



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



D.B. Special Appeal Writ No. 620/2021

URN: SAW / 1042U / 2021

1. State Of Rajasthan, through the Director Elementary Education, Bikaner, Rajasthan.
2. The District Education Officer, Elementary Education, Bundi, Rajasthan.
3. The Block Elementary Education Officer, Panchayat Samiti Nainwa, District Bundi, Rajasthan.

-----Appellants

Versus

Amita Sharma W/o Sh. Devendra Kumar Sharma, R/o House No. 199, Police Line Road, Moti Nagar, Bundi, Rajasthan.

-----Respondent

Connected With

D.B. Special Appeal Writ No. 621/2021

URN: SAW / 1043U / 2021

1. State of Rajasthan, through the Director Elementary Education, Bikaner, Rajasthan.
2. The District Education Officer, Elementary Education, Jaipur.

-----Appellants

Versus

Santosh Choudhary D/o Sh. Mala Ram Choudhary, Wife of Sh. Naresh Choudhary, R/o K-25, LIC Flats, Vidhyadhar Nagar, Jaipur, Rajasthan.

-----Respondent

D.B. Special Appeal Writ No. 622/2021

URN: SAW / 1044U / 2021

1. State of Rajasthan, through the Director Elementary Education, Bikaner, Rajasthan.
2. The District Education Officer, Elementary Education, Jhalawar.

-----Appellants



Versus

Smt Rajesh Kasera D/o Sh. Girraj Sharan Kasera, R/o F-12,
Jawahar Nagar, Kota.

----Respondent

D.B. Special Appeal Writ No. 623/2021

URN: SAW / 1045U / 2021

1. State Of Rajasthan, through the Director Elementary Education, Bikaner, Rajasthan.
2. The District Education Officer, Elementary Education, Jaipur.

----Appellants

Versus

Poonam Sharma W/o Sh. Ashok Kumar Sharma, R/o Plot No. 78-79 (S) New Colony, Bus Stand Pulera, District Jaipur, Rajasthan.

----Respondent

D.B. Special Appeal Writ No. 625/2021

URN: SAW / 1047U / 2021

1. State Of Rajasthan, through the Director Elementary Education, Bikaner, Rajasthan.
2. The District Education Officer, Elementary Education, Jaipur.
3. The District Education Officer, Elementary Education, Alwar.

----Appellants

Versus

Smt. Shimla Sharma W/o Sh. Lalit Mohan Sharma, R/o 105/120, Pratap Nagar, Sanganer, Jaipur, Rajasthan.

----Respondent

D.B. Special Appeal Writ No. 626/2021

URN: SAW / 1048U / 2021

1. State of Rajasthan, through the Director Elementary Education, Bikaner, Rajasthan.
2. The District Education Officer, Elementary Education, Alwar.



3. The District Education Officer, Elementary Education,
Barmer.

-----Appellants

Versus

Ishwar Singh Yadav S/o Sh. Prabhu Ram Yadav, R/o Village Post
Palawa, Teshil Mundawar, District Alwar.

-----Respondent



For Appellant(s) : Mr. Sachin Singh Rathore,
Mr. Chinmay Saxena, AGC and
Mr. Jeetendra Takar for
Mr. S. S. Naruka, AAG

For Respondent(s) : Mr. Krishan Chander Sharma with
Mr. Vaibhav Pancholy
Mr. Pawan Sharma
Mr. Bal Kishan Saini

HON'BLE MR. JUSTICE INDERJEET SINGH
HON'BLE MR. JUSTICE SANDEEP TANEJA

Judgment

16/07/2026

1. All these appeals are directed against the common order dated 15.01.2021 passed by the learned Single Judge, whereby the writ petitions filed by the respondents were allowed and the appellants were directed to consider and give appointments to the respondents on the post of *Prabodhak* from the date on which other similarly situated candidates were given appointments on a notional basis. It was also directed that the pay of the respondents be fixed from the date on which such similarly situated candidates were appointed as *Prabodhak*, with continuity of service, while the actual monetary benefits were directed to accrue from the date of passing of the impugned order.

2. In a nutshell, the facts of the case are that the respondents, who were working on the post of Para Teacher, applied for the



appointment to the post of *Prabodhak*. However, their candidature for appointment to the said post was denied on account of not having requisite experience as there was a break in service of more than 180 days. Under these circumstances, they filed the writ petitions seeking relief on the ground of parity with certain other persons, including one Smt. Raja Bai Solanki, who, according to the respondents, were granted regular appointment to the post of *Prabodhak*, despite having a break in service as the number of leaves availed by them also exceeded 180 days.

2.1 The said writ petitions were opposed by the appellants. However, vide the impugned order, the learned Single Judge allowed the writ petitions holding that once the respondents had been granted leave of 180 days and permitted to continue as Para Teachers, thereafter their experience could not be ignored or excluded for the purpose of appointment to the post of *Prabodhak*.

3. Being aggrieved of the said order passed by the learned Single Judge, the appellants have filed the present appeals.

4. Learned counsel for the appellants submitted that the learned Single Judge failed to appreciate that the respondents were not eligible for appointment to the post of *Prabodhak* as per the provisions of the Rajasthan Panchayati Raj Prabodhak Service Rules, 2008 (for short, 'Rules of 2008'). He further submitted that the learned Single Judge erred in granting relief on the basis of parity, as the persons with whom parity was drawn, were not similarly situated. It was also submitted that, except Mukharam S/o Prahlad, none of the persons having a break in service exceeding the prescribed limit was given appointment, and even in the case of Mukharam, the appointment was made only after



relaxation was specifically granted under Rule 40 of the Rules of 2008.

4.1 Learned counsel further submitted that, insofar as the case of Smt. Raja Bai Solanki is concerned, she had availed leave for only 149 days, which was much less than the period of 180 days and was well within the permissible limit of 180 days. In support of the said contention, reliance was placed on a letter dated 05.10.2009 issued by the Joint Director, Elementary Education, certifying that she had remained on leave for only 149 days. It was submitted by the learned counsel that the learned Single Judge erred in not considering the said letter while passing the impugned judgment. He, therefore, prayed that the impugned order be set-aside and the appeals be allowed.

5. Per contra, learned counsel for the respondents supported the impugned order passed by the learned Single Judge and opposed the submissions made by learned counsel for the appellants. While refuting the contention of the learned counsel for the appellants that Smt. Raja Bai Solanki remained on leave for only 149 days, learned counsel for the respondents submitted that the information furnished under the RTI Act clearly disclosed that the total number of day for which she remained on leave was 721 days, and therefore, prayed for dismissal of the appeals.

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

7. The appointment to the post of *Prabodhak* is governed by the Rules of 2008. The qualification and experience requirements to the said post are not in dispute. It is also not in dispute that the respondents did not possess the requisite qualifying experience,





as they had taken leave for a period exceeding 180 days during the relevant period of five years. The respondents, therefore, have claimed relief solely on the ground of parity with other candidates who were allegedly granted appointment despite having availed a similar break in service. In support thereof, the respondents cited the case of Smt. Raja Bai Solanki, based on the information sought under the Right to Information Act, 2005 (for short 'RTI Act').

8. The case of the appellants is that, no ineligible person has been appointed to the post of *Prabodhak*. Insofar as the case of Raja Bai Solanki is concerned, it has been stated that during the period in question, she had availed leave for only 149 days, which is clearly revealed from the letter dated 05.10.2009. The said letter was also placed on record before the learned Single Judge by way of an additional affidavit filed by the appellants. It appears from the record that no counter-affidavit was filed by the respondents disputing the contents of the aforesaid additional affidavit. In such circumstances, the contention of the respondents, based on the information allegedly obtained under the RTI Act, that Smt. Raja Bai Solanki had availed leave for 721 days, has no merit and deserves to be rejected.

9. In our considered opinion, the letter issued by the Joint Director, Elementary Education, a competent authority, would prevail over the information furnished under the RTI Act, particularly in the absence of any material on record rebutting the contents of the said communication.

10. Moreover, it is the specific case of the appellants that Mukharam was given appointment on the post of *Prabodhak* on



account of relaxation having been granted by the competent authority after invoking its power of relaxation provided under Rule 40 of the Rules of 2008.

11. Admittedly, it is not the case of the respondents that they had either applied for relaxation before the authorities concerned under the aforesaid provisions or made any such prayer in the writ petition before the learned Single Judge. Therefore, in the absence of any such request or consideration under the relaxation provision, the case of Mukharam, cannot be equated with that of the respondents, as the case of the respondents stands on a completely different footing. Consequently, the same cannot be relied upon by the respondents for claiming parity.

12. We further find that the learned Single Judge failed to take into consideration that the respondents were not eligible to be appointed as *Prabodhak*, as they did not fulfill the eligibility criteria prescribed for appointment to the post of *Prabodhak* under the Rules of 2008. The learned Single Judge also did not advert to or deal with the specific defence taken by the appellants, as there was no mention of the same in the impugned order.

13. It is also relevant to mention here that, vide order dated 30.05.2024, this Court granted an opportunity to the respondents to place on record the appointment orders of those persons who were allegedly granted appointment as *Prabodhak* despite having availed leave for more than 180 days. The respondents, however, failed to produce any such instance or appointment order or document on record to substantiate their plea.



14. Resultantly, we are of the considered view that the impugned order passed by the learned Single Judge cannot be sustained and deserves to be set aside.

15. At this juncture, learned counsel for the appellants also brought to the notice of this Court the fact that the post of *Prabodhak* has already been abolished and, therefore, the respondents, in any case, cannot be given appointments to the said post. Be that as it may, in view of the discussion hereinabove, even otherwise, the respondents were not entitled to appointment.

16. Accordingly, the appeals are allowed and the common order dated 15.01.2021 passed by the learned Single Judge is set aside. Consequently, the writ petitions filed by the respondents stand dismissed.

17. All pending applications, if any, stand disposed of.

(SANDEEP TANEJA),J

(INDERJEET SINGH),J

64-69/TN