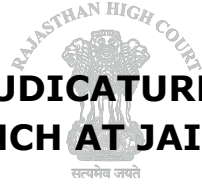




**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 4017/2026

1. Principal Secretary, School Education, Government Secretariat, Jaipur.
2. Joint Administrative Secretary, Education Group-2, Department, Rajasthan Government, Jaipur.
3. Director, Secondary Education, Rajasthan, Bikaner.
4. Udailal, Retired Principal, District Education Officer, Headquarters Elementary Education, Bundi.

----Petitioners

Versus

Dalbir Singh S/o Shri Ishwari Prasad, Aged About 58 Years, Resident Of 246, Block-B, Meera Marg, Vaishali Nagar, Jaipur , Presently Posted As Principal/additional District Education Officer, Office Of District Education Officer, Secondary Education (Legal), Jaipur Employee Id-Rjpp199118914557

----Respondent

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For Petitioner(s) : Mr. Devansh Sharma, Dy.GC  
For Respondent(s) : Mr. Akhil Simlote, Adv.

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**HON'BLE MR. JUSTICE ANAND SHARMA**

**Judgment**

**20/05/2026**

1. By way of filing this writ petition, petitioner-State Government has challenged order dated 04.11.2025 passed by the Rajasthan Civil Services Appellate Tribunal, Jaipur in Appeal No.2073/2025, whereby while allowing the appeal filed by the respondent-employee, directions have been given to promote the respondent on the post of District Education Officer or Equivalent Post against the vacancies of the year 2023-2024 on being found otherwise eligible, along with all consequential benefits.



2. Learned counsel appearing for the petitioners submitted that on account of commission of serious misconduct, one charge-sheet under Rule 16 of Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (for short 'the Rules of 1958') dated 22.06.2020 was issued against the respondent-employee and after conducting departmental enquiry in accordance with rules, vide order dated 25.07.2024 penalty of withholding one grade increment without cumulative effect was imposed upon respondent-employee.

3. Learned counsel for the petitioner submitted that thereafter, the departmental promotion committee (DPC) convened its meeting on 11.02.2025 for considering candidature of all the eligible candidates, including the petitioner, for promotion on the post of District Education Officer and Equivalent Post. As the penalty was there in the record of petitioner on the date of convening DPC, therefore, instead of granting promotion to the respondent, his result was kept in sealed cover.

4. Subsequent to convening the DPC, promotion order dated 13.02.2025 was issued whereby the other candidates having unblemished record were promoted on the post of District Education Officer and Equivalent Post, although, they were Junior to respondent-employee, who was not promoted on account of above penalty in his service record on the date of convening of DPC.

5. Thereafter, a letter dated 14.07.2025 was issued by the Joint Director (Personnel), Department of Secondary Education directing the Competent Authority to open the sealed cover and since, nothing was done thereafter, to grant promotion to the





respondent-employee, feeling aggrieved he approached the Tribunal by way of filing appeal with request of granting him promotion against the vacancies of the year 2023-2024. The appeal filed by the respondent-employee has been allowed by the Tribunal vide order dated 04.11.2025.

6. Learned counsel for the petitioners submits that order dated 04.11.2025 has been passed by the Tribunal in utter ignorance of correct facts, material on record as well as law prevailing at the relevant time.

7. Learned counsel further submits that learned Tribunal has committed serious error of law in not appreciating the fact that on the date of convening of DPC, admittedly there was a penalty order in record of the respondent-employee relating to withholding of one grade increment without cumulative effect and on account of such penalty, the promotion of the respondent-employee, as per prevailing guidelines, was required to be deferred for a period of one year.

8. Learned counsel for the petitioners submits that Tribunal has also not rightly appreciated the stand taken by the State Government that for the purpose of consideration of record while considering the candidature of the concerned candidate for promotion, date of incident is relevant and since, in the instant case, date of incident as well as date of issuance of charge-sheet was well within the period of 7 years from the date of consideration by the DPC for considering promotion against vacancy year 2023-2024, hence, by no stretch of imagination, the respondent-employee could have been treated as entitled for promotion in that particular year.





9. Learned counsel for the petitioner submitted that learned Tribunal has not rightly appreciated circular dated 26.07.2006 issued by the Department of Personnel, in which it has been specified in explicit terms that effect of penalty of withholding one grade increment without cumulative effect would be deferring the promotion for one year.

10. Learned counsel for the petitioners further submits that in case, the analogy drawn by learned Tribunal is taken at its face value then the purpose of keeping the result of respondent-employee in sealed cover by DPC would be meaningless and since, on the date of placing the name of employee in sealed cover, undisputedly, penalty was there in the record of respondent-employee, hence, petitioners have committed no mistake in taking a decision not to grant promotion to the respondent-employee against the vacancies of the year 2023-2024 and to defer the same for further one year.

11. Learned counsel appearing for respondent-employee opposed the writ petition and supported the order dated 04.11.2025 passed by the Tribunal. It is stated by learned counsel for the respondent-employee that learned Tribunal has passed the impugned order after duly appreciating the facts of the case and the circulars issued by the Department of Personnel for laying down guidelines for considering the cases, where concerned employee possesses penalty order in his service record; and the effect thereof has also been meticulously examined by the Tribunal. Hence, there is no infirmity or illegality in the order dated 04.11.2025 passed by the Tribunal.



12. Learned counsel for the respondent-employee further submits that the circulars dated 26.07.2006 and 04.06.2008 are absolutely clear where for the purpose of considering previous record of 7 years for promotion, relevant date would be the date of determination of vacancies, and the language of circulars would also make it clear that any penalty order, if any, shall have effect for a period of 7 years prospectively and not retrospectively.

13. Learned counsel for the respondent-employee submitted that in the instant case, admittedly the department was considering candidature of respective candidates for promotion against the vacancies determined as on 01.04.2023 and for that purpose record of respondent-employee was required to be appreciated for last 7 years preceding date of determination of vacancy. Admittedly, in the case of respondent-employee, he was having no adversity whatsoever in his record of 7 years just preceding the date of determination of vacancy, therefore, Tribunal is justified in granting relief to the respondent-employee and to direct for promoting him on the post of District Education Officer and Equivalent Post.

14. Heard learned counsel for the parties and perused the record.

15. It is not disputed by either of the parties that for the purpose of promotion on the post of District Education Officer and Equivalent Post, relevant date of determination of vacancy was 01.04.2023. As per the procedure prevailing in petitioner-Department, for the purpose of assessing the record of the concerned employee, the record of 7 years prior to the date of determination of vacancy is relevant, which has also been





prescribed in circular dated 04.06.2008 issued by the Department of Personnel.

16. It is also not a matter of dispute that in case, record of previous 7 years of the respondent-employee, from 01.04.2023 is examined, there was no penalty whatsoever in his record, therefore, there was no impediment in the way of respondent-employee to grant him promotion.

17. Contention of learned counsel for the petitioners that the intention of circular issued by DOP was that for the purpose of record of 7 years, the date of incident would be relevant and in case, even charge-sheet has been issued and departmental enquiry is pending against any employee in past 7 years from the date of determination of vacancy, then in compliance of circulars dated 26.07.2006 and 04.06.2008, his promotion is liable to be deferred; in considered opinion of this Court, is totally unfounded and baseless. Learned counsel for the petitioner has utterly failed to support his arguments on the basis of any statutory rule, notification or judgment delivered by any Court of law.

18. In this regard it would be relevant to refer judgment of Hon'ble Supreme Court in the case of **State of Rajasthan Vs. M. C. Saxena** reported in **(1998) 3 SCC 385**. Relevant para of the judgment are reproduced hereunder:-

"2. Mr. Gupta appearing for the State in Civil Appeal No. 2536 of 1993 contends that in view of the Departmental proceeding initiated against the respondent and ultimately order of punishment inflicted upon by the Disciplinary Authority withholding one increment without cumulative effect, the conclusion of the High Court that the respondent was entitled to be considered for promotion w.e.f 1980 is wholly unsustainable in law. He further contended that





in view of the relevant circular of the Government, the period of seven years can only be counted from the date of the order of punishment and the date of delinquency is wholly immaterial, and the High Court committed error in holding that the period of seven years could be counted from the date of delinquency. Mr. Gupta further submitted that the respondent having been duly considered in the year 1989 but having been found unsuitable for promotion to the post of Superintending Engineer in respect of vacancy occurring in 81-82, there has been no infringement of Article 16 of the Constitution and consequently the impugned direction of the High Court cannot be sustained.

3. Mr. Surya Kant, the learned counsel appearing for the employee who is the Appellant in Civil Appeal No. 2564 of 1993 though fairly stated that the period of seven years has to be counted from the date of the award of punishment and not from the date of delinquency but contended that the Enquiry Officer having exonerated the delinquent of the charges levelled against him, the Disciplinary Authority could not have inflicted punishment without giving an opportunity of hearing to the delinquent and as such the impugned order of punishment is liable to be set aside, being in violation of the principle of natural justice. The learned counsel accordingly urged that the High Court committed gross error in not setting aside the order of punishment imposed upon the delinquent government servant.

4. Having heard the learned counsel for the parties and having given our anxious consideration to the submissions made and on going through the impugned judgment of the High Court, we are of the considered opinion that the High Court committed gross error in issuing the impugned directions. A departmental proceeding was admittedly initiated against the respondent by serving upon him a set of charges on 1-6.1979. That departmental proceeding culminated in the order of punishment imposed by the State Government on 8-10-1975 (*sic* 1985). When a departmental proceeding is already pending but no punishment has been inflicted and the question of promotion of the delinquent government servant arises then the Departmental Promotion





Committee can adopt a sealed-cover procedure which is well known in the service jurisprudence. But if the departmental proceeding culminates in imposition of a punishment on the delinquent, the question of reconsideration of the delinquent's case for promotion would not arise at that stage. In the case in hand since the disciplinary authority disagreeing with the report of the enquiring officer held the respondent guilty and imposed the punishment of stoppage of two increments without cumulative effect which was later on reviewed and punishment of stoppage of one increment without cumulative effect was finally imposed, the High Court could not have directed the State Government to reconsider the case of promotion of the respondent to the post of Superintending Engineer w.e.f 1980 onwards. The said direction is wholly unsustainable and is accordingly set aside. The High Court also committed serious error in holding that in terms of the relevant circular, the seven-year period could count from the date of delinquency and would lapse in the year 1980, even though the departmental proceeding was continued and ultimately culminated by imposing an order of punishment in the year 1985. In fact Mr. Surya Kant appearing for the delinquent could not support the aforesaid reasoning of the High Court. In this view of the matter, we have no hesitation to come to the conclusion that the High Court committed serious error by requiring that the case of the delinquent government servant should be considered for promotion to the post of Superintending Engineer retrospectively w.e.f 1980 onwards. We accordingly quash the said direction of the High Court."

19. It goes without saying that any penalty whether major or minor, has its effect, as per prevailing rules and circulars, over the promotion to be granted to the employee, yet it is settled that such penalty shall have its effect on promotions to be granted subsequent to date of issuance of penalty order and not in respect of promotion which is to be granted against the vacancy accrued on a date prior to issuance of penalty order. In the instant case, since there was no penalty in the record of the petitioner as on





01.04.2023, hence, this Court finds that learned Tribunal has committed no mistake whatsoever in allowing the appeal filed by the respondent-employee and in passing order dated 04.11.2025.

20. In view of above, there is no scope of interference in order passed by the Tribunal, hence, the writ petition filed by the petitioners is hereby dismissed.

21. Pending application(s), if any, stand(s) dismissed.

(ANAND SHARMA),J

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