



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S. B. Civil Writ Petition No. 1412/2026

Dr. Tejpal Katewa S/o Shri Rampratap Katewa, aged about 30 years, resident of Village Kanwarpura, Post Bakhtawarpura, Tehsil Chirawa, District Jhunjhunu (Raj.)

-----Petitioner

Versus

1. State of Rajasthan, through Principal Secretary, Department of Medical and Health, Government of Rajasthan, Secretariat, Jaipur.
2. Joint Secretary, Department of Medical and Health (Group-II) and Panchayati Raj (Medical) Department, Government of Rajasthan, Secretariat, Jaipur.
3. Director (Public Health), Medical and Health Services, Rajasthan C-Scheme, Jaipur.
4. Chief Medical and Health Services, Jhunjhunu (Raj.)
5. Dr. Sant Kumar, Sr. Medical Officer, Sub-District Hospital, Chirawa, Distt. Jhunjhunu (Raj.)

-----Respondents

For Petitioner : Mr. Ashwinee Kumar Jaiman Advocate with Mr. Moin Khan Advocate, Mr. Keshav Parashar Advocate and Mr. Ashok Kabra Advocate.

For Respondents : Mr. Archit Bohra Additional Government Counsel with Mr. Rahul Verma Advocate.
Mr. Sunil Kumar Singodiya Advocate.

HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

REPORTABLE

24/03/2026

1. By way of filing the present writ petition, the petitioner has assailed order dated 13.01.2026 passed by the Rajasthan Civil Services Appellate Tribunal, Jaipur (hereinafter to be referred as 'the Tribunal'), whereby the appeal preferred by the petitioner



against order dated 29.10.2025 placing him under "Awaiting Posting Orders" (APO) has been dismissed. The petitioner has also challenged order dated 29.10.2025 whereby the petitioner was relieved from the post of Block Chief Medical Officer, Chiwara, Jhunjhunu to join his duties in the office of Director (Public Health), Medical & Health Services, Rajasthan Headquarter Jaipur.

2. Brief facts, which are relevant for the purpose of adjudication of the dispute involved in the instant writ petition, are that the petitioner was initially appointed as Medical Officer and after completion of probation, was transferred from time to time. Since 23.02.2024, he was posted as Block Chief Medical Officer, Chirawa. It is the case of the petitioner that despite a subsisting ban on transfers imposed by the State Government, he was abruptly placed under APO vide order dated 29.10.2025 without assigning any reasons, in order to circumvent the rigour of the ban and was thereafter relieved on the same day, vide order dated 29.10.2025 to join his duties in the office of Director (Public Health), Medical & Health Services, Rajasthan Headquarter Jaipur.

3. Aggrieved thereof, the petitioner preferred an appeal before the Tribunal primarily on the grounds that the APO order was violative of Rule 25A of the Rajasthan Service Rules, 1951 (for short "the RSR"), and that the action was taken to accommodate private respondent. It was further contended that such an order could not have been passed during the currency of a transfer ban.

4. It is the further case of the petitioner that the respondents themselves admitted in their reply before the Tribunal





that the APO order was passed on the basis of allegations and proposed disciplinary action. According to the petitioner, such recourse is impermissible in law, inasmuch as disciplinary proceedings are governed by the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (for short "CCA Rules, 1958") and cannot be bypassed by invoking Rule 25A of the RSR. However, the appeal filed by the petitioner was dismissed by the Tribunal without properly appreciating the facts and law.

5. Per contra, the respondents have opposed the writ petition and supported the impugned orders. It is contended that the Tribunal has passed a well-reasoned order after due consideration of the material on record and no interference is warranted in writ jurisdiction. It is further submitted that the APO order was necessitated due to several complaints against the petitioner alleging misconduct, indiscipline and dereliction of duty. Multiple departmental enquiries have been initiated against the petitioner and in order to ensure a fair and uninfluenced enquiry, while passing APO order, the petitioner was directed to report at the Directorate at Jaipur.

6. Shri Ashwinee Kumar Jaiman, learned counsel for the petitioner has vehemently contended that the impugned APO order is malicious and has been passed in colourable exercise of power and not for administrative exigency, but to circumvent the safeguards provided under the CCA Rules, 1958. It is submitted that once allegations of misconduct are made, the only legally permissible course is to initiate disciplinary proceedings in





accordance with the CCA Rules, 1958 and not to resort to passing an APO order.

7. It is further argued that Rule 25A of the RSR is merely a provision relating to pay and allowances and does not confer substantive power to displace an employee in the garb of APO order on allegations of misconduct. Learned counsel for the petitioner has also placed reliance upon the decision rendered by Co-ordinate Bench of this Court at Principal Seat, Jodhpur in **Ganraj Bishnoi Vs. State of Rajasthan & Ors. (S.B. Civil Writ Petition No. 15366/2024 & other connected petitions decided on 17.02.2025)** and submitted that in the above case, this Court has deprecated such practice and held that Rule 25A of the RSR cannot be invoked as a substitute for disciplinary proceedings.

8. On the other hand, Shri Archit Bohra, learned Additional Government Counsel appearing on behalf of Respondents No. 1 to 4 and Mr. Sunil Kumar Singodiya, learned counsel appearing on behalf of Respondent No. 5 opposed the writ petition and submitted that the impugned order has been passed in administrative interest to ensure a fair enquiry and cannot be termed as punitive. It is contended that the power under Rule 25A of the RSR is wide enough to include such situations and that the petitioner has failed to establish mala fides. He would submit that Rule 25A of the RSR is an enabling provision and the situations mentioned therein are illustrative and not exhaustive. The authority is competent to place an employee under APO in cases





of administrative exigency and public interest, including pendency of disciplinary proceedings.

9. It is also argued by learned counsel for the respondents that order of keeping an employee "awaiting posting order" is nothing, but integral part of incidents of service and judicial interference in such matters ought to be limited unless there is a clear case of mala fide or violation of statutory provisions.

10. Upon consideration of the material on record and the rival submissions, this Court finds that the core issue revolves around the scope and ambit of Rule 25A of the RSR vis-à-vis the CCA Rules, 1958.

11. In the present case, the stand of the respondents unequivocally reveals that the petitioner was placed under APO on account of complaints and pending disciplinary proceedings. Thus, the very foundation of the impugned order is the alleged misconduct of the petitioner. In such circumstances, the action of placing the petitioner under APO, instead of initiating appropriate proceedings under the CCA Rules, 1958, clearly amounts to bypassing the statutory framework. This is apparently impermissible in law.

12. It would be relevant to refer judgment of Co-ordinate Bench of this Court at Principal Seat, Jodhpur in the case of **Sukumar Kashyap vs. State of Rajasthan & Others (S.B. Civil Writ Petition No. 7010/2020 decided on 14.10.2020)**, where while dealing with the provisions of Rule 25A of the RSR, it was observed as under:





"It is no doubt true that the provisions of Rule 25A of the Rules, 1951 only deal with the 'pay during A.P.O.' and do not indicate any substantive provision/parameters for which an officer can be placed A.P.O. However, Government of Rajasthan decisions under Rule 25A of the Rules, 1951 have elaborately dealt with the practice of placing government servants under A.P.O., which inter alia has referred to the previous instructions and has emphasized that the Administrative Department should avoid keeping government employees A.P.O. as a routine or as an option to disciplinary action, besides indicating the circumstances in which the orders can be passed. The circumstances indicated essentially deal with the cases where an employee, who was on leave, deputation, had gone abroad, was on training etc., when joins back, can be placed A.P.O.

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As noticed hereinbefore, the instructions under Rule 25A of the Rules, 1951 have taken note of the practice of placing an officer A.P.O. as an option to disciplinary action and has deprecated the said practice. Even otherwise, it is well settled that no administrative action in the nature of punishment can be taken against a Government servant in the guise of passing some other order like transfer and/or placing A.P.O. In view thereof, based on the specific admission of the respondents regarding the order having been passed on account of alleged conduct of the petitioner, the action of the respondents in placing the petitioner A.P.O. cannot be sustained."

13. Further in another judgment delivered by Co-ordinate Bench of this Court at Principal Seat, Jodhpur in **Dr. Mahesh Kumar Panwar Vs. State of Rajasthan & Others (S.B. Civil Writ Petition No. 10490/2024, decided on 09.09.2024)**, dealing with the order of awaiting posting, it was observed as under:

"This Court, therefore, is firmly of the view that the awaiting posting order cannot be passed in a casual and mechanical manner, more particularly when the ban was imposed by the State Government. The sanctity of the ban is required to be adhered to by the State Functionaries."

14. Recently, Another Co-ordinate Bench of this Court at Principal Seat, Jodhpur, in **Ganraj Bishnoi (supra.)**, after following the aforesaid two judgments in the cases of **Sukumar Kashyap (supra)** and **Dr. Mahhesh Kumar Panwar (supra)** has authoritatively held that Rule 25A of the RSR Rules is purely





an administrative provision concerning pay and allowances during the period an employee is awaiting posting and it cannot be invoked as a substitute for disciplinary proceedings. It has been further held that where allegations of misconduct exist, the employer is bound to follow the procedure prescribed under the CCA Rules, 1958. It would be relevant to extract following paras of the above judgment:

"5.1. It is submitted that the impugned transfer/APO orders are contrary to the provisions of Rule 25-A of the Rajasthan Service Rules, 1951(RSR), which stipulates the circumstances under which a state government servant may be placed under awaiting posting orders. These circumstances are : (1) returning from leave, (2) reversion to the parent department from deputation within India, (3) returning from abroad after completing training or a foreign assignment, (4) returning from training within India, (5) awaiting posting after handing over charge of the old post as directed by the appointing authority, (6) non-acceptance of the officer's transfer to another post, and (7) to prevent reversion of a government servant.

11. What falls for consideration in the lis herein is the administrative power invoked by the competent authority to place the services of the aggrieved petitioners herein in the category of 'Awaiting Posting Orders' (hereinafter referred as 'APO'). The provision for category 'Awaiting Posting Order' as such did not exist in the Rajasthan Services Rules, 1951, till insertion of Rule 25A therein vide notification dated 14.09.1981. Till then, it was a measure of administrative ingenuity devised through a Circular dated 07.05.1974, wherein, the term 'APO' was coined. The same reads as under:-

"Clarification

Attention is invited to Finance Department notification No F.I(18)FD(Gr.2)/74 dated 07.05.1974 under which administrative Departments of the Government were delegated power to issue orders treating a Government servant as on duty during the period of Awaiting Posting Orders provided the period of awaiting posting orders does not exceed 30 days.

It has been observed that officers are kept under awaiting posting orders for long periods and such cases, in which the period exceeds 30 days and thus require regularisation from Finance Department are also quite frequent. It is needless to point out that such cases of avoidable expenditure on pay and allowances of the officers for the period of 'awaiting posting orders' are commented adversely in Audit Reports; and it is necessary that steps should be taken to avoid such expenditure.





It is, therefore, enjoined on all concerned that it should be ensured that such cases in which officers have to await posting orders do not occur and even if such cases, at times, are altogether unavoidable, the period of awaiting posting orders is kept at the minimum. It is also hereby made clear that hence forth this Department would not agree to the regularisation of such cases unless weighty reasons exist for non-posting of an officer."

(emphasis supplied)

13. *In the light of aforesaid position law, the two relevant questions that necessarily arise for consideration before this Court are :*

A. *Whether, Rules i.e. 7(8)(b)(iii) read with Rule 25-A of the Rajasthan Service Rules, 1951 can be invoked in cases where in public interest it is felt that instead of placing an official under suspension, rather a lenient view be taken by simply withdrawing work from him by putting him in the category of 'Awaiting Posting Orders' until further decision is taken?*

B. *Whether placing the services of an employee/official under 'Awaiting Posting Orders' category is merely a euphemism to avoid passing an order of 'transfer' and/or a ruse to overcome the rigors of Rule-13 of Rajasthan Civil Services (Classification, Control & Appeal Rules, 1958 and/or to overreach the ban on the transfer orders, which may be /is imposed from time to time ?*

14. *Let us deal with the question 'B' first. In all the cases of bunch in hand herein, it so transpires that there are either of the two categories of the officials; viz. :-*

(i) where they have not been assigned any duty by putting them under Awaiting Posting Orders category without changing their headquarters;

and

(ii) where the employees have not only been assigned any duty, but at the same time their headquarter has been changed.

15. *When an administrative order, as in the latter category (ii) is tested on the definition of transfer contained in Rule 7(38) of the 1951 Rules, it leaves no room for doubt that the same amounts to transfer. In such cases, mere use of the word 'Awaiting Posting Orders' would not exclude the order from the ambit of transfer of an official under the garb of APO. Accordingly, such actions cannot be sustained on the legislative parameters envisaged by the Rule makers. Such a recourse is being noted only to be rejected.*

Moving on to the category where the headquarters have not been changed, the same appear to fall outside the contours of the definition of transfer. Therefore, in such cases, no doubt, the administrative authority will be well justified to pass the orders of APO until further decision is taken to actually transfer such an official. Question 'B' is answered accordingly.





19. From a conjoint reading of Rules 7 and 25A of Rajasthan Service Rules, 1951, it is no doubt evident that for passing an A.P.O. order, the seven contingencies outlined in Rule 25A are illustrative rather than exhaustive. However, this should not be interpreted to mean that the Rule 25A may be used to circumvent the safeguards enshrined in Rule 13, which restricts suspension only under certain specific conditions. If an A.P.O. order is issued without disclosing a valid contingency—or if the disclosed reason contravenes Rule 13—it amounts to violation of the legislative intent, under the garb of an administrative exigency. Such a course is clearly not permissible under the law. Accordingly, whenever power under Rule 7(8)(b)(iii) is invoked in conjunction with Rule 25A, the administrative authority must explicitly state the reasons for invoking contingencies beyond the seven specified in the Rule. Thus, in all cases, the administrative authority must articulate the rationale behind an awaiting posting order—whether it falls within the enumerated contingencies or stems from an administrative exigency.

19.1. While interpreting Rules 7(8)(b)(iii) and 25A, principle of Ejusdem Generis shall necessarily apply and thus other non-exhaustive circumstances must have similar cognitive meaning. Illustratively, if a provision of law refers to "cars, trucks, motorcycles, and other vehicles," the phrase "other vehicles" would be interpreted only to include similar modes of transport (e.g., buses, vans) but not airplanes or boats. When we Apply Ejusdem Generis to Rule 25A, it is borne out that the rule provides a list of specific circumstances where it applies viz. Returning from leave; Repatriation from deputation within India; Completion of training or foreign assignment; Returning from training within India or Relinquishing charge of a previous post under orders of the appointing authority and awaiting new posting orders. Rule 7(8)(b) specifically provides that Government may issue orders declaring that in the circumstances specified therein, **or in circumstances similar thereto**, a Government servant may be treated as on duty. It indicates that the rule applies to "other similar situations" where an employee is awaiting posting orders. The phrase "other similar situations" must be interpreted in the same category as the listed circumstances.

19.2. Resultantly, the Rules 7(8)(b) or 25A, *ibid*, do not apply to any contemplated disciplinary actions, suspension, or cases where posting is deliberately withheld as a punitive measure. Rule 7(8) (b) and Rule 25A can only apply to employees who are awaiting posting due to contingencies specified therein (such as transfer, repatriation, or return from training) or similar other contingencies. It cannot be expanded to cover situations where either it is proposed to initiate disciplinary proceedings or an official is to be suspended pending an inquiry or contemplated removal from a post under the guise of "awaiting posting orders."

19.3. Disciplinary proceedings must be dealt with under relevant provisions of Rajasthan Civil Services (Classification, Control & Appeal Rules, 1958 and not Rule 25A of the Rajasthan Service Rules, 1951. Thus, Rule 25A must not be invoked as a means to avoid disciplinary procedures. If an administrative authority misuses Rule 25A





to delay postings for punitive reasons, such an action would be legally not tenable.

19.4. I am, therefore, of the opinion that Rule 25A of the Rajasthan Service Rules, 1951, cannot be invoked to bypass Rule 13 of the Rajasthan CCA Rules, 1958. Reasons are obvious. Rule 13 (Rajasthan CCA Rules, 1958) governs disciplinary proceedings and specifies the proper authority and procedure for initiating actions against government employees. Whereas, Rule 25A (Rajasthan Service Rules, 1951) deals only with pay and allowances when an employee is awaiting a new posting after being relieved from a previous post. Since Rule 25A is not applicable for disciplinary proceedings, it cannot be used to circumvent or bypass the procedural safeguards under Rule 13. If an employee is accused of misconduct, incompetence, or other delinquency warranting disciplinary proceedings, Rule 13 of Rajasthan Civil Services (Classification, Control & Appeal Rules, 1958) must be followed to ensure procedural fairness.

19.5. To sum up, Rule 25A of Rajasthan Service Rules, 1951 is purely an administrative provision for pay continuity—it does not confer any power for disciplinary proceedings. Rule 13 of Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 is applicable for disciplinary proceedings—bypassing it through Rule 25A would be illegal. If an employee is being kept on "awaiting posting orders" for an extended period without formal disciplinary proceedings under Rajasthan Civil Services (Classification, Control & Appeal Rules, 1958), it would amount a mala fide exercise of power. Also, to prevent abuse of power, in cases where either the contingencies under Rule 7(8) and/or Rule 25-A have not been disclosed and/or if disclosed, are other than similar thereto, APO orders would be falling foul of those Rules. Such an action is clearly not permissible in law.

20. Accordingly, it is held that an order of APO can be passed only in the contingencies specified in Rule 7(8)(b) (iii) and/or Rule 25-A of Rajasthan Service Rules, 1951 or in other similar contingencies. Besides, the competent administrative authority shall be under mandate to record and convey the relevant applicable contingency to the concerned employee. Failure to record and convey the relevant applicable contingency to the concerned employee would amount to violation of intent, letter and spirit of Rule 7(8)(b)(iii) read with Rule 25-A *ibid* and smack of colorable and mala fide exercise of power."

15. Further, the doctrine of malice in law squarely applies to the facts of the present case. Malice in law does not necessarily imply personal ill-will, but refers to an action taken for an unauthorised purpose or in disregard of the law. When a statutory power is exercised for a purpose other than that for which it is conferred, the action stands vitiated.





16. In the instant case, Rule 25A has been invoked ostensibly for administrative purposes, but in reality, to deal with alleged misconduct of the petitioner. This constitutes a classic case of malice in law, as the power has been exercised for an extraneous purpose.

17. The doctrine of malice in law, as consistently expounded by the Hon'ble Supreme Court, constitutes a vital check on arbitrary exercise of statutory power. In **Smt. S.R. Venkataraman v. Union of India & Another, (1979) 2 SCC 491**, the Hon'ble Apex Court authoritatively held that malice in law does not necessarily refers to personal ill-will or spite, but signifies a wrongful act done intentionally without just cause or excuse. The emphasis, therefore, is not on the state of mind of the authority but on the legality of the purpose for which the power is exercised. If a statutory authority acts without lawful justification or for a purpose alien to the statute, such action is vitiated by malice in law.

18. The above principle was further elaborated in **State of A.P. & Others v. Goverdhanlal Pitti, (2003) 4 SCC 739**, wherein the Hon'ble Supreme Court drew a clear distinction between malice in fact and malice in law, holding that legal malice means something done without lawful excuse, in deliberate disregard of the rights of others. It was observed that even in the absence of personal animosity, an act can be termed malicious in law if it is based on irrelevant considerations or is taken for an unauthorized purpose. Thus, the legality of administrative action must be tested on the touchstone of the object and purpose for





which the power is conferred. Paragraphs 12,13 & 14 of the above judgment are relevant, which read as under:

"12. *The legal meaning of malice is "ill-will or spite towards a party and any indirect or improper motive in taking an action". This is sometimes described as "malice in fact". "Legal malice" or "malice in law" means "something done without lawful excuse". In other words, "it is an act done wrongfully and wilfully without reasonable or probable cause, and not necessarily an act done from ill feeling and spite. It is a deliberate act in disregard of the rights of others". (See Words and Phrases Legally Defined, 3rd Edn., London Butterworths, 1989.)*

13. *Where malice is attributed to the State, it can never be a case of personal ill-will or spite on the part of the State. If at all it is malice in legal sense, it can be described as an act which is taken with an oblique or indirect object. Prof. Wade in his authoritative work on Administrative Law (8th Edn., at p. 414) based on English decisions and in the context of alleged illegal acquisition proceedings, explains that an action by the State can be described mala fide if it seeks to "acquire land" "for a purpose not authorised by the Act". The State, if it wishes to acquire land, should exercise its power bona fide for the statutory purpose and for none other.*

14. *Legal malice, therefore, on the part of the State as attributed to it should be understood to mean that the action of the State is not taken bona fide for the purpose of the Land Acquisition Act and it has been taken only to frustrate the favourable decisions obtained by the owner of the property against the State in the eviction and writ proceedings."*

19. In **Kalabharati Advertising v. Hemant Vimalnath Narichania & Others, (2010) 9 SCC 437**, the Hon'ble Supreme Court reiterated that exercise of statutory power for purposes foreign to those for which it is intended would amount to malice in law. The Apex Court emphasized that when a power is exercised for an extraneous or collateral purpose, the same stands vitiated irrespective of the bona fides of the authority. The doctrine thus strikes at the root of colourable exercise of power, where the form of the action may appear lawful, but the substance reveals an impermissible objective. Following observations made in the judgment are relevant:





"25. The State is under obligation to act fairly without ill will or malice—in fact or in law. "Legal malice" or "malice in law" means something done without lawful excuse. It is an act done wrongfully and wilfully without reasonable or probable cause, and not necessarily an act done from ill feeling and spite. It is a deliberate act in disregard to the rights of others. Where malice is attributed to the State, it can never be a case of personal ill will or spite on the part of the State. It is an act which is taken with an oblique or indirect object. It means exercise of statutory power for "purposes foreign to those for which it is in law intended". It means conscious violation of the law to the prejudice of another, a depraved inclination on the part of the authority to disregard the rights of others, which intent is manifested by its injurious acts. (Vide ADM, Jabalpur v. Shivakant Shukla (1976) 2 SCC 521, S. R. Venkataraman v. Union of India (1979) 2 SCC 491, State of A.P. v. Goverdhanlal Pitti (2003) 4 SCC 739, BPL Ltd. v. S.P. Gururaja (2003) 8 SCC 567 and W.B. SEB v. Dilip Kumar Ray (2007) 14 SCC 568.)

26. Passing an order for an unauthorised purpose constitutes malice in law. (Vide Punjab SEB Ltd. v. Zora Singh (2005) 6 SCC 776 and Union of India v. V. Ramakrishnan (2005) 8 SCC 394.)"

20. Similarly, in **West Bengal State Electricity Board v. Dilip Kumar Ray, (2007) 14 SCC 568**, it was held by the Hon'ble Supreme Court that the State can certainly act with legal malice if its action reflects a deliberate disregard of legal norms or is founded upon considerations not germane to the statute. The Apex Court highlighted that such exercise of power would be arbitrary and unreasonable, hence, would not be tenable in the eye of law.

21. Further in the case of **Somesh Tiwari vs Union of India & Others, (2009) 2 SCC 592**, while dealing with a matter of transfer of an employee, it was observed by the Hon'ble Supreme Court that malafide is of two kinds, one-malice in fact and the second, malice in law. If the order is not based on any factor germane for passing an order and based on an irrelevant ground i.e. on the allegations made, makes the order punitive and it amounts to malice in law.





22. Applying the aforesaid settled principles to the facts of the present case, it becomes evident that the impugned action of placing the petitioner under Awaiting Posting Orders (APO) is founded not upon any legitimate administrative exigency contemplated under Rule 25A of the RSR, but on the basis of alleged misconduct and proposed disciplinary proceedings. The respondents have themselves admitted that the order was necessitated due to complaints and pending enquiries against the petitioner. Such a course of action clearly reveals that the statutory power under Rule 25A of the RSR has been invoked not for its intended purpose, but as a substitute for disciplinary action.

23. This Court is of the considered view that once allegations of misconduct form the basis of action, the only legally permissible course is to proceed in accordance with the CCA Rules, 1958. Resorting to an APO order in such circumstances amounts to bypassing the mandatory statutory procedure, thereby rendering the action arbitrary and legally unsustainable.

24. In addition to the above, as per the administrative instructions issued by the respondent-State, an APO order is ordinarily not to be continued beyond a period of 30 days and is required to be substituted by a posting order within the said period. However, in the present case, the impugned APO order against the petitioner was passed on 29.10.2025 and despite the lapse of nearly five months, no order assigning a posting to the petitioner has been issued till date. Further, no reason whatsoever, much less any exceptional or extraordinary circumstance, has been placed on record by the respondents to justify the





continuation of the APO beyond the prescribed period of 30 days. This factor also casts a serious doubt on the bona fides of the respondents.

25. The impugned action, therefore, squarely attracts the doctrine of malice in law, inasmuch as the power has been exercised for a purpose foreign to the one for which it is conferred. It is a classic instance of colourable exercise of power, where the authority, instead of adopting the procedure prescribed by law, has chosen an indirect route to achieve the same result. Such an action cannot be countenanced in law, as it undermines the rule of law and erodes the procedural safeguards guaranteed to a public servant.

26. Additionally, the respondents have not demonstrated that the case of the petitioner falls within any of the contingencies contemplated under Rule 25A of the RSR or the Government clarification thereto. The action, therefore, lacks statutory backing.

27. This court finds that the aforesaid aspects have not been examined in proper manner by the Tribunal and appeal filed by the petitioner was dismissed by giving irrational, unfounded and unwarranted findings, which are perverse in nature.

28. In view of the aforesaid discussion, this Court is of the considered opinion that the impugned APO order dated 29.10.2025 is legally unsustainable and also hit by the doctrine of malice in law. Accordingly, the writ petition deserves to succeed and is, hereby, allowed. Impugned order dated 29.10.2025 placing the petitioner under Awaiting Posting Orders (APO) along with order dated 13.01.2026 passed by the Rajasthan Civil





Services Appellate Tribunal, Jaipur is quashed and set aside. The respondents are directed to forthwith post the petitioner on an appropriate post in accordance with law.

29. It is, however, made clear that this judgment shall not preclude the respondents from initiating disciplinary proceedings against the petitioner, if so advised, strictly in accordance with the CCA Rules, 1958.

30. Pending applications, if any, stand disposed of.

(ANAND SHARMA),J

MANOJ NARWANI /116