RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No.17704/2026
CNR: RJHC020834112026 | URN: CW / 37022U / 2026

Rajasthan High Court
सत्यमेव जयते
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1. State Of Rajasthan, Through Principal Secretary, Department Of Medical And Health, Government Secretariat, Rajasthan, Jaipur.
2. Director, Medical And Health Services, Swasthya Bhawan, Tilak Marg, C-Scheme, Jaipur.
3. Joint Secretary, Medical And Health (Group-2) Department, Government Secretariat, Rajasthan, Jaipur.

----Petitioners

Versus

Dr. Rupendra Kumar Sharma, S/o Shri Nand Kishor Sharma, Aged About 39 Years, R/o Vpo, Bichgaon, Tehsil Laxmangarh, District Alwar 321607.

----Respondent

For Petitioner(s)	:	Mr. Archit Bohra, Addl. GC Mr. Prakhar Jain Mr. Yashwant Singh
For Respondent(s)	:	Mr. Ashwinee Jaiman Mr. R.P. Saini Mr. Moin Khan Mr. Aamir Khan

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JUSTICE ANOOP KUMAR DHAND

Order

08/10/2026

Reportable

1. The instant writ petition has been preferred by the petitioners-State against the impugned order dated 19.03.2026 passed by the Rajasthan Civil Services Appellate Tribunal, Jaipur (for short, 'the Tribunal'), by which the appeal submitted by the respondent against his suspension order dated 16.01.2026 has

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been allowed and his suspension order has been quashed and set aside.

2. By passing the order dated 16.01.2026, the respondent was placed under suspension by the petitioner in exercise of the powers contained under Rule 13 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958, (for short, 'the Rules of 1958').

3. Learned counsel for the petitioner-State submits that after conducting Preliminary Enquiry and in contemplation of Enquiry of serious charges of harassment of a female at the workplace, the respondent was placed under suspension. He submits that the aforesaid order was assailed by the respondent before the Tribunal by way of filing an appeal. He further submits that the said appeal stood allowed by the Tribunal only on the technical ground that no departmental proceedings are pending against the respondent and, accordingly, the suspension order was quashed and set aside.

4. Learned counsel for the petitioner-State submits that in terms of Rule 13 of the Rules of 1958, the appointing authority, or any authority to which it is subordinate, or any other authority empowered by the Government, may place a Government servant under suspension where a disciplinary proceedings against him/her is contemplated or is pending.

In the instant case, the disciplinary proceedings were contemplated against the respondent and a note was appended in the suspension order of the respondent, by which the Department of Personnel was directed to issue charge-sheet to the respondent.

5. Learned counsel for the petitioner-State submits that the suspension order was passed on 16.01.2026, against which an

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appeal was preferred on 23.01.2026 and the same has been allowed on 19.03.2026. He submits that this cannot be a ground for quashing of suspension order that no disciplinary proceedings were pending against the respondent at the time of passing the suspension order. He submits that in terms of the provisions contained under Rule 13 of the Rules of 1958, the respondent was rightly placed under suspension and the Enquiry was under contemplation, but this fact was overlooked by the Tribunal. The order passed by the Tribunal is against the law, as this Court in the case of **State of Rajasthan & Ors. Vs. Dr. Maneesha**, while deciding **S.B. Civil Writ Petition No.11072/2026** vide order dated 20.07.2026 has held that it is not a mandate that a charge-sheet is required to be served upon an employee prior to issuance of suspension order. Learned counsel further submits that under these circumstances, the order passed by the Tribunal is not sustainable in the eyes of law and the same is liable to be quashed and set aside.

6. Learned counsel for the petitioner-State further submits that during pendency of the instant writ petition, the order passed by the Tribunal has been complied with by the Chief Medical and Health Officer, Alwar, and the respondent has been reinstated back in service. In fact, Chief Medical & Health Officer, Alwar was not competent to pass the reinstatement order, as the suspension order was passed by the Joint Secretary, Department of Medical and Health. Learned counsel submits that in the judgment passed by the Hon'ble Apex Court in the case of **State of Andhra Pradesh & Kopparla Santhi** while deciding **Special Leave to Appeal (c) No.2681/2024** vide order dated 19.07.2024, it has

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held that compliance of any order under threat cannot take away the right of a party assailing the same. Hence, the subsequent order of reinstatement of the respondent has no bearing.

7. *Per contra*, learned counsel appearing on behalf of the respondent opposed the arguments raised by learned counsel for the petitioner-State and submitted that the petitioner has not narrated the correct facts in the instant writ petition. This fact has not been pleaded in the writ petition that prior to filing of the same, the respondent was reinstated back in service way back in the month of March 2026, that is 20.03.2026. He submits that the Tribunal vide order dated 19.03.2026 had quashed the suspension order dated 16.01.2026. The petitioner-State was sleeping over the matter for a period of five months and woke up thereafter by serving charge-sheet upon the respondent under Rule 16 of the Rules of 1958 on 19.08.2026. He further submits that so far as the arguments with regard to effectuating an inquiry is concerned, the same is not available with the State at this stage, as the victim has already been posted elsewhere and she is not posted at the place where the respondent is presently discharging his duties, after reinstatement.

8. Learned counsel for the respondent submits that the suspension is a device to keep the delinquent out of mischief range. The purpose is to complete the proceedings unhindered. Suspension is an interim measure in aid of disciplinary proceedings so that the delinquent may not gain custody or control or papers or take any advantage of his position. Once the victim is posted elsewhere, the respondent is not in a position to take the advantage of his position or disturb the disciplinary

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proceedings now initiated against him. Hence, under these circumstances, no purpose would be served to place the respondent under suspension once again.

9. Learned counsel for the respondent further submits that as per the circulars issued by the Government of Rajasthan, the State is supposed to serve charge-sheet upon the delinquent employee within a period of three months, but in the instant case, no such charge-sheet was served upon the respondent within the above stipulated time. This fact was appreciated by the Tribunal and the suspension of the respondent has been rightly quashed. Now, the petitioner-State cannot be allowed to take the benefit of the situation that after five months of passing of the order by the Tribunal, a charge-sheet has been served upon the respondent.

10. In support of his contentions, learned counsel for the respondent has placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of **Union of India & Ors. Vs. Ashok Kumar Aggarwal** reported in **(2013) 16 SCC 147**. Lastly, he argued that once the order passed by the Tribunal has been implemented and the suspension order of the petitioner has been revoked and the respondent has been reinstated in service, the instant writ petition filed by the petitioner-State has become infructuous in light of the judgment passed by this Court in the case of **Kamal M. Morarka Vs. The Registrar, Co-Operative Societies & Anr.** reported in **2006 WLC (Raj.) UC 714**.

11. In rejoinder, learned counsel for the petitioner-State submits that even the three months' time did not expire from the date of passing of the suspension order of the respondent and prior to

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that, the Tribunal has interferred with the matter and quashed the suspension order of the respondent.

12. Heard and considered the submission made at the Bar and perused the material available on record.

13. Brief facts of the case are that the respondent employee was working as Block Chief Medical Officer (BCMO) in the department. A serious complaint was received from a Female Health Worker alleging sexual harassment at the workplace by the respondent. The complaint was of a grave nature, attracting misconduct under the Rajasthan Civil Services (Conduct) Rules, 1971 and also under the provisions of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

14. Considering the gravity of the allegations and in order to ensure a fair inquiry and to prevent any influence on the witnesses, particularly the complainant, the competent authority, in exercise of powers conferred under Rule 13 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958, (for short, 'the Rules of 1958') placed the respondent under suspension vide order dated 16.01.2026 in contemplation of the disciplinary proceedings. In the said suspension order, it was specifically mentioned that disciplinary proceedings are contemplated and the department shall initiate the same.

15. It is the case of the petitioner-State that immediately after placing the respondent under suspension, the department commenced the process of drafting the charge-sheet, seeking approval from the competent authority and collecting the relevant documents. The charge-sheet was under process and the same was not served upon the respondent.

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16. However, before the charge-sheet could be served within a period of less than three months from the date of suspension, the respondent approached the learned Tribunal by filing an Original Application / Appeal challenging the suspension order solely on the ground that charge-sheet has not been served upon him.

17. The learned Tribunal, vide impugned order dated 19.03.2026, allowed the appeal of the respondent and quashed the suspension order dated 16.01.2026 on the sole ground that charge-sheet was not served within three months.

18. As per the petitioner-State the impugned order passed by the Tribunal is ex-facie illegal, perverse and contrary to the settled law inasmuch as under Rule 13 of the Rules of 1958, suspension in contemplation of inquiry is permissible and under Rule 13(5) of the Rules of 1958, a suspension order does not automatically come to an end merely because charge sheet is not served within three months. The only requirement is that the suspension order should be reviewed and extended before expiry of the said period. The law does not provide for automatic revocation or quashing of suspension.

19. It is the case of the State that the allegation against the respondent is of sexual harassment at workplace, which is a very serious misconduct. If the respondent is allowed to continue at the same workplace, there is every likelihood that he may influence the complainant and other witnesses and the entire purpose of the inquiry will be frustrated. The Tribunal has failed to consider the gravity of the misconduct committed by the respondent.

20. It is settled position of law that suspension is not a punishment. It is an interim measure to keep the employee away

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from the workplace so that a fair and impartial inquiry can be conducted. The object behind placing an employee under suspension is to ensure that the evidence is not tampered with and witnesses are not influenced.

21. Rule 13 of the Rules of 1958 clearly empowers the competent authority to place a government servant under suspension where disciplinary proceedings are contemplated or pending. In the present case, the suspension order itself mentions that disciplinary proceedings are contemplated against the respondent on account of allegation of sexual harassment.

22. It is an admitted position of law that suspension is not a punishment. The Hon'ble the Apex Court in the case of ***Union of India & Anr. vs. Ashok Kumar Aggarwal; 2013 (16) SCC 147*** observed as under:

> *"The scope of judicial review is limited in case of suspension for the reason that passing of suspension order is of an administrative nature and* ***suspension is not a punishment****. Its purpose is to only forbid the delinquent to work in the office and it is in the exclusive domain of the employer to revoke the suspension order. The Tribunal or the court cannot function as an appellate authority over the decision taken by the disciplinary authority in these regards."*

23. Further, no provision of law prescribes for a preliminary inquiry prior to an employee being placed under suspension and neither does any law provides for the mandatory service of notice prior to the same. Even in the case of ***Naresh Singh Vs. State of Rajasthan & Ors.; S.B. Civil Writ Petition No.1788/2024*** *(decided on 21.02.2025)* reiterates the same principle, as under:

> *"13.3. According to* ***"Oxford Dictionary"*** *it means- "the action of suspending or condition of being suspended; the action of debarring or state of being*

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debarred, especially for a time from function or privilege; temporary deprivation of one's office of position."

13.4. Speaking judicially, it is temporary phase of the disciplinary proceedings and is not a penalty. It is neither a reduction in rank, nor a removal from service. Thus, no prior notice is required to be given or explanation to be called for before passing an order of suspension. As such the Article 311 (2) of the Constitution is not attracted in cases of suspension.

… … …

… … …

32.1 I am thus of the opinion that issuing a show cause notice or charge sheet within reasonable period of suspension is sine qua non for continuation thereof, but its prior issuance is not essential when suspension order is passed by competent authority in contemplation of departmental proceedings."

24. The issues which now deserve consideration are, *firstly,* whether order impugned can be termed to be an order of suspension in contemplation of an inquiry or not. *Secondly*, whether serving of the charge-sheet within a period of three months of suspension is a mandate and non compliance of the same would render the order of suspension illegal.

25. A bare perusal of the suspension order reflects that although there is an averment to the effect that the employee has committed a serious misconduct of sexual harassment of a Female Health Worker at workplace because of which he was placed under suspension but it does not reflect any of the three conditions as prescribed under Rule 13 of the Rules of 1958. The order neither reflects the fact of pendency of any inquiry nor of contemplation of an inquiry. The said order reads as under:

"डॉ. रूपेंन्द्र शर्मा, खण्ड मुख्य चिकित्सा अधिकारी, लक्ष्मणगढ़ अलवर के विरूद्ध प्राप्त शिकायत की जांच विचाराधीन होने के कारण राजस्थान सिविल सेवा (वर्गीकरण, नियंत्रण एवं अपील)

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नियम 1958 के नियम–13 के तहत प्रदत्त शक्तियों का प्रयोग करते हुए डॉ. रूपेंन्द्र शर्मा, खण्ड मुख्य चिकित्सा अधिकारी, लक्ष्मणगढ़ अलवर को राज्य सरकार तुरन्त प्रभाव से निलम्बित करने के एतद्द्वारा आदेश प्रदान करती है।"

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26. The term 'contemplation of inquiry' although not defined in any statute but it means application of mind by the Authority concerned to the effect that he has applied his mind and reached to an objective conclusion that a disciplinary proceeding is warranted in the matter. The phrase 'contemplation of inquiry' refers to a situation where the Authority concerned is of the opinion that an inquiry is warranted and further steps are to be taken to ensure the same. In the present matter, such application of mind and intent of the Authority can definitely be concluded from the above Note as appended to the order of suspension. Vide the said order, the competent Authority has specifically been directed to prepare and furnish the memorandum of charges so as to initiate the disciplinary proceedings. The same is a clear expression of opinion of the Authority concerned. The omission of the phrase 'contemplation of inquiry' in the order of suspension can hence, in the opinion of this Court, be termed to be a mere irregularity. Where the intent is clear, omission of the specific terms cannot be read to the effect so as to render the order itself illegal.

27. In ***Sunita Chandrakant Kalekar Vs. The Zilla Parishad, Kolhapur and Others; 2017 (1) Mh.L.J. 629***, the Bombay High Court while dealing with a similar issue wherein the order of suspension was challenged on the ground that it did not record the fact of contemplation of disciplinary proceedings and was

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hence unsustainable, the Court while dismissing the writ petition observed as under:

> *"10. In view of the reasons as mentioned in the suspension order, the contention of the Petitioner that the inquiry was not in contemplation, cannot be accepted.* ***Merely because in the impugned order of suspension it is not mentioned that inquiry is in contemplation will not vitiate the impugned order, as the order of suspension is to be seen as a whole in the totality of the background facts.*** *On reading of the order, as described above, it can be easily gathered that when the Petitioner was ordered to be suspended the disciplinary proceeding against her was in contemplation."*

28. Further, the Delhi High Court reiterated the settled position of law in a recent judgment of ***Balbir Singh Khandelwal Vs. Jawaharlal Nehru University & Others; 2023 SCC OnLine Del 7413*** to the effect that the scope of judicial review against an order of suspension is limited and such an order is not liable to be set aside unless the decision suffers from procedural impropriety, or is *ex facie* illegal. The Court observed as under:

> "33. It is to be noted that the act of suspension must be distinguished as per the facts and circumstance of each case. In context to the matter at hand, the petitioner is placed under suspension and the disciplinary proceeding against him is contemplated. The word 'contemplation' as used in the above said rule implies that the concerned authority has given thought and consideration to the allegations brought against the petitioner and the suspension in contemplation of enquiry is done after the authority finds it appropriate that a prima facie case of misconduct exists against such an employee, which calls for enquiry.
> 34. Keeping the above in mind, this Court is of the considerable view that the scope of judicial review is limited in cases of suspension for the reason that passing of the suspension order is of an administrative nature and suspension is not a punishment. The intent behind placing an employee under suspension is only to

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> forbid the delinquent to work in the office and the same is in the exclusive domain of the employer. It is pertinent to mention herein that the Courts cannot function as an authority sitting in appeal over the decision taken by the authority placing the employee under suspension.
>
> 35. Until and unless the decision of the authority is found to be logically incoherent, or it is concluded that the said administrative decision suffers from procedural impropriety, or it shocks the conscience of the Court in a manner that the decision is illegal on the face of it, the same cannot be set aside."

29. The learned Tribunal has quashed the suspension order only on the ground that charge-sheet was not served within three months. In our considered view, the said reasoning is totally unsustainable in the eyes of law.

30. The Hon'ble Apex Court in the case of **Ajay Kumar Choudhary Vs. Union of India** reported in **(2015) 7 SCC 291** has held that suspension should not be extended beyond three months if charge-sheet is not served, but the Hon'ble Apex Court has never held that in absence of charge-sheet the suspension becomes illegal or should be quashed automatically. The said judgment only provides that the suspension order should be reviewed and reasons should be recorded for its extension. The judgment does not lay down that non-service of charge-sheet within three months will result into quashing of suspension.

31. Furthermore, in the present case, the respondent approached the Tribunal even before expiry of three months. At the relevant time, the department was still in the process of serving the charge-sheet. Therefore, there was no occasion for the Tribunal to hold that the department has failed to serve charge-

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sheet within three months. The action of the respondent was premature.

32. It is also to be noted that in cases involving sexual harassment at workplace, Courts should be more cautious. The interest of the complainant and fair inquiry has to be protected. If the suspension order is quashed on technical grounds, it will bring a wrong message and the complainant will be under pressure.

33. The learned Tribunal has not recorded any finding that the suspension order was *mala fide* or passed by an incompetent authority or that there was no contemplation of inquiry. The Tribunal has quashed the order only on a technical ground, which is impermissible.

34. In view of the above discussion, this Court is of the firm opinion that the impugned order passed by the Tribunal cannot be sustained and the same is liable to be quashed and set aside.

35. Accordingly, this writ petition is allowed.

36. The impugned order dated 19.03.2026 passed by the learned Tribunal is hereby quashed and set aside. Resultantly, the suspension order dated 16.01.2026 stands revived.

37. The petitioner-department is directed to make all possible endeavours to complete the disciplinary proceedings as early as possible, preferably within a period of six months from the date of service of charge-sheet, strictly in accordance with law after providing due opportunity of hearing to the respondent. The respondent is directed to cooperate in the inquiry and shall not seek unnecessary adjournments.

38. It is made clear that this Court has not expressed any opinion on the merits of the allegations levelled against the

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respondent. The Enquiry Officer shall conclude the inquiry, uninfluenced by the observations, if any, made by this Court in the present order.

39. No order as to costs.

40. Pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

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