (supra), the Division Bench (in his own case) had directed the State to give all applicable

notional benefits.

26. In the case of Naveen Patedar (*supra*), the Court had come to a definite conclusion that it was the fault of the State Government and since during the pendency of the writ petition, appointment was lately given to said Naveen Patidar (on 10.07.2015), the Division Bench protected rights. But, the present case involves neither fault of the State Government nor does the order dated 07.12.2016 contains definite direction for grant of bonus marks.

27. It would not be inappropriate to add that the recruitment which was initiated in 2013 had long back been over, whereafter two more recruitment of 2018 and 2023 have taken place. Hence, no indulgence can be granted to the petitioner.”

8. Judgment, *supra* was rendered after recording reasons, which has attained finality as no appeal was filed against the said judgment. I am in respectful agreement with the view adopted by the Coordinate Bench and in view thereof instant petition also deserves dismissal.

9. Moreover, a completed selection process cannot be challenged retrospectively and the principle of finality in recruitment must be applied. The doctrine of legitimate expectation applies only when there is a clear government assurance or policy that creates an expectation of a benefit. The petitioners could never had a legitimate expectation of being treated on par with 2008 appointees because a). their selection was based on a later process; b). the revised recruitment result never promised retroactive benefits and c). claim of notional engagement at work due to the petitioners availability to work but yet not deployed, even if assumed in their favor, still does not create an automatic right to be given preference on account thereof in future recruitments. Allowing the claim of petitioners for bonus marks without having physically worked, would set an unacceptable precedent where past recruitment decisions would be constantly challenged by the ones who would be adversely affected by the same, leading to administrative chaos. Certain judicial restraint has to be observed in revisiting settled employment matters, especially when there is no violation of any constitutional right.

10. As regards, alleged violation of Article 14, the petitioners are not similarly situated to those appointed in 2008 and thus cannot claim equal treatment. Equal treatment applies among equals— since the petitioners entered service under different circumstances, they cannot claim the same benefits as those who joined earlier. The petition thus lacks merit as the petitioners have no vested right, no legitimate expectation, and no valid constitutional claim.

11. Before parting, I may hasten to add that the reliance placed by learned counsel for the petitioner on the case of Naveen Patidar Vs. State of Rajasthan: SBCWP No.10729/2018, which is referred to in the Single Bench order/judgment of Manisha Jangir, *ibid*, is totally misplaced. In the said case, the rights of Naveen Patidar were protected by the Division Bench in an intra-court appeal filed by him against the view taken by the Single Judge. However, the protection granted to

Naveen Patidar was in personam and cannot be treated as in rem. Accepting the said direction as in rem would open a Pandora's box and result in hostile discrimination in favour of those who have approached this Court, while others who have accepted the outcome of the judgment as a fait accompli would be adversely affected.

12. As an upshot, no grounds to interfere.

13. Dismissed.

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