

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

(1) S. B. Civil Writ Petition No. 10442/2016

Rajesh Kumar Sharma S/o Shri Vidyadhar Sharma, age about 46 years, resident of Ward No. 10, Sony Colony, Behind State School (Middle), Ratangarh, Churu, Rajasthan.

----Petitioner

Versus

1. State of Rajasthan through its Secretary, Public Health & Engineering Department, Government Secretariat, Jaipur.
2. Chief Engineer (Administration), Public Health & Engineering Department, Jaipur.
3. Chief Personal Officer, Public Health & Engineering Department, Rajasthan, Jaipur.
4. Superintending Engineer, Public Health & Engineering Department, Bharatpur Circle, Ratangarh, Division Ratangarh, Churu.
5. Executive Engineer, Public Health & Engineering Department, Division Ratangarh, District Churu.

----Respondents

Connected With

(2) S. B. Civil Writ Petition No. 10443/2016

Lal Chand Maru (Nai) S/o Shri Narayan Ram, age about 50 years, resident of Ward No.3, Aathuna Bas, Rajeldesar, Churu, Rajasthan.

----Petitioner

Versus

1. State of Rajasthan through Secretary, Public Health & Engineering Department, Government Secretariat, Jaipur.
2. Chief Engineer (Administration), Public Health & Engineering Department, Jaipur.
3. Chief Personnel Officer, Public Health & Engineering Department, Rajasthan, Jaipur.
4. Superintending Engineer, Public Health & Engineering Department, Bharatpur Circle, Ratangarh, Division Ratangarh, Churu.
5. Executive Engineer, Public Health & Engineering Department, Division Ratangarh, District Churu.

----Respondents

For Petitioners : Mr. Zakir Hussain Advocate,
Mr. Imran Khan Advocate and
Mr. Himanshu Jain Advocate.

For Respondents : Mr. Gunjan Chawla Advocate with Ms.
Priyamwada Singh Advocate on behalf
of Mr. Neeraj Batra Government
Counsel.

HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

RESERVED ON :: **09.09.2025**

PRONOUNCED ON :: **24.09.2025**

1. Since both these writ petitions involve identical question of law and substantially similar facts, hence, with the consent of parties, the petitions were heard finally and are being decided together by this common judgment. For the sake of convenience, the facts pleaded in S.B. Civil Writ Petition No.10442/2016 are being taken into consideration and the decision therein shall also govern the outcome of the connected writ petition, except where a separate reference is specifically required.

2. The present writ petitions have been filed by the petitioners under Article 226 of the Constitution of India, challenging impugned orders dated 12.05.2016 issued by the respondents and seeking a direction to assign them semi-permanent status on the post of Store-Munshi from the date of their respective initial appointment along with all consequential benefits.

3. It is contended that the petitioner in S. B. Civil Writ Petition No. 10442/2016 was appointed on 15.03.1991 as an Assistant under the Rajasthan P.W.D. (B & R) including Gardens, Irrigation, Land Development (Programme) Circle C.A.D. Chambal

Department Kota (including its Divisions/sub-divisions) Water Works, Ayurvedic and Forest Department (excluding Departmental Operation Circle) Work-charged Employees Service Rules, 1964 ('hereinafter to be referred as 'the Rules of 1964'), whereas the petitioner in S. B. Civil Writ Petition no. 10443/2016 was appointed on 16.10.1987 and from the very outset, they performed duties of Store-Munshi.

4. The petitioners have placed on record multiple departmental communications dated 20.11.2006, certificate dated 20.06.2007 including order dated 16.04.2007, screening committee reports dated 20.07.2007 and 21.07.2007 as well as correspondence dated 20.11.2006 of the Chief Personal Officer, PHED and order dated 23.08.2013, in order to support their claim that they were entrusted with complete responsibilities of Store-Munshi such as maintaining stock registers, preparing accounts and handling issuance of materials. It is submitted that the respondents, despite acknowledging these duties, relying on technical and procedural grounds, have resisted granting semi-permanent status to the petitioners.

5. Replies to the writ petitions were filed by the Respondents in order to oppose the writ petitions. One of the primary contentions of the respondents is that the petitioners lacked the requisite qualification at the time of appointment.

6. The above contention is wholly untenable, both legally and factually. Rule 3(2) of the Rules of 1964, governs continuous performance of duties, not formal qualification, for the purpose of conferring semi-permanent status. The petitioners' entitlement

arises from the nature and continuity of work, not the qualification at the time of their initial appointment.

7. After giving anxious consideration to the rival submissions, this court finds that while opposing the writ petitions, the respondents have contended that the Work Charged cadre had been declared as a "dying cadre" post-1994 and, therefore, the petitioners cannot claim benefits retrospectively. This argument is wholly untenable and cannot be sustained in the eyes of law or logically as well. The declaration of a cadre as "dying" does not operate retrospectively to extinguish the rights of employees, who had already been performing the duties of the post for a considerable period. The petitioners had a legitimate expectation, reinforced by departmental recognition that their continuous service as Store-Munshi would be accorded status of semi-permanent or regularised. In the absence of any formal communication denying such expectation, the principle of legitimate expectation enshrined under Article 14 of the Constitution of India applies, ensuring that the petitioners cannot be arbitrarily denied benefits granted to similarly situated employees.

8. The respondents also attempted to distinguish the petitioners from other employees regularised in the same cadre, contending that those employees had obtained prior departmental recommendations or formal approvals. This reasoning is arbitrary and inconsistent with the factual record. Documents have also been placed on record by the petitioners to establish that similarly situated employees such as Prem Ratan Sharma, Mustaque Ali and Madan Lal Sankhala, performing identical duties, were assigned semi-permanent status. There is no material difference in the duties

performed or the duration of their service and the petitioners. Hence, denying the petitioners the same benefits constitutes discriminatory treatment, which is apparently violative of Article 14 of the Constitution of India.

9. The entitlement of assignment as semi-permanent status under Rule 3(2) of the Rules of 1964 is automatic upon fulfillment of continuous service and discharge of duties and does not require even any application by the incumbent.

10. In **Hem Singh & Others v. State of Rajasthan & Others (S.B. Civil Writ Petition No. 6423/2008 decided on 21.10.2009)**, it was held by Co-ordinate Bench of this Court at Principal Seat, Jodhpur that employees performing duties of a post for a continuous period of two years are entitled to semi-permanent status, irrespective of initial designation or formal qualifications. Therefore, the respondents' objection based on qualification is legally irrelevant. Relevant portion of order dated 21.10.2009 is being quoted as under:

"As per Rule 3 of the Rules of 1964, a work charged employee on completion of two years continuous service is entitled to be conferred with semi permanent status subject to the satisfactory service record. The petitioners though were appointed as Helper, but they have discharged ministerial duties, therefore, they were serving as Store Munshi and not as Helper. As per Rule 3 of the Rules of 1964, the employees on completion of two years continuous satisfactory service are entitled for grant of semi permanent status. Prior to grant of semi permanent status, a workman in work charged cadre is only a casual employee, thus, it is only the factor of utilization of his service that may be a basis for awarding status as per sub-rule (2) and (3) of Rule 3 of the Rules of 1964. The respondents too accepted this position and, therefore, under the letter dated 20.11.2006 (Annexure 1) sought necessary details regarding the work charged employees, whose services were utilized in Ministerial Cadre despite their appointment as daily rated employee/helper. It is also pertinent to note that officers of the respondent department also recommended cases of the petitioners for grant of semi permanent status in work charged cadre on the post of the Store Munshi on completion of two years of service from the date of their initial appointment as helper.

This Court in Ashok Kumar & ors. vs. State of Rajasthan & ors. (SBCWP No.2162/92), while examining case of similar nature, wherein certain persons were appointed as Helper GradeII, claimed semi permanent status on the post of driver being utilized as such, held as follows:

"Petitioners were initially appointed on the post of Driver vide Annexure 1 dated 27th June, 1987 on daily wages after selection by a Selection committee and continuing on the post. They were thereafter given a status of semi permanent by the order dated 10th April, 1992 in the cadre of Helper Gr.II (Annexure 2) and order dated 15th April, 1992 (Annexure 3). Petitioners have filed this writ petition alleging that petitioners were initially appointed on the post of Driver and now the Government has given them semi permanent status as Helper Gr.II whereas they should have been given the status of Driver instead of Helper Gr.II. It was submitted that by virtue of giving them the status of Semi Permanent as Helper Gr.II or Beldar amounts to reversion. The pay scale of a Driver is of Rs.975-1720 whereas that of the Helper Gr.II is 775-1025, therefore, it is submitted that by giving them a status of Helper Gr.II this amounts to reduction in their salary also. Therefore, in the facts and circumstances of the case, the respondents are directed to give the petitioners status of semi permanent Driver instead of Helper Gr.II or Beldar as they were continuing on the post of Driver right from their initial appointment. The respondents shall pass an appropriate order and grant them a status of semi permanent Driver."

The petitioners being discharging ministerial duties on the post of Store Munshi from the date of their initial appointment are also entitled for conferment of semi permanent status on the said post.

Accordingly, this petition for writ is allowed. The petitioners are declared entitled to be conferred with semi permanent status as Store Munshi from the date they completed two years of service from the date of their initial appointment. The petitioners are also declared entitled for all consequential benefits. Necessary orders as a consequent to the entitlement declared, are required to be passed within a period of three months from today."

11. The aforesaid order of Single Bench in the case of **Hem Singh & Others (supra)** was unsuccessfully challenged by the State Government by way of filing D.B. Special Appeal (Writ) No. 845/2011 before the Division Bench of this Court at Principal Seat, Jodhpur, which was dismissed vide order dated 03.02.2012. Further, even the SLP (C) No. 18046/2012 filed by the State against judgment of the Division Bench has also been dismissed by the

Hon'ble Supreme Court vide order 29.01.2015. Thus, the aforesaid judgment given by the Co-ordinate Bench of this Court at Principal Seat, Jodhpur in the case of **Hem Singh & Others (supra)** has attained finality.

12. The aforesaid judgment has also been followed by Co-ordinate Bench of this Court at Principal Bench, Jodhpur in the case of **Bajrang Lal & Others v. The State of Rajasthan & Others (S. B. Civil Writ Petition No. 1274/2012 decided on 29.04.2013)**.

13. This Court also finds that the respondents' reliance on technicalities is wholly misplaced. The entitlement to semi-permanent status is not dependent on post-dated administrative changes, but arises from the factual reality of continuous discharge of duties. The petitioners' uninterrupted service as Store-Munshi, corroborated by departmental certificates, registers and office communications, clearly satisfies the legal requirement for grant of semi-permanent status to them.

14. It is further observed that the respondents' actions have resulted in inequitable and arbitrary treatment. Persons similarly situated with the petitioners have already been granted semi-permanent status and other consequential benefits, while the petitioners were denied the same on the grounds which are legally and factually unsustainable. Such differential treatment is exactly what Article 14 of the Constitution of India prohibits. No credible or rational explanation has been provided by the respondents for singling out the petitioners, which makes the impugned orders liable to be set aside. This court also finds that the case of the petitioners is similar to that of **Hem Singh & Others (supra)** and hence, they deserve to be granted similar relief.

15. In view of the above, it is concluded that the petitioners are entitled to be declared semi-permanent on the post of Store-Munshi from the respective dates on which they commenced continuous service and performed duties of the said post. The impugned orders dated 12.05.2016 or any subsequent denial is, therefore, held arbitrary, illegal, and unsustainable in law and cannot be allowed to stand and resultantly, the same are hereby quashed and set aside. The respondents are directed to assign semi-permanent status to the petitioners on the post of Store-Munshi in S.B. Civil Writ Petition Nos. 10442/2016 and 10443/2016 from 15.03.1991 and 16.10.1987 respectively and grant all consequential benefits to them within a period two months from the date of receipt of certified copy of this judgment.

16. Both the Writ Petitions stand allowed accordingly.

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

18. Office is directed to place a copy of this judgment on record of connected writ petition.

(ANAND SHARMA),J

MANOJ NARWANI /