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**(2017) 03 RAJ CK 0023**  
**In the Rajasthan High Court**  
**Case No : 500 of 2016**

State of Rajasthan

APPELLANT

Vs

Mukesh Kumar s/o Shri Om Prakash Soni

RESPONDENT

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**Date of Decision :** 06-03-2017

**Acts Referred:**

[Indian Penal Code, 1860](#), [Section 498A](#)/  
[Section 406](#) -  
Rajasthan Police Subordinate Services Rules, 1989, — Rule 15, Rule 13

**Citation :** (2017) 03 RAJ CK 0023

**Hon'ble Judges :** Pushpendra Singh Bhati

**Bench :** SINGLE BENCH

**Advocate :** K.L. Thakur, Rishabh Tayal

**Final Decision :** Dismissed

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## Judgement

1. Delay in filing this appeal is condoned.
2. By way of this appeal, the State has challenged the judgment and order whereby the learned Single Judge has allowed the writ petition preferred by the petitioner (respondent No.1 herein).
3. Learned counsel for the appellants in view of the judgment of the Division Bench in Bhuta Ram vs. The State of Rajasthan & Anr. [D.B. Special Appeal (Writ) No.442/2016, decided on 08.08.2016] has contended that the matter is required to be referred back to the appointing authority. However, the learned Single Judge, while considering the matter, has taken a view that

the criminal case under Sections 498A & 406 IPC pending against the respondent No.1 will not create any hurdle in his appointment and after discussing Rules 13 & 15 of the Rajasthan Police Subordinate Service Rules, 1989 and after considering the law on the subject, the learned Single Judge has passed following directions:

"In view of the aforesaid discussion, the writ petition deserves to be and is hereby allowed. The respondents are directed to offer appointment to the petitioner on the post of Sub Inspector of Police in the questioned selection process ignoring the pendency of above criminal case against the petitioner. However, the appointment order shall bear a condition that the petitioner's services may be terminated in the event of his conviction and he shall also be submit an undertaking to this effect before joining the post. Since the petitioner was gainfully employed as a Teacher during the intervening period, he is not entitled to any consequential benefits. However, the respondents shall grant him all notional service benefits from the date of the order Annex. 6 dated 22.12.2009.

No order as to costs."

4. The learned Single Judge, while issuing the aforesaid directions, has also imposed the condition that the petitioner (respondent No.1 herein) will file an undertaking to the effect that in the event of his conviction in the above criminal case, he may be liable to be terminated from service without holding an enquiry.

5. In our considered opinion, the view taken by the learned Single Judge is just and proper and no other view is possible in the instant case.

6. The appeal deserves to be dismissed and the same is dismissed accordingly.