



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Civil Writ Petition No. 17812/2026
CNR: RJHC010760622026 | URN: CW / 30938U / 2026

Babu Ram S/o Shri Deva Ram, Aged About 39 Years, Resident Of
Village Luna Kallan, Post Payla Kallan, Tehsil Sindhari, District
Barmer, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through Secretary, Department Of
Rural Development And Panchayati Raj. Government Of
Rajasthan, Secretariat Jaipur.
2. The Chief Executive Officer, Zila Parishad, Barmer,
Rajasthan.
3. The Block Development Officer, Panchayat Samiti
Sindhari, Barmer (Raj.).
4. The Superintendent, Government District Hospital,
Barmer (Raj.).
5. The Superintendent, Government District Hospital, Sirohi
(Raj.).

-----Respondents

For Petitioner(s) : Mr. Lokesh Mathur
For Respondent(s) : Mr. Kuldeep Vaishnav

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT

Order

21/08/2026

1. The instant writ petition has been preferred by the petitioner
assailing the order dated 07.07.2026 (Annx.16) issued by the
respondent No. 3, whereby the appointment of the petitioner on
the post of Village Development Officer was cancelled and he was
dismissed from services.
2. In brief, the facts giving rise to the present controversy, as
pleaded by the petitioner and borne out from the writ petition, are
that the petitioner claims locomotor disability in his lower limb. In



this regard, a disability certificate dated 17.06.2013 (Annx.3) was issued by the Government Hospital, Barmer, certifying disability of more than 40%. Subsequently, a disability certificate dated 07.08.2018 (Annx.4) was issued by the Chief Medical & Health Officer, Barmer, certifying locomotor disability of the petitioner in his right lower limb to the extent of 50%.

3. An advertisement dated 06.09.2021 (Annx.5) was issued by the Rajasthan Staff Selection Board for recruitment to the post of Village Development Officer. Under the relevant provision of the advertisement, reservation was extended to specially-abled candidates having 40% or more disability, subject to production of a permanent disability certificate issued by the competent medical authority.

4. The petitioner, claiming eligibility under the specially-abled category, participated in the selection process. He disclosed his disability category and furnished the disability certificate dated 07.08.2018. Upon completion of the selection process, he was declared successful and was allotted Panchayat Samiti Reodar, District Sirohi.

5. Thereafter, the petitioner was appointed as Village Development Officer vide appointment order dated 13.04.2023 (Annx.7). After his appointment, he was also examined by a Medical Board comprising three doctors of Government District Hospital, Sirohi, which, vide certificate dated 04.10.2023 (Annx.8), certified the petitioner to have locomotor disability to the extent of 50%.



6. Subsequently, vide order dated 03.10.2023 (Annx.9), the district allotted to the petitioner was changed from District Sirohi to District Barmer. The petitioner completed the period of probation and his services were thereafter confirmed.

7. The controversy arose subsequently when the Department of Personnel, vide order dated 28.08.2025, and the Department of Rural Development and Panchayati Raj, vide communications dated 04.09.2025 and 25.02.2026, directed re-examination of employees appointed under the specially-abled category.

8. Pursuant to the aforesaid directions, the petitioner was required to appear before the Medical Board constituted at District Hospital, Barmer. The petitioner accordingly appeared before the Medical Board. The Medical Board, vide report dated 10.04.2026, assessed the extent of his disability at 30.5%.

9. The matter was thereafter placed before the District Establishment Committee, Zila Parishad, Barmer. In its meeting dated 03.06.2026, under Agenda No.6 (Annx.15), the Committee noticed the medical report dated 10.04.2026 and directed cancellation of the petitioner's appointment on the ground that his disability was found to be below the minimum benchmark of 40%.

10. Pursuant thereto, the Block Development Officer, Panchayat Samiti Sindhari, passed the impugned order dated 07.07.2026 cancelling the appointment of the petitioner. It is submitted that before passing the said order, the petitioner was neither supplied a copy of the medical report dated 10.04.2026 nor issued any show-cause notice nor afforded an opportunity to explain the





discrepancy between the earlier disability certificate(s) and the subsequent medical assessment.

11. Reply to the writ petition has been filed by the respondents. While raising preliminary objection regarding maintainability of the writ petition, it is submitted that the petitioner had an alternative remedy before the Rajasthan Civil Services Administrative Tribunal and that disputed questions of fact are involved in the writ petition; and that the petitioner has challenged a policy decision of the State Government.

12. On merits, the respondents have defended the impugned action principally on the ground that, pursuant to the Government directions dated 04.09.2025 and 25.02.2026, re-examination of specially-abled employees was undertaken and the petitioner was found to have only 30.5% disability. According to the respondents, since the advertisement prescribed a minimum benchmark of 40%, the petitioner was ineligible to have obtained appointment against the reserved post and, therefore, his appointment was liable to be cancelled.

13. Heard learned counsel for the parties.

14. Learned counsel for the petitioner submits that the petitioner had submitted a valid disability certificate issued by the competent authority, was selected after scrutiny of his documents, was appointed, was medically examined even after appointment by a Government Medical Board at Sirohi which again assessed his disability at 50%, and thereafter completed probation and was confirmed in service. It is submitted that the subsequent medical assessment of 30.5% does not, by itself, establish that the earlier





certificate was forged, fabricated, fraudulent or otherwise illegally obtained.

15. Learned counsel further submits that impugned action has been taken in complete violation of the principles of natural justice. Neither was the petitioner informed of the material proposed to be relied upon against him nor was he supplied the medical report nor given an opportunity to explain the variation in the medical assessments.

16. Learned counsel for the petitioner has placed reliance upon the judgment of the Hon'ble Supreme Court in ***Debashish Mohapatra & Ors. Vs. District and Session Judge, Jagatsinghpur & Ors., 2026 LiveLaw (SC) 721***, and submits that a confirmed employee cannot be removed from service merely on the basis of an alleged defect in the appointment without following the procedure prescribed by law, particularly when no fraud or misrepresentation is attributed to the employee.

17. Per contra, learned counsel for the respondents submits that the petitioner was found to possess only 30.5% disability upon re-examination by the Medical Board, whereas, the advertisement prescribed a minimum disability of 40% for availing reservation under the specially-abled category. It is contended that the petitioner was, therefore, ineligible for appointment against the reserved post and that the competent authority was justified in cancelling his appointment in terms of the applicable rules, Government instructions and the conditions contained in the appointment order. It is further submitted that the subsequent medical assessment merely brought to light the petitioner's



ineligibility and, therefore, no separate disciplinary enquiry was required before cancellation of the appointment.

18. Learned counsel for the respondents has further submitted that the action is supported by Rule 256 of the Rajasthan Panchayati Raj Rules, 1996 as well as Clause 4 of the appointment order.

19. Learned counsel for the respondents has relied upon a decision of a Division Bench of this Court in ***State of Rajasthan Vs. Chandra Pal Singh & Ors.*** reported in ***2026 Supreme (Raj) 200***, wherein it has been held that where an appointment is found to have been secured by fraudulent means or on the basis of an invalid document, the employee cannot claim protection of a disciplinary enquiry before termination of such appointment.

20. I have considered the arguments advanced by learned counsel for the parties, perused the material available on record and examined the judgments cited by learned counsel for the parties.

21. At the outset, the objection regarding availability of an alternative remedy is not sustainable. The challenge raised by the petitioner is not merely to an administrative decision on merits, but to the very procedure adopted by the respondents in terminating/cancelling his appointment without furnishing the material relied upon against him and without affording him any opportunity of hearing. It is well settled that availability of an alternative remedy does not operate as an absolute bar to exercise of jurisdiction under Article 226 of the Constitution, particularly where the impugned action suffers from violation of



principles of natural justice or raises a question regarding the authority /jurisdiction of the decision-making authority.

22. The objection regarding disputed questions of fact is also without substance. The material facts are substantially undisputed. The petitioner possessed an earlier disability certificate showing 50% disability, was selected and appointed on that basis, and was again assessed at 50% by the Medical Board, Sirohi, in 2023. The subsequent assessment of 30.5% by the Medical Board, Barmer, by itself, cannot conclusively establish that the earlier certificate was false or invalid.

23. The disability certificate dated 07.08.2018 was issued by the competent medical authority, and there is no allegation or finding of fraud, fabrication, misrepresentation or manipulation on the part of the petitioner.

24. A mere variation between two medical assessments cannot, by itself, be treated as proof of fraud. The respondents were required to examine the earlier certificates, the subsequent Medical Board report dated 04.10.2023 and the reasons for variation in the assessments in accordance with the applicable statutory framework.

25. The petitioner's case is materially different from a case involving a forged certificate or an appointment secured through fraud. The judgment in State of Rajasthan Vs. Chandra Pal Singh, therefore, does not advance the respondents' case in the facts of the present matter.

26. The Rights of Persons with Disabilities Act, 2016 contains a statutory mechanism for certification of specified disabilities.



Section 58 provides for assessment by a designated certifying authority and issuance of a certificate of disability, while the Rules framed under the Act provide for the procedure for assessment and certification. The certificate issued under the statutory framework is not a document which can simply be ignored by an administrative authority without examining its legal status.

27. The statutory scheme also contemplates a mechanism for questioning a decision of the certifying authority. Therefore, if the respondents were of the opinion that the earlier certificate was incorrect or required reconsideration, the matter was required to be dealt with in accordance with the statutory framework and applicable procedure, rather than treating the later medical opinion as automatically extinguishing the legal effect of the earlier certificate.

28. It is equally important to notice that the respondents have not alleged that the petitioner himself committed any fraud in securing appointment. The case of the respondents is essentially that, upon fresh medical examination, the petitioner was found to have disability of 30.5% instead of 40% or more. Such a case stands materially different from a case where the employee is found to have submitted a forged disability certificate or to have deliberately made a false representation.

29. The respondents' reliance upon Rule 256 of the Rajasthan Panchayati Raj Rules, 1996 and Clause 4 of the appointment order is also misplaced. Rule 256, on its plain terms, deals with persons who are ineligible for employment in Panchayati Raj Institutions and prescribes circumstances in which a person cannot be



employed. It does not, by itself, confer an unfettered power upon the respondents to summarily terminate a person already appointed, confirmed and continuing in service, particularly where the factual basis of alleged ineligibility itself is disputed.

30. The medical report dated 10.04.2026 was the foundation of the impugned order, yet the petitioner was neither supplied the report nor afforded any opportunity to explain the discrepancy between the earlier assessments and the subsequent assessment of 30.5%. The impugned action thus suffers from clear violation of principles of natural justice.

31. In ***Debashish Mohapatra & Ors. (supra)***, the Hon'ble Supreme Court has held as under :-

“13. Article 311 is, in many ways, a constitutional manifestation of the guarantee against arbitrariness embodied in Article 14 of the Constitution. The promise of equality before law is not confined merely to equal treatment but it extends to fairness in decision-making and acts as a bulwark against arbitrary State action. Article 311 carries this constitutional philosophy into the realm of public employment by affording procedural safeguards to persons serving in civil capacities under the Union or a State.

14. Clause (2) of Article 311 expressly mandates that no person shall be dismissed, removed, or reduced in rank except after an inquiry in which he has been informed of the charges against him and afforded a reasonable opportunity of being heard. The inquiry contemplated by the Constitution is not an empty formality. It is a substantive safeguard designed to ensure adherence to the principles of natural justice before a civil servant is visited with serious civil consequences. The constitutional intent is clear that in a democratic republic governed by the rule of law, public employment cannot be terminated at the unfettered discretion of the employer.

15. The framers of the Constitution, conscious of the abuse of executive power that had characterised colonial administration, deliberately incorporated these protections so as to secure fairness, impartiality, and procedural propriety in matters affecting public servants. Article 311 thus represents not merely a service protection but a constitutional commitment to the rule of law.

16. The Constitution, however, recognises limited exceptions to this requirement. The second proviso to Article 311(2) contemplates three





situations in which an inquiry may be dispensed with: first, where dismissal, removal, or reduction in rank is founded upon conduct which has led to a criminal conviction; secondly, where the competent authority records in writing its satisfaction that it is not reasonably practicable to hold such inquiry; and thirdly, where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold the inquiry. Thus, save and except these narrowly tailored exceptions, the holding of an inquiry prior to dismissal, removal, or reduction in rank remains the constitutional rule and not a matter of discretion.

17. Reverting to the facts of the present case, the allegation against the appellants is that their appointments were illegal from inception, having been made against posts which were allegedly non-existent on the date of recruitment. Even assuming such allegation to be correct, one crucial circumstance could not have been ignored. The appellants had already been confirmed in service by order dated 25th April, 2022. Confirmation in service is not a mere administrative formality but it confers upon an employee a substantive status carrying with it enhanced security of tenure and the protection of constitutional safeguards available to a civil servant.

18. Once the appellants had attained the status of confirmed employees, their services could not have been terminated by a simpliciter administrative order founded upon allegations touching the validity of their appointments. Whether the appointments suffered from illegality, whether the appellants had any role to play therein, and whether such illegality warranted termination were all matters requiring adjudication in accordance with the procedure contemplated by Article 311(2).

19. The respondents have not conducted any departmental inquiry whatsoever. In addition, they have also failed to demonstrate the existence of any circumstance bringing the case within any of the three exceptions carved out under the second proviso to Article 311(2). The constitutional mandate, therefore, stood attracted in full force.

20. In our considered opinion, both the respondent authorities and the High Court fell into manifest error in proceeding on the assumption that an allegation of illegality in appointment, by itself, authorised the termination of confirmed employees without adherence to the constitutional safeguards. Such an approach overlooks the distinction between the validity of an appointment and the procedure required for depriving a civil servant of his employment after he has acquired protected status under the Constitution."

32. In the present case, the petitioner had already undergone the regular selection process, was appointed on 13.04.2023, was thereafter medically examined by a duly constituted Medical Board





at Sirohi which assessed his disability at 50%, and had completed his probation and confirmed in service. Thus, his services had acquired the protection attached to a confirmed employee. The subsequent assessment of disability at 30.5%, without any finding of fraud, fabrication, misrepresentation or manipulation on the part of the petitioner, could not, by itself, justify termination of his services by a simpliciter administrative order. Any action having such serious civil and livelihood consequences was required to be taken only after following the procedure prescribed by law and affording the petitioner a reasonable opportunity of hearing.

33. Accordingly, the writ petition is allowed. The impugned order dated 07.07.2026 passed by the Block Development Officer, Panchayat Samiti Sindhari, District Barmer is hereby quashed and set aside.

34. The respondents are directed to permit the petitioner to resume/continue in service on the post of Village Development Officer, on which he was working immediately prior to passing of the impugned order.

35. It is, however, made clear that this Court has not expressed any final opinion on the correctness of the disability assessment dated 10.04.2026 or on the ultimate percentage of disability of the petitioner. The respondents shall remain at liberty to undertake appropriate proceedings /verification in accordance with law, if so advised, after duly considering the disability certificate dated 07.08.2018, the Medical Board certificate dated 04.10.2023, the subsequent Medical Board report dated 10.04.2026, the provisions of the Rights of Persons with Disabilities Act, 2016, the



Rules framed thereunder and the applicable service rules/instructions.

36. Any such proceedings, if initiated, shall be undertaken by the competent authority independently and strictly in accordance with law. The petitioner shall be supplied with all material proposed to be relied upon against him and shall be afforded reasonable and effective opportunity of hearing before any adverse decision is taken.

37. It is further clarified that the observations made herein shall not be construed as conferring immunity upon the petitioner from any lawful proceedings relating to his eligibility or the validity of the disability certificate. Equally, the respondents shall not treat the subsequent medical assessment of 30.5%, by itself, as a finding that the earlier certificate was forged, fabricated or fraudulently procured.

38. The writ petition stands allowed in the aforesaid terms.

39. Stay application and all other pending application(s), if any, shall also stand disposed of.

(MUKESH RAJPUROHIT),J

18/Abhishek Saluja