


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

S.B. Civil Writ Petition No. 13790/2025

Sharda Kanwar W/o Shri Narendra Singh Sisodia, Aged About 45
Years, R/o 161/139, Sector-16, Pratap Nagar, Jaipur.

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary,
Department Of Home, Government Of Rajasthan,
Government Secretariat, Jaipur, Rajasthan.
2. Director General Of Police, Rajasthan, Lal Kothi, Jaipur.
3. Commissioner Of Police, Commissionerate Police Jaipur,
Rajasthan.
4. Station House Officer, Ramnagar, Jaipur East.

----Respondents

For Petitioner(s)	:	Mr. Laxmi Kant Malpura Ms. Madhavi Vyas Mr. Jeetram Choudhary Ms. Shivangi Singh Patel
For Respondent(s)	:	Ms. Megha Sharma for Mr. Bhunesh Sharma, AAG

HON'BLE MR. JUSTICE ANAND SHARMA

Order

12/03/2026

1. This writ petition has been filed by the petitioner with the contention that her husband Narendra Singh Sisodia is holding the post of Constable. On 22.08.2021, while her husband was on duty, on account of tyre burst of his Motorcycle, he met with an accident and consequently on account of severe injuries, he went under coma. Learned counsel for the petitioner submits that husband of the petitioner has still not come out of coma and the Medical Experts have assessed his disability @ 85%.

2. Learned counsel for the petitioner also relies upon the letters issued by the Station House Officer of Police Station Ramnagariya, Jaipur East where, husband of the petitioner was posted as well as letter/report given by the Deputy Commissioner of Police, Jaipur East, who have confirmed that at the time of accident, husband of the petitioner was on duty. Learned counsel for the petitioner while relying upon Rule 99 of Rajasthan Service Rules, 1951 submits that under such special circumstances, where disability has occurred while the Government servant was on duty, he is entitled for Special Disability Leave and accordingly, prays to release the withheld salary admissible to husband of the petitioner from October, 2011 till date. Learned counsel for the petitioner has also referred to Section 20 Sub-Clause (4) of the Rights of Persons with Disability Act, 2016 which protects a Government employee from any adverse action on account of suffering disability during his service as well as to protect his rights and benefits. Learned counsel for the petitioner has relied upon the judgment of Coordinate Bench of this Court in the case of **Sunil Kumar Gupta Vs. State of Rajasthan & Ors.** in **S.B. CWP No. 9277/2021 decided on 09.07.2025.**

3. Although, no reply to the writ petition has been filed yet, learned counsel for the respondents opposed the writ petition and stated that on account of fact that no FIR was lodged with regard to alleged incident therefore, Special Disability Leave cannot be granted to husband of the petitioner until and unless, it is proved that he was on duty at the time of accident.

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

5. Learned counsel for the petitioner has placed on record letter dated 30.10.2023 issued by Deputy Commissioner of Police, Jaipur East which makes it clear that husband of the petitioner was treated on duty at the time of accident. The unique disability ID issued by the Competent Authority has also been placed on record to establish that husband of the petitioner has been suffering 85% disability thus, both the conditions which are required for sanctioning Special Disability Leave under Rule 99 of RSR are fulfilled in this case. Merely, the suspicions created by other officers on account of not lodging an FIR or there were discrepancies in Rojnamcha would not disentitle husband of the petitioner from the legitimate benefits admissible to him under the provisions of Rajasthan Service Rules as well as under the Act of 2016.

6. The Coordinate Bench of this Court in the case of **Sunil Kumar Gupta (supra)**, after examining the similar circumstances has observed as under:

*"A coordinate Bench of this Court has, in the case of **Ummed Singh vs. State of Rajasthan-2019 (4) RLW 3386**, involving identical controversy, held as under:*

"3. I have considered the submissions. Section 20 (4) of the Act of 2016 reads as under:-

"(4) No government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service: Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits: Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier."

4. From the perusal of the aforesaid it is apparent that the Parliament while enacting the said Act and the aforesaid section essentially intended that no government establishment would dispense with services of an employee who acquires

disability during his service and have also provided what has to be done if the employee is found to be not suitable to perform his duties it proceeds to even come to the extent of directing to keep such a disabled employee on a supernumerary post.

5. *A supernumerary post may be created for a suitable person in any of the existing grade. It is essentially created for accommodating a permanent officer thus it is a post meant for that disabled employee alone. Hence, even if the employee is not able to perform any work he will be deemed to be treated as worker against the said supernumerary post and his salary will be drawn from that post has to be equivalent to that which he was holding prior to his acquiring disability the post would thus get extinguished on the day when the said disabled person attains superannuation.*

6. *Accordingly, it is directed that the petitioner shall be deemed to be continuous in service against a supernumerary post equivalent to that of a driver and his salary shall be drawn against the said post and paid to him each month till he attains superannuation whereafter he will be paid pension in terms of the Rules of 1996. It has already come on record that the petitioner was drawing salary from 2015 upto February 2017 after he had acquired the disability and thus this Court does not find any reasons coming forward for not allowing the petitioner to draw salary till he attains superannuation. No reasons have come forward for stopping the salary of the petitioner from March 2017.*

7. *In view of the above, the contentions of the learned Additional Advocate General to keep the petitioner as voluntarily retired is not made out and the same is rejected. It is further directed taking into consideration all the aspects that the petitioner would be entitled to all medical facilities and reimbursement of treatment expenses as are available to an employee in service. Taking into consideration the acute condition of the petitioner, it is directed that the department shall deposit his monthly salary and also make his reimbursements of treatment expenditure each month without fail and deposited the same in his bank account which shall be obtained from his relatives after due verification. Similar view has been taken by this Court is akin to what has been allowed by the Supreme Court in the cases of Bhagwan Das & Anr. Versus Punjab State Electricity Board, AIR 2008 Supreme Court 990, Kunal Singh Versus Union of India & Anr., AIR 2003 Supreme Court 1623 and Tulcha Ram Versus The State of Rajasthan & Ors. (S.B. C.W.P. No.4862/1998), decided on 25.03.2017.*

8. *Accordingly the writ petition is allowed."*

Therefore, view of this Court that the petitioner is entitled for the salary and other service benefits under Section

20(4) of the Act of 2016 stands fortified from the aforesaid precedents.

The second limb of submission of learned counsel for the respondents as to non maintainability of the writ petition on the ground of availability of efficacious and alternative remedy to the petitioner, is misconceived and deserves to be rejected.

Neither the provisions of Section 23, nor the provisions of Section 80 offer the petitioner an alternative and efficacious remedy so as to non-suit him. Section 23(2) provides that if any complaint is filed by any aggrieved person with the Grievance Redressal Officer, he shall investigate it and shall take up the matter with the establishment for corrective action. It does not reflect that such Grievance Redressal Officer has been bestowed with any jurisdiction or power to deliver any verdict in the matter and to get it enforced. He can only take up the matter with the establishment for the corrective action. Although sub-section (4) of Section 23 gives an opportunity to the aggrieved person, if dissatisfied with the action taken on his/her complaint made under Section 23(2), to approach the District Level Committee on disability; but, while, the Act of 2016 is silent on the power and jurisdiction of the District Level Committee on disability, the order dated 09.01.2020 issued by the State Government and relied upon by the learned counsel for the respondents, also does not postulate any authority vested with the Committee to pass any order or direction on the complaint of the aggrieved person obliging the establishment to comply with the same. Under this order, it can only make suggestions to the District Officer on the appeal. Similarly, Section 80 of the Act of 2016 also does not reflect any authority of the State Commissioner to issue any direction to the establishment to ensure compliance of Section 20(4) or any mechanism to get it enforced. Reliance placed on Section 82 by the learned Additional Advocate General is misconceived and misplaced. It simply provides that for the purpose of discharging his function under the Act, the State Commissioner shall have the same powers as that of a Civil Court while trying a suit in respect of matters enumerated thereunder such as summoning and enforcing the attendance of witnesses, discovery and production of a document, requisitioning any public record or copy thereof from any Court or office, receiving affidavits and issuing commissions for the examination of witnesses or public documents.

In the aforesaid circumstances, the remedy available under Section 83 or under Section 80 is found neither efficacious, nor alternative for the redressal of the grievance of the petitioner.

Moreover, not to entertain a writ petition in view of availability of an alternative remedy is a self imposed restriction by the writ Courts and it is not an absolute bar to

the exercise of this discretionary and equitable remedy. In the instant case, as already observed, the petitioner has incurred disability during the course of employment and has not been paid salary or any other service benefits except clearing the medical bills for the last more than five and a half years. Instead of ensuring compliance of the salutary provisions contained under Section 20(4) of the Act of 2016, the petitioner has been dragged into this litigation which is pending consideration for the last almost four years. In view thereof, even otherwise also, this Court is not inclined to relegate the petitioner to any other illusory remedy.

The aspect of maintainability of the writ petition can be examined from another angle as well. The action/omission on the part of the respondents in not making payment of salary and other service benefits for the last about five and half years to the petitioner, who is completely disabled and confined to bed, despite his eligibility and entitlement for the same under Section 20(4) of the Act of 2016 definitely amounts to violation of his fundamental right to live with dignity which is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. For this reason also, this Court finds the writ petition to be maintainable.

Resultantly, the writ petition is allowed with cost. The respondents are directed to release due salary and other service benefits to the petitioner. The arrears of salary and other benefits shall be released within a period of four weeks from today with interest @ 6% per annum failing which the interest shall be leviable at the rate of 9% per annum after expiry of the period of four weeks and the Officer(s) responsible for delay would bear the enhanced interest component. The respondents are further directed to pay to the petitioner salary on month to month basis regularly and other service benefits in terms of Section 20(4) of the Act of 2016 and in case of his retirement, he shall be released all retiral benefits. The cost is quantified as Rs.25,000 which shall be paid by the respondents to the petitioner within a period of four weeks from today.

The aforesaid case is a classic case reflecting the insensitivity and apathy of the respondents towards the plight of a disabled person who has been denied benefit under the Act of 2016 by the respondents for last about five and a half year without any justification which frustrates the laud object of the enactment of the Rights of Persons with Disabilities Act, 2016.

In the aforesaid factual context, this Court deems it just and proper to issue a direction to the Chief Secretary, Government of Rajasthan to issue necessary instruction/circular to all the Government Departments to identify such disabled employees, if any, and to extend them

benefit of Section 20(4) of the Act of 2016 in its letter and spirit, immediately. "

7. In the light of aforesaid discussion and observations made by Coordinate Bench of this Court, the writ petition filed by the petitioner deserves to be allowed.
8. Consequently, the respondents are directed to issue necessary orders for granting Special Disability Leave to husband of the petitioner as well as to release the due salary from August, 2021 till this date and to continue payment of regular salary as per entitlement of husband of the petitioner. Necessary exercise shall be carried out within a period of 30 days from the date of receipt of certified copy of this order.
9. Pending application(s), if any, shall stand disposed of.

(ANAND SHARMA),J