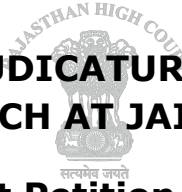




**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**



**(1) S. B. Civil Writ Petition No. 8978/2022**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat Jaipur
2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur
3. Director Medical and Health, Rajasthan Jaipur.

----Petitioners

Versus

Dr. Dinesh Kumar Sharma S/o Late Shri Sitaram Sharma, R/o 228, Pratap Nagar, Khatipura, Jaipur.

----Respondent

Connected With

**(2) S. B. Civil Writ Petition No. 1846/2026**

Dr. Dileep Kumar S/o Sh. Pahu Ram, Aged About 61 Years, R/o 53/52 Sector-5, Pratap Nagar Sanganer, Jaipur Rajasthan. Presently Posted As Principal Specialist, SMS Hospital Jaipur Rajasthan

----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Medical and Health Department, Government Of Rajasthan, Government Secretariat, Jaipur.
2. Principal Secretary, Department, Finance Government Of Rajasthan, Government Secretariat, Jaipur.
3. Director, Medical and Health, Rajasthan, Jaipur.

----Respondents

**(3) S. B. Civil Writ Petition No. 17948/2022**

1. Government Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Additioanl Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.
3. Director, Medical and Health, Rajasthan, Jaipur.

----Petitioners

Versus





Dr. Ashok Kumar Jain Son Of Shri Chiranji Lal Jain, Aged About 58 Years, Permanent Resident Of 6, Adhinath Colony, Jaipur Road, Madanganj Kishangarh, District Ajmer. Presently Working As Principal Specialist, Government Y.N. Hospital, Kishangarh (Ajmer.)

----Respondent

**(4) S. B. Civil Writ Petition No. 17959/2022**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Medical and Health, Rajasthan, Jaipur.

----Petitioners

Versus

1. Dr. Jitendra Kumar Joshi Son Of Shri Amarnath Joshi, Resident Of 263, Paschim Vihar, Behind Ratanbagh Marriage Garden Sirsi Road, Jaipur. Working As Principal Specilist Govt. HB Kanwatiya Hospital, Jaipur.
2. Additional Chief Secretary, Finance Department, Government of Rajasthan, Secretariat, Jaipur.

---Respondent/Appellant

----Performa Respondent

**(5) S. B. Civil Writ Petition No. 17961/2022**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Medical and Health, Rajasthan, Jaipur.

----Petitioners

Versus

1. Dr. Mohammad Siraz S/o Shri Abdul Sattar, R/o D-35, Ram Nagar, Shastri Nagar, Jaipur, Working As Principal Specialist, Govt. Kanwatiya Hospital, Jaipur.
2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

----Respondent/Appellant

----Performa Respondent

**(6) S. B. Civil Writ Petition No. 18180/2022**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of





Rajasthan, Secretariat, Jaipur.

2. Director, Medical and Health, Rajasthan, Jaipur.

-----Petitioners

Versus

1. Dr. Rajendra Prasad Doria S/o Late Shri Murlidhar Doria, Aged About 59 Years, R/o 596, Surya Nagar, Gopalpura Bypass, Jaipur, Working As Director, AIDS and Project Director, RSACS Directorate of Medical and Health Jaipur.

---Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

-----Performa Respondent

**(7) S. B. Civil Writ Petition No. 18186/2022**

1. State Of Rajasthan Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.

2. Director, Medical and Health, Rajasthan, Jaipur.

-----Petitioners

Versus

1. Dr. Dinesh Solanki S/o Shri Bhanwar Lal Solanki, Aged About 38 Years, R/o Badher Ka Bas, Nathdwara Mandir Road, Bilara Jodhpur, Working as Junior Specialist, Surgery, Government Trauma Centre, CHC Bilara, District Jodhpur.

-----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

-----Performa Respondent

**(8) S. B. Civil Writ Petition No. 18204/2022**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.

2. Director, Medical and Health, Rajasthan, Jaipur.

-----Petitioners

Versus

1. Dr. Manmohan Sharma Son Of Shri Hanuman Prasad Sharma, Aged About 54 Years, Resident Of H-1, Laxmi Nagar Vihar, Ajmer Road, Madanganj Kishangarh, District





Ajmer, Principal Specialist, Government YN Hospital,  
 Kishangarh (Ajmer).

----Respondent/Appellant

2. Additional Chief Secretary, Finance Department,  
 Government Of Rajasthan, Secretariat, Jaipur.

----Performa Respondent

**(9) S. B. Civil Writ Petition No. 18209/2022**

1. State Of Rajasthan Through Additional Chief Secretary,  
 Medical and Health Department, Government Of  
 Rajasthan, Secretariat, Jaipur.

2. Director, Medical and Health, Rajasthan, Jaipur.

----Petitioners

Versus

1. Dr. Ratan Krishnani Soni S/o Shri Deep Chand, Aged  
 About 55 Years, R/o 14 Samanvaya Lata Nagar,  
 Gokulpura Kalwar Road, Jaipur, Working As Principal  
 Specialist, Govt. HB Kanwatiya Hospital, Sharstri Nagar,  
 Jaipur.

----Respondent/Appellant

2. Additional Chief Secretary, Finance Department,  
 Government Of Rajasthan, Secretariat, Jaipur.

----Respondent

**(10) S. B. Civil Writ Petition No. 18214/2022**

1. State Of Rajasthan Through Additional Chief Secretary,  
 Medical and Health Department, Government Of  
 Rajasthan, Secretariat, Jaipur.

2. Director, Medical and Health, Rajasthan, Jaipur.

----Petitioners

Versus

1. Dr. Sukan Chand Balai S/o Shri Ramjilal, Aged About 52  
 Years, R/o Mahadevi Nagar, Dabla Road, Kotputli, District  
 Jaipur, Working As Senior Specialist, Govt. BDM Hospital  
 Kotputli, District Jaipur.

----Respondent/Appellant

2. Additional Chief Secretary, Finance Department,  
 Government Of Rajasthan, Secretariat, Jaipur.

----Performa Respondent





**(11) S. B. Civil Writ Petition No. 18215/2022**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Medical and Health, Rajasthan, Jaipur.

-----Petitioners

Versus

1. Dr. Chainram S/o Shri Vena Ram, Aged About 39 Years, R/o Gram Post Atbara Near Bus Stand Bilara Road, Sojat City District Pali, Working As Junior Specialist, Surgery, Government Trauma Centre, CHC Bilara, District Jodhpur.

-----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

-----Performa Respondent

**(12) S. B. Civil Writ Petition No. 18221/2022**

1. State Of Rajasthan Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Medical and Health, Rajasthan, Jaipur.

-----Petitioners

Versus

1. Dr. Shiv Pratap Bishnoi S/o Shri Arjunram, Aged About 60 Years, R/o Hospital Campus, CHC Bagri Nagar, Pali, Working as Principal Specialist CHC Bagri Nagar, Pali.

-----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

-----Performa Respondent

**(13) S. B. Civil Writ Petition No. 18222/2022**

1. State Of Rajasthan Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Medical and Health, Rajasthan, Jaipur.

-----Petitioners

Versus





1. Dr. Mahavir Jangir S/o Shri Motiram, Aged About 53 Years, R/o Q/II/9, LIC Flats, Sector No. 6, Vidhyadhar Nagar, Jaipur. Working as Principal Specialist, Govt. HB Kanwatiya Hospital, Jaipur.

----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

----Performa Respondent

**(14) S. B. Civil Writ Petition No. 18230/2022**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.

2. Director, Medical and Health, Rajasthan, Jaipur.

----Petitioners

Versus

1. Dr. Dheeraj Verma Son Of Kedarmal, Aged About 54 Years, R/o A-7/1, Hari Nagar, Shashtri Nagar, Jaipur, Working As Principal Specialist, Government HB Kanwatiya Hospital, Jaipur.

----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

----Performa Respondent

**(15) S. B. Civil Writ Petition No. 18232/2022**

1. State Of Rajasthan Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.

2. Director, Medical and Health, Rajasthan, Jaipur.

----Petitioners

Versus

1. Dr. Dinesh Agarwal S/o Late Shri BC Agarwal, Aged About 54 Years, Permanent Resident Of B-47, Triveni Nagar, Gopalpura, Bye-Pass, Jaipur. Working As Senior Specialist, Govt. HB Kanwatiya Hospital, Shastri Nagar, Jaipur.

----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

----Performa Respondent





**(16) S. B. Civil Writ Petition No. 18237/2022**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Medical and Health, Rajasthan, Jaipur.

-----Petitioners

Versus

1. Dr. Himmat Singh Rathore Son Of Shri Mool Singh, Aged About 57 Years, R/o 386, Officers Campus Extension, Near Milan Hotel, Khatipura, Jaipur Working As Principal Specialist, Govt. HB Kanwatiya Hospital, Jaipur.

-----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

-----Performa Respondent

**(17) S. B. Civil Writ Petition No. 18238/2022**

1. State Of Rajasthan Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Medical and Health, Rajasthan, Jaipur.

-----Petitioners

Versus

1. Dr. Kailash Kumar Maharania S/o Shri Maduram, Aged About 52 Years, R/o C-2/29, Chitrakoot Scheme, Gandhi Path, Jaipur, Working As Principal Specialist Govt. HB Kanwatiya Hospital, Jaipur.

-----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

-----Performa Respondent

**(18) S. B. Civil Writ Petition No. 18239/2022**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Medical and Health, Rajasthan, Jaipur.





-----Petitioners

Versus

1. Dr. Vineeta Gokharu D/o Late Shri Vs Gokharu, R/o E-30 Swarnkar Colony, Pani Pech, Jaipur Working As Senior Specilist, Government HB Kanwatia Hospial, Shashtri Nagar Jaipur.

-----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

-----Performa Respondent

**(19) S. B. Civil Writ Petition No. 18243/2022**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Medical and Health, Rajasthan, Jaipur.

-----Petitioners

Versus

1. Dr. Ashok Saraf Son Of Sohan Lal Saraf, Aged About 57 Years, R/o 49, DP Nagar, Ramlila Maidan District Pali Working As Deputy Director Govt. Hospital, Sojat City District Pali.

-----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

-----Performa Respondent

**(20) S. B. Civil Writ Petition No. 18247/2022**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Medical and Health, Rajasthan, Jaipur.

-----Petitioners

Versus

1. Dr. Anasooya Purohit D/o Shri Gopi Krishan Purohit, Aged About 61 Years, R/o SN Nagar, Sojat City, District Pali, Working As Principal Specialist Govt. Hospital, Sojat City, District Pali.

-----Respondent/Appellant





2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

----Performa Respondent

**(21) S. B. Civil Writ Petition No. 18313/2022**

1. State Of Rajasthan Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.

2. Director, Medical and Health, Rajasthan, Jaipur.

----Petitioners

Versus

1. Dr. Surendra Kumar Meena S/o Shri Ramchandra Meena, Aged About 58 Years, Resident Of D-7, Garid Colony, Kotputli, District Jaipur. Working As Principal Specialist, Govt. BDM Hospital, Kotputli, District Jaipur.

----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

----Performa Respondent

**(22) S. B. Civil Writ Petition No. 18315/2022**

1. State Of Rajasthan Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.

2. Director, Medical and Health, Rajasthan, Jaipur.

----Petitioners

Versus

1. Dr. Mophat Lal Mehta S/o Shri Sukhraj Mehta, Aged About 57 Years, R/o Higher Secondary School Road, Rani Sati Station, Pali, Working As Deputy Collector, CHC Rani, District Pali.

----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

----Performa-Respondent

**(23) S. B. Civil Writ Petition No. 18316/2022**

1. State Of Rajasthan Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.





2. Director, Medical and Health, Rajasthan, Jaipur.

----Petitioners

Versus

1. Dr. Ajitsingh Shaktawat S/o Late Shri Virendra Singh Shaktawat, Aged About 51 Years, R/o 201, B-206, Rajendra Marg, Bapu Nagar, Jaipur, Working As Principal Specialist, SMS Hospital, Jaipur.

----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

----Performa Respondent

**(24) S. B. Civil Writ Petition No. 18318/2022**

1. State Of Rajasthan Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.

2. Director, Medical and Health, Rajasthan, Jaipur.

----Petitioners

Versus

1. Dr. Ratiram Yadav S/o Late Shri Surajmal, Aged About 61 Years 9 Months, R/o Old Bus Stand, Near Park, Kotputli, District Jaipur. Working As Principal Specialist, Govt. BDM Hospital Kotputli, District Jaipur.

----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

----Respondents

**(25) S. B. Civil Writ Petition No. 12/2023**

1. Dr. Ravi Kumar Bhagat Son Of Late Shri Kanwar Bhan Bhagat, Aged About 55 Years, Resident Of 75-P- Block, Sri Ganganagar, Retired As Principal Specialist (Ortho.) Civil Hospital, Sri Ganganagar.

2. Dr. Krishan Kumar Jakhar Son Of Shri Nathu Ram Jakhar, Aged About 44 Years, Resident Of G-5, Model Town First, Sri Ganganagar, Working As Junior Specialist (Ortho.) Govt. Hospital, Sri Ganganagar.

3. Dr. Chanderkala Garg Son Of Shri Dharmesh Garg, Aged About 60 Years, Resident Of 3 D 1 Sukharia Nagar, Sri Ganganagar, Working As PCMO, Govt. Hospital, Sri





Ganganagar.

4. Dr. Mahendra Singh Son Of Shri Bhopal Singh, Aged About 43 Years, Resident Of Raghu Babu Bangla Colony, Didwana, Nagaur, Working As Junior Specialist (ENT), Govt. Bangar Hospital, Didwana, Nagaur.
5. Dr. Kana Ram Son Of Shri Ram Rakh Ram, Aged About 42 Years, Resident Of Opposite Govt. Bangar Hospital, Nagaur Road, Didwana, District Nagaur, Working As Junior Specialist (Gynae), Govt. Bangar District Hospital, Didwana, Nagaur.
6. Dr. Sohan Lal Sharma S/o Late Shri Shiv Bhagwan Sharma, Aged About 39 Years, Resident Of Sita Ram Bhag Road, Opposite Dak Banglow, Didwana, Nagaur, Working As Junior Specialist (Medicine), Govt. Bangar Hospital, Didwana, Nagaur.
7. Dr. Gopal Krishan Sharma Son Of Late Shri Motilal, Aged About 59 Years, Resident Of Opposite Govt. Bangar Hospital, Nagaur Road, Didwana, District Nagaur, Working As Principal Specialist (Medicine), Govt. Bangar Hospital, Didwana, Nagaur.
8. Dr. Sarwan Kumar Batan Son Of Shri Dana Ram, Aged About 46 Years, Resident Of Rehman Manjil Opposite Bangar Hospital, Nagaur Road, Didwana, Nagaur, Working As Junior Specialist (Medicine), Govt. Bangar District Hospital, Didwana, Nagaur.
9. Dr. Chandra Prakash Nagaura Son Of Shri Ganpat Lal Nagaura, Aged About 41 Years, Resident Of Govt. Bangar Hospital Quarters, Didwana, Nagaur, Working As Junior Specialist (Paed.) Govt. Bangar District Hospital, Didwana, Nagaur.

----Petitioners

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Medical and Health Department, Government Of Rajasthan, Government Secretariat, Jaipur.
2. Principal Secretary, Finance Department, Government Of Rajasthan, Government Secretariat, Jaipur.
3. Director, Medical and Health, Rajasthan, Jaipur.

----Respondents





**(26) S. B. Civil Writ Petition No. 38/2023**

1. Dr. Hemant Arora Son Of Shri Shri Lal Arora, Aged About 63 Years, Resident Of H. No. 8, Shiv Niwas Uttar Ghaseti, Ward No. 18, Ajmer, Retired From The Post Of Principal Specialist City, Dispensary, Ramganj, Ajmer.
2. Dr. Vidha Saxena Wife Of Shri Dr Promod Kumar Saxena, Aged About 57 Years, Resident Of Saket Nagar Housing Board, Beawar, Ajmer, Working As Principal Specialist (Gynae), Govt. Amritkaur Hospital, Beawar, Ajmer.
3. Dr. Pramod Kumar Saxena Son Of Shri Prem Narayan Saxena, Aged About 65 Years, Resident Of Saket Nagar Housing Board, Beawar, Ajmer, Retired From The Principal Specialist (Medicine), Govt. Amritkaur Hospital, Beawar, Ajmer.
4. Dr. Pradeep Kumar Jain S/o Shri Shobhag Mal Jain, Aged About 58 Years, Resident Of Champa Nagar Beawar, Ajmer, Working As Principal Specialist (Skin And Vd), Govt. Amritkaur Hospital, Beawar, Ajmer.
5. Dr. Manohar Singh Chandawat Son Of Shri Sawant Singh Chandwat, Aged About 57 Years, Resident Of 1/31 Champa Nagar Gali No. 02, Beawar, Ajmer, Working As Principal Specialist (Paed.) Govt Amritkaur Hospital, Beawar, Ajmer.
6. Dr. Dilip Choudhary Son Of Shri Krishan Lal Choudhary, Aged About 58 Years, Resident Of Champa Nagar Gali No. 01, Beawar, Ajmer, Working As Principal Specialist (Surgery) Govt Amritkaur Hospital, Beawar, Ajmer.
7. Dr. Kailash Babu Garg Son Of Shri Pukhraj Garg, Aged About 40 Years, Resident Of 20, Saran Nagar B Road, Jodhpur, Working As Junior Specialist (Medicine) CHC, Bilara, Jodhpur.
8. Dr. Lalit Kumar Sharma S/o Shri Dharamveer Prasad Sharma, Aged About 38 Years, Resident Of 185, Adrash Nagar, Pali, Working As Junior Specialist Govt Bangur Hospital, District Pali.
9. Dr. Anjana Gupta D/o Dr Madan Gopal Gupta, Aged About 57 Years, Resident Of B-25, Agrasen Nagar, Kishangarh, Ajmer, Working As Principal Specialist (Gynae) Govt. Y.N. Hospital, Kishangarh, District Ajmer.





10. Dr. Parsa Ram Son Of Shri Shiv Baksh, Aged About 54 Years, Resident Of Quarter No. 5, Govt. Y.n. Hospital Campus, Kishangarh, Ajmer, Working As Senior Specialist (Paed.) Govt. Y.N. Hospital, Kishangarh, District Ajmer.
11. Dr. Banwari Lal Nayak Son Of Late Shri Chiranji Lal Nayak, Aged About 55 Years, Resident Of Quarter No. 2, Govt. D.b. Hospital Campus, Churu, Working As Principal Specialist (Radiology) Govt. D.B. Hospital, Churu.
12. Dr. Arjun Nath Yogee Son Of Shri Unkar Nath, Aged About 41 Years, Resident Of 126, Veer Durga Das, Pali, Working As Junior Specialist (ENT) Govt. Bangur Hospital, Pali.
13. Dr. Anirudha Sharma Son Of Shri Stya Narain Sharma, Aged About 39 Years, Resident Of 185, Ashapuran Township, Pali, Working As Junior Specialist (Dental) Govt. Bangur Hospital, Pali.
14. Dr. Dilip Singh Rathore Son Shri Prem Singh Rathore, Aged About 47 Years, Resident Of 2-A-22, Old Housing Board, Pali, Working As Senior Specialist (Medicine) Govt. Bangur Hospital, Pali.
15. Dr. Anand Singh Rathore Son Of Shri Rewant Singh, Aged About 53 Years, Resident Of 117, Veer Durga Das, Pali, Working As Principal Specialist (Dental) Govt. Bangur Hospital, Pali.

-----Petitioners

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Medical and Health Department, Government Of Rajasthan, Government Secretariat, Jaipur.
2. Principal Secretary, Finance Department, Government Of Rajasthan, Government Secretariat, Jaipur.
3. Director, Medical and Health, Rajasthan, Jaipur.

-----Respondents

**(27) S. B. Civil Writ Petition No. 244/2023**

1. Dr. Dinesh Maheshwari Son Of Shri Tarachand Maheshwari, Aged About 57 Years, Resident Of Chc Chhota Dungra Teh. Sajjangarh, District Banswara, Working As Principal Specialist (Surgery) CHC Chhota Dungra Teh. Sajjangarh, District Banswara.





2. Dr. Dinesh Chandra Vaishnav Son Of Shri Janki Lal Vaishnav, Aged About 56 Years, Resident Of E-27, Road No. 7, Senthil Near Water Tank, Chittorgarh, Working As Principal Medical Officer (Principal Specialist), Chittorgarh.
3. Dr. Devesh Sharma Son Of Shri I.p. Sharma, Aged About 47 Years, Resident Of House No. B-37, Friends Colony, Behind Parvati Gardan, Senthil, Chittorgarh, Working As Associate Professor (Senior Specialist), Govt. District Hospital, Medical College, Chittorgarh.
4. Dr. Meetha Lal Meena Son Of Shri Mangi Lal Meena, Aged About 46 Years, Resident Of H.no. A-15, Bapu Nagar, Senthil, Chittorgarh, Working As Associate Professor (Senior Specialist), Govt. District Hospital, Medical College, Chittorgarh.
5. Dr. Mahendra Kumar Balot Son Of Shri Nagar Mal Ji Balot, Aged About 51 Years, Resident Of 77, Kailashpuri, Madhuvan, Chittorgarh, Working As Associate Professor (Senior Specialist Paed.) Sh. Sanwariya Ji Government Hospital, Chittorgarh.
6. Dr. Ramesh Chandra Raidas Son Of Shri Bhagirath Raidas, Aged About 42 Years, Resident Of H.no. D-10, Madhuvan, Near Parvati Gardan, Senthil, Chittorgarh, Working As Associate Professor (Senior Specialist) Govt. District Hospital, Medical College, Chittorgarh.
7. Dr. Seema Babel Wife Of Dr. Kamlesh Babel, Aged About 50 Years, Resident Of 6, Arihant Marg, Nimbahera, District Chittorgarh, Working As Senior Medical Officer, District Hospital, Nimbahera, Chittorgarh.
8. Dr. Kamlesh Babel Son Of Shri Man Mal Babel, Aged About 59 Years, 6, Arihant Marg, Nimbahera, District Chittorgarh, Working As Principal Specialist (Paed.), District Hospital, Nimbahera, Chittorgarh.
9. Dr. Anish Kumar Jain Son Of Late Shri Laxmi Lal Jain, Aged About 51 Years, Resident Of Vardhaman, 69-A, Pratap Nagar, Chittorgarh, Working As Professor (Senior Specialist Medicine) Sh. Sanwariya Ji Government Hospital, Chittorgarh.
10. Dr. Nitin Datta Son Of Shri R.k. Mehta, Aged About 59 Years, Resident Of 28/123, Gumanpura, Kota. Working As Principal Chief Medical Officer, Second Battalion, R.a.c., Kota.





11. Dr. Kamlesh Kumar Kaswan Son Of Shri Harbhajan Lal Kaswan, Aged About 52 Years, Resident Of 867, Ward No. 23 (Nai Abadi), Hanumangarh, Working As Principal Specialist (Orthopaedics), Sub Division Govt. Hospital, Ladnun, Nagaur.
12. Dr. Umesh Kumar Vijay Son Of Shri Gopi Ballab Vijay, Aged About 59 Years, Resident Of Ward No. 2, Itawa Road, Mangrol, District Baran, Working As Principal Specialist (Medicine), Govt. Sdh Mangrol, District Baran.
13. Dr. Seema Rajvanshi Wife Of Dr. Piyooash Rajvanshi, Aged About 56 Years, Resident Of House No. D-23, Model Town-I, Sriganganagar, Retired From The Post Of Principal Specialist (Eye), Govt. Hospital, Sriganganagar.
14. Dr. Sunita Khurana Wife Of Dr. Anil Khurana, Aged About 54 Years, Resident Of 37, Mukherji Nagar, Near Main Bus Stand, Sriganganagar, Retired From The Post Of Principal Specialist, Govt. Hospital, Sriganganagar.
15. Dr. Ashok Khandelwal Son Of Shri Govind Narain Khandelwal, Aged About 47 Years, Resident Of 46, Shanti Path, Sanjay Colony, Rpa Road, Panipech, Jaipur, Working As Senior Specialist (Pedi), H.b. Kanwatia Hospital, Jaipur.
16. Dr. Rajeev Paliwal Son Of Shri Rajnarayan Paliwal, Aged About 49 Years, Resident Of 464, Paliwal Bhawan, First Cross, Nataniyo Ka Rasta, Tripoliya Bazar, Jaipur, Working As Deputy Director, Govt. City Dispensary, Session Court, Bani Park, Jaipur.

-----Petitioners

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Medical and Health Department, Government Of Rajasthan, Government Secretariat, Jaipur.
2. Principal Secretary, Finance Department, Government Of Rajasthan, Government Secretariat, Jaipur.
3. Director, Medical and Health, Rajasthan, Jaipur.

-----Respondents

**(28) S. B. Civil Writ Petition No. 871/2023**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.





2. Director, Medical and Health, Rajasthan, Jaipur.

-----Petitioners

Versus

1. Dr. Rajendra Punniya S/o Shri Mohan Lal, Aged About 55 Years, R/o CHC Sadari District Pali Working As Senior Specialist, CHC Sadari District Pali.

-----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

-----Performa Respondent

**(29) S. B. Civil Writ Petition No. 917/2023**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.

2. Director, Medical and Health, Rajasthan, Jaipur.

-----Petitioners

Versus

1. Dr. Laqa Sultan W/o Dr. Dilsad Sami, Aged About 43 Years, R/o 4 Gh 16, Housing Board, Shastri Nagar, Jaipur, Working As Medical Officer, Govt. HB Kanwatiya Hospital, Shastri Nagar, Jaipur.

-----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

-----Performa Respondent

**(30) S. B. Civil Writ Petition No. 1352/2023**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.

2. Director, Medical and Health, Rajasthan, Jaipur.

-----Petitioners

Versus

1. Dr. Hajarimal Choudhary Son Of Shri Rajaram Choudhary, Aged About 57 Years, Resident Of 6, Veer Durgadas Nagar, Pali Working As Principal Specialist, Govt. Bangad





Hospital Pali.

----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

----Performa Respondent

**(31) S. B. Civil Writ Petition No. 1358/2023**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.

2. Director, Medical and Health, Rajasthan, Jaipur.

----Petitioners

Versus

1. Dr. Nidhi Gupta D/o Shri Kailash Chand Gupta, Aged About 47 Years, R/o Mehta Market, Sojat City, District Pali Working As Senior Specialist, Medicines, Govt. Hospital Sojat City, District Pali.

----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

----Performa Respondent

**(32) S. B. Civil Writ Petition No. 1946/2023**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.

2. Director, Medical and Health, Rajasthan, Jaipur.

----Petitioners

Versus

1. Dr. Vishambhar Gupta Son Of Shri KL Gupta, Aged About 43 Years, Narmda Colony, Behind Shyam Mandir, Kotputli, District Jaipur Working As Senior Specialist Govt. BDM Hospital, Kotputli, District Jaipur.

----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

----Performa Respondent





**(33) S. B. Civil Writ Petition No. 18374/2024**

1. Dr. Neelmani Garg S/o Shri Ramesh Chand Garg, Aged About 46 Years, Resident Of C/o Ramesh Chand Garg, C/o Ramesh Chand Garg, Opposite Parth Resort, Bypass Road, Gokul Nagar, Gangapur, PO- Gangapur, Distt. Sawai Madhopur, Rajasthan- 322201.
2. Dr. Mukesh Chand Meena S/o Shri Ramhans Meena, Aged About 47 Years, Resident Of Village Post Chhoti Udai, Tehsil Wazirpur, District Gangapur City.
3. Dr. Krishna Gopal Meena S/o Shri Hukmi Meena, Aged About 50 Years, Resident Of Village Kishorpur, Tehsil Wazirpur, District Gangapur City.
4. Dr. Ramkesh Meena S/o Shri Bharosi Meena, Aged About 50 Years, Resident Of Meena Baroda, Tehsil Wazirpur, District Gangapur City.
5. Dr. Akram Mohammed S/o Babudin, Aged About 42 Years, Resident Of Chuli Gate, Teliyan Masjid, District Gangapur City.
6. Dr. Babu Lal Meena S/o Shri Bajrang Lal Meena, Aged About 63 Years, Resident Of Village Kharkalan, Post Padana, Tehsil And District Sawai Madhopur.
7. Dr. Anjani Lal Mathuria S/o Shri Murari Lal Mathuria, Aged About 53 Years, Resident Of 12, Mahveer Nagar, Mandi Road, Sawai Madhopur.
8. Dr. Ankur Kumar Gupta S/o Shri Girraj Prasad Gupta, Aged About 43 Years, Resident Of Vaid Colony, District Gangapur City.
9. Dr. Mahendra Kumar Jain S/o Shri Nahanu Lal Jain, Aged About 61 Years, Resident Of 39, Prem Mandir Colony, Bajariya, Sawai Madhopur.
10. Dr. Pankaj Mangal S/o Shri Manmohan Mangal, Aged About 41 Years, Resident Of House No. 50B, Mahajan Mohalla, Behrawanda Khurd, Tehsil Khandar, District Sawai Madhopur.
11. Dr. Priyanka Saxena D/o Shri Prem Chandra Srivastava W/o Shri Ashwini Kumar, Aged About 53 Years, Resident Of House No. 45-46, Gopal Nagar, Alanpur, Opp. Tirupati Marriage Garden, District Sawai Madhopur.
12. Dr. Gaurav Jain S/o Shri Jagdish Prasad Jain, Aged About 43 Years, Resident Of Plot No. 32, 33, 34, Behind Fateh





Trauma Hospital, Near Panchmukhi Balaji, Alanpur, Sawai Madhopur.

13. Dr. Mohammed Akram Khan S/o Shri Murtaqa Khan, Aged About 62 Years, Resident Of Near Girls Sr. Sec. School, Sawai Madhopur.
14. Dr. Vikas Kumar Meena S/o Shri Prathvi Raj Meena, Aged About 43 Years, Resident Of Saket Nagar, Alanpur, Chamatkar Jain Mandir Ke Samne, Sawai Madhopur.

-----Petitioners

Versus

1. State Of Rajasthan, Through The Additional Chief Secretary, Medical and Health Department, Government Secretariat, Jaipur.
2. The Additional Chief Secretary, Finance Department, Government Secretariat, Jaipur.
3. The Director, Medical and Health Services, Swasthya Bhawan, Tilak Marg, C-Scheme, Jaipur.

-----Respondents

**(34) S. B. Civil Writ Petition No. 2763/2026**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Medical and Health Department, Rajasthan, Jaipur.

-----Petitioners

Versus

1. Dr. Om Prakash Rathore S/o Shri Tulsaram, Aged About 41 Years, R/o Hospital Campus, CHC, Bagri Nagar, Tehsil Sojat City, District Pali, Currently Working As Senior Medical Officer, CHC Bagri Nagar, Pali.

-----Respondent/Appellant

2. Additional Chief Secretary, Finance Department, Government Of Rajasthan, Secretariat, Jaipur.

-----Performa Respondent

**(35) S. B. Civil Writ Petition No. 2950/2026**

1. State Of Rajasthan, Through Additional Chief Secretary, Medical and Health Department, Government Of Rajasthan, Secretariat, Jaipur.





2. Director, Medical and Health Department, Rajasthan,  
Jaipur.

-----Petitioners

Versus

1. Dr. Rajesh Kumar S/o Shri Om Prakash Gupta, Aged  
About 53 Years, R/o Mehta Market, Sojat City, District  
Pali, Currently Working As Senior Specialist, Medicines,  
Govt. Hospital, Sojat City, District Pali.

-----Respondent/Appellant

2. Additional Chief Secretary, Finance Department,  
Government Of Rajasthan, Secretariat, Jaipur.

-----Performa Respondent

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For Petitioners : Mr. Archit Bohra Additional  
Government Counsel with  
Mr. Yashwant Singh Advocate &  
Mr. Rahul Verma Advocate,  
Mr. Vikas Kabra Advocate through  
Video Conferencing.  
Mr. Ashok Bansal Advocate  
Mr. Tanveer Ahamad Advocate &  
Mr. Amir Aziz Advocate in CWP No.  
18374/2024.

For Respondents : Mr. Ashok Bansal Advocate.  
Mr. Vikas Kabra Advocate through  
Video Conferencing.  
Ms. Chelsi Agarwal Advocate on  
behalf of Mr. Mahi Yadav Additional  
Advocate General.

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**HON'BLE MR. JUSTICE ANAND SHARMA**

**Judgment**

**REPORTABLE**

<b>Date of conclusion of arguments</b>	::	<b>12.05.2026</b>
<b>Date on which judgment was reserved</b>	::	<b>12.05.2026</b>
<b>Whether the full judgment or only the operative part is pronounced</b>	::	<b>Full Judgment</b>
<b>Date of pronouncement</b>	::	<b>26.05.2026</b>

1. This common judgment shall govern and decide the batch  
of instant writ petitions. Out of the said matters, S.B. Civil Writ  
Petitions No. 8978/2022, 17948/2022, 17959/2022, 17961/2022,  
~~18180/2022, 18186/2022, 18204/202, 18209/2022, 18214/2022,~~





18215/2022, 18221/2022, 18222/2022, 18230/2022, 18232/2022, 18237/2022, 18238/2022, 18239/2022, 18243/2022, 18247/2022, 18313/2022, 18315/2022, 18316/2022, 18318/2022, 871/2023, 917/2023, 1352/2023, 1358/2023, 1946/2023, 2763/2026 and 950/2026 have been preferred by the State Government assailing the orders passed by the Rajasthan Civil Services Appellate Tribunal, Jaipur, whereby the appeals instituted by the Medical Practitioners came to be allowed, whereas in some of the connected matters, i.e. in S.B. Civil Writ Petitions No. 1846/2026, 12/2023, 38/2023, 244/2023 and 18374/2024, the aggrieved persons have directly approached this Court by way of writ petitions seeking the relief of stepping up of pay and grant of consequential benefits of pay fixation under the Rajasthan Civil Service (Revised Pay Scale) Rules, 2017 qua their juniors, who have been getting higher pay on account of inclusion of Non-Practicing Allowance (NPA) in their basic pay and other allied issues. Since the factual matrix, nature of grievances, questions involved and the issues arising for consideration in all these matters are substantially similar, interconnected and interwoven, therefore, with the consent of learned counsel appearing for the respective parties, all the matters were heard analogously and are being adjudicated and decided by this common judgment.

2. For the sake of convenience and understanding the dispute involved in the present batch of cases, pleadings and facts of S. B. Civil Writ Petition No. 8978/2022 (State of Rajasthan & Others vs. Dr. Dinesh Kumar Sharma) are being taken into consideration.

3. The instant writ petition has been preferred by the petitioners-State challenging legality and validity of order dated 16.08.2021 passed by the Rajasthan Civil Services Appellate Tribunal, Jaipur (hereinafter to be referred as 'the Tribunal') whereby





the appeal preferred by the respondent-employee came to be allowed and the petitioners were directed either to provide a fresh option regarding Non Practicing Allowance (NPA) or to grant parity of pay with juniors by stepping up the pay of the respondent.

The facts, in brief, as pleaded in the writ petition are that the respondent was initially appointed as Medical Officer under the Rajasthan Medical and Health Service Rules, 1963 pursuant to selection conducted by the Rajasthan Public Service Commission. Thereafter, the respondent earned promotions to the posts of Junior Specialist, Senior Specialist and ultimately Principal Specialist. After implementation of the Rajasthan Civil Services (Revised Pay Scale) Rules, 2017 (hereinafter to be referred as 'the Rules of 2017') based on the recommendations of the 7th Pay Commission, the pay of doctors, who had opted for Non Practicing Allowance, was fixed by adding Dearness Allowance on NPA to their existing pay. Since the respondent had not opted for NPA as on 01.01.2016, his pay fixation was made without addition of Dearness Allowance on NPA. Consequently, some junior doctors, who had opted for NPA, came to draw higher pay than the respondent.

5. The respondent, being aggrieved by such fixation, preferred an appeal before the Tribunal contending that NPA is merely an allowance and cannot be merged with basic pay. It was pleaded that juniors were illegally granted higher pay and the respondent was entitled either to notional addition of NPA for fixation purposes under the Rules of 2017 or to stepping up of pay at par with juniors. At this stage, it would be relevant to note that similar prayers have been made by the individual petitioners in S.B. Civil Writ Petitions No. 1846/2026, 12/2023, 38/2023, 244/2023 and 18374/2024.





6. The petitioners-State filed reply before the Tribunal contending therein that Rule 7(24) of the Rajasthan Service Rules and Clause 11(B)(1) of Notification dated 30.10.2017 clearly contemplated fixation of revised pay after addition of Dearness Allowance on NPA in respect of those doctors, who were drawing NPA as on 01.01.2016. It was also pleaded that the option to avail NPA is voluntary and a doctor declining NPA remains entitled to undertake private practice and derive financial benefit therefrom. Therefore, according to the State, no pay anomaly in law had arisen merely because doctors exercising different options were placed differently for the purpose of revised pay fixation.

7. The Tribunal, however, allowed the appeal vide order dated 16.08.2021 and observed that NPA is an allowance and cannot be merged with basic pay. The Tribunal accordingly directed the petitioners either to grant fresh option regarding NPA or to step up the pay of the respondent with his juniors.

8. Assailing the aforesaid order, Shri Archit Bohra, learned Additional Government Counsel appearing for the petitioners-State submitted that the Tribunal has completely misdirected itself in law while interpreting the relevant statutory provisions. It was argued that Rule 7(24) of the Rajasthan Service Rules specifically includes within the ambit of pay such emoluments as may be specially classed as 'pay' by the Governor and Clause 11(B)(1) of the Notification dated 30.10.2017 expressly provides for addition of Dearness Allowance on NPA while fixing revised pay of medical officers, who were drawing NPA as on 01.01.2016. It was further contended that the respondent voluntarily declined NPA in order to continue private practice and cannot thereafter seek parity with those doctors, who surrendered private practice and opted for NPA. Learned Additional





Government Counsel argued that the differential in pay fixation is not an anomaly, but a direct and legitimate consequence of the option consciously exercised by individual doctors. It was submitted that the Tribunal exceeded its jurisdiction by virtually rewriting the statutory rules and directing grant of fresh option though no challenge to the validity of the notification was ever laid by the respondent. Learned Additional Government Counsel relied upon Rajasthan Civil Services (Revised Pay) Rules, 2008, Orders dated 12.09.2008, 28.06.2013 and 30.10.2017, as well as Notification dated 09.12.2017 and Explanations dated 30.10.2017 and 15.08.2023 issued by the Government of Rajasthan, Finance Department (Rules Division). Learned Additional Government Counsel also cited the judgments delivered by the Hon'ble Supreme Court in the cases of **Calcutta Municipal Corporation & Another vs. Sujit Baran Mukherjee & Others, (1997) 11 SCC 463** and **Union of India & Another vs. P.V. Hariharan & Another, (1997) 3 SCC 568** as well as the judgment delivered by the Gujarat High Court in the case of **Mahesh Kumar P Kapadia vs. State of Gujarat & Others, Special Civil Application No. 9615 of 2006 decided on 21.10.2016.**

9. Per contra, Shri Ashok Bansal and Shri Tanveer Ahmad, learned counsel for the respondent supported the order passed by the Tribunal and argued that NPA is merely an allowance and cannot form part of basic pay for the purpose of pay fixation. It was submitted that juniors cannot be permitted to draw higher pay than seniors in the same cadre. Learned counsel further argued that Rule 11(7) of Rules of 2017 protects seniors from drawing lesser pay than juniors and, therefore, the respondent was rightly granted relief by the Tribunal. They placed reliance upon judgments of Hon'ble





Supreme court in the cases of **Gurcharan Singh Grewal & Another vs. Punjab State Electricity Board & Others, (2009) 3 SCC 94** and **Commissioner & Secretary to Government of Haryana & Others vs. Ram Sarup Ganda & Others, (2011) 15**

**CC 772** and also upon provisions of the Rules of 2017 as well as circulars dated 28.05.2021 and 06.07.2021 issued by the Government.



10. This Court has considered the rival submissions and perused the material available on record.

11. It would be relevant to mention that concept of Non-Practicing Allowance was initially introduced vide Finance Department's orders dated 07.06.1989 and 16.05.1998, which was available for limited posts specified in the above orders and restricted to only some of the encadred posts of Rajasthan Medical Services (Collegiate Branch) and Rajasthan Medical & Health Services (General Branch). There was no specific provision in the Rajasthan Civil Services (Revised Pay) Rules, 2008 (hereinafter to be referred as 'the Rules of 2008') for grant of Non Practicing Allowance (NPA).

12. Thereafter, an order dated 12.09.2008 was issued by the Finance Department (Rules Division), Government of Rajasthan providing for Non-Clinical and Non-Practicing Allowance to the Medical Officers @ 20% of basic pay under the Rules of 2008 w.e.f. 01.09.2008. It was also specified in the above order that the NPA shall be treated as "Pay" for the purpose of admissibility of Dearness Allowance (DA) and House Rent Allowance (HRA). Admissibility of NPA was subject to the condition that the Officer does not undertake any private practice and does not accept any fee. Every Employee in receipt of NPA shall submit every month the prescribed certificate to



his Head of Office/ Department regarding not undertaking any private practice. It was further provided that in case it is discovered that an officer in receipt of NPA has indulged in private practice, then he would be subjected to disciplinary action under the provisions of Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 and the entire amount of NPA paid to him/her shall be recoverable from him/her.



13. Aforesaid Order dated 12.09.2008 was followed by another order dated 28.06.2013 issued by the Finance Department, whereby the benefit of NPA was extended to the entire teaching staff of Rajasthan Medical Services (Collegiate Branch) and Medical Officers of General Branch of Medical and Health Services, and such NPA was admissible on submitting option to draw such benefits at the commencement of every year. Other conditions were similar to the earlier order dated 12.09.2008.

14. On enforcement of the Rules of 2017 and in supersession of the above orders, the Finance Department issued order dated 30.10.2017 for regulating grant of NPA under the Rules of 2017 and it laid down that NPA shall be calculated @ 20% of Basic pay, subject to the condition that basic pay plus NPA should not exceed Rs. 2,18,600/- per month. The other conditions regarding submitting option and prescribed certificate, as well as initiating disciplinary enquiry and effecting recovery of NPA in violation of the option and certificate, were similar to the earlier orders of Finance Department. It was also reiterated that NPA shall be treated as "Pay" for the purposes of admissibility of DA and HRA.

15. It is relevant to note that the Rules of 2017 were notified on 30.10.2017 and were made effective w.e.f. 01.10.2017. Rule 5 provides for the definition of existing basic pay, existing pay



structure, pay matrix, revised pay structure, basic pay etc. for the purpose of revision of pay under the Rules of 2017.

16. Rule 11 of the Rules of 2017, which deals with method for fixation of pay in the revised pay structure and is relevant for the purpose of adjudication of dispute involved in the present batch of writ petition, lays down as under:

**"11. Fixation of pay in the revised pay structure.-**

(1) *The pay of a Government servant who elects, or is deemed to have elected under rule 9 to be governed by the revised pay structure on and from the 1st October, 2017, shall, unless in any case the Governor by special order otherwise directs, be fixed separately in respect of his substantive pay in the permanent post on which he holds a lien or would have held a lien if such lien had not been suspended, and in respect of his pay in the officiating post held by him, in the following manner, namely:-*

(A) *In the case of all employees- (i) the pay in the applicable Level in the Pay Matrix shall be the pay obtained by multiplying the existing basic pay by a **factor of 2.57**, rounded off to the nearest rupee and the figure so arrived at will be located in that Level in the Pay Matrix and if such an identical figure corresponds to any Cell in the applicable Level of the Pay Matrix, the same shall be the pay, and if no such Cell is available in the applicable Level, the pay shall be fixed at the immediate next higher Cell in that applicable Level of the Pay Matrix.*

xxxx

(ii) *if the minimum pay or the first Cell in the applicable Level is more than the amount arrived at as per sub-clause (i) above, the pay shall be fixed at minimum pay or the first Cell of that applicable Level,*

(B) *In the case of Medical Officers in respect of whom Non Practicing Allowance (NPA) is admissible, the pay in the revised pay structure shall be fixed in the following manner:*

(i) *The existing basic pay shall be multiplied by a factor of 2.57 and the figure so arrived at shall be added to by an amount equivalent to Dearness Allowance on the pre-revised Non-Practicing Allowance admissible as on 1st day of January, 2016. The figure so arrived at will be located in that Level in the Pay Matrix and if such an identical figure corresponds to any Cell in the applicable Level of the Pay Matrix, the same shall be the pay, and if no such Cell is available in the applicable Level, the pay shall be fixed at the immediate next higher Cell in that applicable Level of the Pay Matrix.*

(ii) *The pay so fixed under sub-clause (i) shall be added by the pre-revised Non Practicing Allowance admissible on the existing basic pay."*





17. Sub-Rule (7) of Rule 11 of the Rules of 2017 is relevant for the purpose of stepping of pay, if applicable, and the same is being reproduced as under:-

*"(7) Where in the fixation of pay under sub-rule (1), the pay of a Government servant, who, in the existing pay structure, was drawing immediately before the 1st October, 2017 more pay than another Government servant junior to him in the same cadre, gets fixed in the revised pay structure in a Cell lower than that of such junior, his pay shall be stepped up to the same Cell in the revised pay structure as that of the junior."*

8. Thereafter, vide Notification dated 09.12.2017, Second Amendment was crept into the Rules of 2017, whereby proviso was inserted below the existing clause (B) of sub-rule (1) of Rule 11 in following manner:

*"Provided that in the case of Medical Officers drawing NPA, opt to do practice at later stage, the amount of DA on NPA @ 125% included in the basic pay under these rules shall be deducted from the basic pay and the remaining basic pay shall be adjusted in the Level of the Pay Matrix at same stage or next below stage, if no same stage available."*

19. Further, two explanations dated 04.10.2022 and 16.10.2023 were issued by the Finance Department making it mandatory to submit the required option for availing the benefit of NPA and the effect of not submitting option within time was also prescribed. It was made clear that such Medical Officers, who are otherwise entitled to receive NPA as per rules, but are unable to submit their option for NPA at the beginning of the calendar year on account of being on leave, shall be permitted to submit their option for NPA within 15 days from the date of joining after expiry of leave. Upon submission of such option along with an affidavit to the effect that no private practice was undertaken during the leave period, NPA shall be payable to them from the beginning of the calendar year, i.e., from 1st January. In cases where a Medical Officer/Medical Teacher fails to submit the option for NPA within stipulated time, such Medical Officer shall not be entitled to NPA for the entire calendar year.





20. Thus, from a conjoint reading of the relevant Rules and the instructions governing the grant of Non-Practicing Allowance (NPA), it is manifestly clear that the grant of NPA is neither automatic, nor an inherent consequence merely of holding a post specified under the Rules. The entitlement to receive NPA is conditional in nature and is wholly dependent upon the concerned Medical Officer exercising the prescribed option within the stipulated period and furnishing the requisite declaration/affidavit affirming that he has not undertaken private practice during the relevant period. The scheme itself contemplates conscious exercise of option by the employee and strict adherence to the prescribed procedure as a condition precedent for claiming such benefit. Therefore, unless the concerned employee submits the requisite option form within the time prescribed under the Rules along with the affidavit regarding non-engagement in private practice, no enforceable right to claim NPA accrues in his/her favour. Whereas, upon due compliance of the aforesaid requirements within the stipulated time, NPA becomes admissible in accordance with the Rules. Hence, the admissibility of NPA is not attached to the post simpliciter, but is dependent upon fulfilment of the mandatory procedural and substantive conditions prescribed under the governing provisions.

21. At the outset, it deserves notice that there is no dispute regarding the legal position that Non Practicing Allowance is optional in the State service. A doctor opting for NPA relinquishes the right to private practice, whereas a doctor declining NPA remains entitled to undertake private medical practice and derive monetary benefit therefrom. Hence, the distinction between the two classes is, therefore, founded upon a conscious and voluntary exercise of option by individual doctors.





22. The entire foundation of the respondents'-employees' claim rests upon the contention that despite declining NPA, he/she should still be treated at par with those doctors who opted for NPA and surrendered the right of private practice. Such contention, in the considered opinion of this Court, is fundamentally misconceived.

3. This Court finds that clause 11(B)(1) of the Rules of 2017, in clear and unambiguous terms, stipulates that in respect of those Medical Officers, who were admissible to and drawing Non-Practicing Allowance (NPA), the existing basic pay was required to be multiplied by a factor of 2.57 and, thereafter, an additional component equivalent to the Dearness Allowance payable on NPA as on 01.01.2016 was also required to be added for the purpose of fixation of revised pay. The aforesaid provision leaves no manner of doubt that the rule making authority, being fully conscious of the special status and pecuniary implications attached to NPA, deliberately carved out a distinct and separate formula for revision of pay in the case of doctors, who were in receipt of NPA. On the other hand, Clause 11(A) of the Rules of 2017 prescribes the normal method of pay revision applicable to employees, who were not drawing NPA. Thus, the Rules themselves recognise two separate and distinct classes for the purpose of pay fixation, namely, one comprising Medical Officers drawing NPA and the other comprising employees not drawing such allowance.

24. Thus, it can be said that once the statutory rules themselves provide different methodologies for pay fixation depending upon the admissibility of NPA, the contention that both categories are similarly situated for the purpose of revision of pay cannot be accepted. The distinction created by the Rules of 2017 is ~~neither artificial, nor arbitrary, but is founded upon an intelligible~~





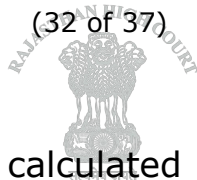
differentia having a direct nexus with the object sought to be achieved, namely, grant of a higher pay fixation benefit to those Medical Officers, who had opted for and were actually drawing NPA. The very inclusion of Dearness Allowance on NPA as a component for calculation under Clause 11(B)(1) demonstrates that receipt of NPA formed an integral and indispensable basis for grant of the enhanced benefit under the revised pay structure.

25. Consequently, a Medical Officer, who did not opt for or was not drawing NPA on the relevant date, cannot claim parity with a Medical Officer, who was actually receiving NPA and whose pay fixation was governed by the special formula prescribed under Rule 11(B)(1) of the Rules of 2017. Therefore, there exists no similarity or equivalence between the employees governed by Rule 11(A) of the Rules of 2017 and those governed by Rule 11(B) of the Rules of 2017 for the purpose of revision and fixation of pay. Hence, under these circumstances, stepping up of pay cannot be claimed by those, who are covered by Rule 11(A) of the Rules of 2017, qua those, whose pay fixation has been made by virtue of Rule 11(B) of the Rules of 2017, and hence, Rule 11(7) of the Rules of 2017 shall have no application in this matter.

26. The Tribunal, while passing the impugned order, has virtually ignored the plain language employed in the statutory notification. Once the Rules of 2017 themselves specifically provide the manner of fixation for doctors drawing NPA, the Tribunal could not have substituted its own interpretation on equitable considerations.

27. It would be relevant to refer that Gujarat High Court, in the case of **Mahesh Kumar P Kapadia (supra)**, while dealing with *para materia* provisions, has held that NPA shall be treated as part of





Basic pay and shall also be calculated along with the Basic Pay for the purpose of determining the Dearness Pay. Relevant part of the judgment states as under:

*"17 The State Government, in my view, is incorrect in taking the view that the N.P.A is not a part of the Basic Pay, but is being taken into account only for the purpose of calculating the Dearness Allowance. In the Gujarat Civil Services (Revision of Pay) Rules 1987, the Non-Practicing Allowance was given a statutory recognition for the purpose of inclusion in the revision of pay-scale, and for the consequential benefits. The Gujarat Civil Services (Revision of Pay) Rules, 1987 provides that the Non-Practicing Allowance shall be included in the existing emoluments. Even the Gujarat Civil Services (Revision of Pay) Rules, more particularly, Rules 3(6) provides that the Basic Pay would include the revised Non-practicing Allowance.*

*18 Even in the Gujarat Civil Services (Revision of Pay) Rules 1998, which came to be notified vide the Notification dated 28<sup>th</sup> January 1998, it was provided that the practicing allowance should be calculated on the basis of Pay + Non-Practicing Allowance for calculating / arriving at the figure of the "emoluments" of the Medical Officers. The Gujarat Civil Services (Revision of Pay) Rules 1998 provides that the "revised emoluments" means the Basic Pay of a government servant in the revised scale of pay and would also include the revised Non-Practicing Allowance, if any, admissible in addition to pay. Thus, in my view, the reasoning assigned by the State Government proceeds absolutely on a wrong footing. I fail to understand why this objection is raised by the State Government only for the period between 2004 and 2009. After 1<sup>st</sup> April 2009, again the position has been restored as sought by the writ applicants herein for the period between 1<sup>st</sup> April 2004 and 31<sup>st</sup> March 2009.*

*19 In my view, no further adjudication is necessary for the purpose of upholding the claim of the writ applicants.*

*20 In the result, all the writ applications succeed and are hereby allowed. It is hereby declared that for the period between 1<sup>st</sup> April 2004 and 31<sup>st</sup> March 2009, the Non-Private Practicing Allowance shall be treated as a Basic Pay and shall be calculated along with the Basic Pay for the purpose of determining the Dearness Pay. The authority concerned shall calculate the difference accordingly in the case of each of the Medical Officers and pay the consequential benefits within a period of three months from the date of receipt of this order. Rule is made absolute accordingly."*

28. Thus, in view of above, it is quite clear that the finding recorded by the Tribunal that NPA cannot be merged with pay is also legally unsustainable. Rule 7(24) of the Rajasthan Service Rules clearly provides that "pay" includes such emoluments as may be specially classed as pay by the Governor. The revised pay fixation notification itself treats Dearness Allowance on NPA as a relevant





component for fixation purposes in the case of doctors drawing NPA. Therefore, for the limited purpose of revised pay fixation under the statutory scheme, inclusion of DA on NPA cannot be said to be impermissible.

9. The Tribunal has further fallen in serious error in treating the resultant difference in pay as a "pay anomaly". A pay anomaly arises where two identically situated employees are treated differently without any rational basis. In the present case, the respondent and the doctors, who opted for NPA, do not constitute one homogeneous class for the purpose of pay fixation under the Rules of 2017. One category voluntarily surrendered private practice and accepted NPA, whereas the other category consciously chose to continue private practice by declining NPA. The financial consequences flowing from such exercise of option cannot be termed discriminatory.

30. The Hon'ble Supreme Court in the case of **Calcutta Municipal Corporation & Another vs. Sujit Baran Mukherjee & Others (supra)**, while dealing with the concept of stepping up of pay, has held as under:

*"6. A reading thereof would clearly indicate that the principle of stepping up of the pay would arise only when a junior employee, on his promotion, is drawing higher pay than his seniors; in that case, they would be entitled to the stepping up of the pay so as to be on a par with him on the principle that the persons who are similarly situated and are drawing the same scale of pay and are doing the same duty and being senior to the persons drawing higher pay, are entitled to have their pay stepped up but that principle is inapplicable to the situation, as in the present case, where a junior person on transfer to a different place is being paid extra payment by way of special pay or overtime pay, whatsoever the nomenclature be and would be treated to be a special pay since he has to discharge the duty outside his normal duty or due to special circumstances. Such a fortuitous circumstance would not be a ground for other seniors to claim parity of pay by stepping up of their scale of pay. If the contention is given acceptance, the extra salary would become payable to persons who do not take pains and do the normal work while staying in a convenient post/place with indolence whereas the person who undertakes special responsibility or puts up hard work would be put on a par; and stepping up of pay would be a premium on laziness*





*and indolence. It would be deleterious to augmentation of efficiency in service or dedication to duty. Under those circumstances, we think that the statutory principle of stepping up of the pay so as to be on a par with the junior would be not on rational principle. When all of them discharge the same duties and are under the same responsibility and not in different circumstances and if the juniors draw higher pay on promotion, the seniors who do not get the opportunity would be entitled to parity of pay with their juniors."*

1. The contention of the respondent that juniors cannot draw higher pay than seniors also does not impress this Court in the peculiar facts of the present case. It is well settled that mere seniority does not guarantee identical pay where difference arises due to operation of statutory rules, grant of additional allowances, special incentives or exercise of options by employees themselves. The higher pay being drawn by juniors in the present case is not on account of arbitrary action of the State but due to a lawful benefit available only to those doctors who had opted for NPA.

32. It would also be pertinent to refer that the Hon'ble Supreme Court in the case of **Union of India & Another vs. P.V. Hariharan & Another (supra)** has restricted the scope of interference by the Tribunal in the matter of fixation of pay and has held as under:

*"5. Before parting with this appeal, we feel impelled to make a few observations. Over the past few weeks, we have come across several matters decided by Administrative Tribunals on the question of pay scales. We have noticed that quite often the Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realise that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Very often, the doctrine of "equal pay for equal work" is also being misunderstood and misapplied, freely revising and enhancing the pay scales across the board. We hope and trust that the Tribunals will exercise due restraint in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales. We have come across orders passed by Single Members and that too quite often Administrative Members, allowing such claims. These orders have a serious*





*impact on the public exchequer too. It would be in the fitness of things if all matters relating to pay scales, i.e., matters asking for a higher pay scale or an enhanced pay scale, as the case may be, on one or the other ground, are heard by a Bench comprising at least one Judicial Member. The Chairman of the Central Administrative Tribunal and the Chairmen of the State Administrative Tribunals shall consider issuing appropriate instructions in the matter."*

3. The Tribunal also committed manifest illegality in directing the State to grant fresh option regarding NPA. Admittedly, the respondent never challenged the validity of the Notification dated 0.10.2017. In absence of any challenge to the statutory rules, the Tribunal had no jurisdiction to direct reopening of options or to alter the scheme framed by the rule making authority. Such direction clearly amounts to judicial legislation and travels far beyond the permissible limits of interference by the Tribunal.

34. The argument advanced on behalf of the respondent regarding Rule 11(7) of the Rules of 2017 is equally misplaced. The said provision regarding stepping up of pay applies only where anomaly arises amongst employees similarly situated in the same cadre under identical conditions. The provision cannot be invoked where difference in pay is a direct consequence of exercise of different options carrying different service benefits and restrictions.

35. The Court also finds substance in the contention raised by the petitioners that doctors declining NPA continue to enjoy the benefit of private practice and corresponding monetary gain therefrom. Therefore, comparison solely on the basis of salary drawn from Government service would be wholly artificial and incomplete. A doctor, who consciously elects to continue private practice, cannot thereafter seek the financial advantages attached to surrender of such practice.

36. The subsequent circulars dated 28.05.2021 and 06.07.2021 relied upon by the respondent also do not advance his





case. The said circulars merely deal with general situations of pay anomalies and cannot override the specific mechanism prescribed under the statutory notification governing fixation of pay in case of doctors drawing NPA.

7. Judgments in the cases of **Gurcharan Singh Grewal & Another (supra)** and **Commissioner & Secretary to Government of Haryana & Others vs. Ram Sarup Ganda & Others (supra)** are based upon altogether different facts and prevailing Rules, hence, are not attracted in the present set of facts and circumstances.

38. The Tribunal, while exercising appellate jurisdiction, was required to examine the legality of fixation in the light of the applicable statutory provisions. Instead of doing so, the Tribunal proceeded on notions of equity and sympathy while ignoring the explicit mandate of the Rules. Such approach cannot be sustained in law.

39. This Court is, therefore, of the considered opinion that the order dated 16.08.2021 passed by the Rajasthan Civil Services Appellate Tribunal suffers from patent illegality, misinterpretation of the statutory provisions and jurisdictional error warranting interference under Article 226 of the Constitution of India.

40. Consequently, the writ petitions filed by the State Government bearing S.B. Civil Writ Petitions No. 8978/2022, 17948/2022, 17959/2022, 17961/2022, 18180/2022, 18186/2022, 18204/202, 18209/2022, 18214/2022, 18215/2022, 18221/2022, 18222/2022, 18230/2022, 18232/2022, 18237/2022, 18238/2022, 18239/2022, 18243/2022, 18247/2022, 18313/2022, 18315/2022, 18316/2022, 18318/2022, 871/2023, 917/2023, 1352/2023, ~~1358/2023, 1946/2023, 2763/2026 and 2950/2026~~ are hereby





allowed. The order dated 16.08.2021 passed by the Rajasthan Civil Services Appellate Tribunal, Jaipur is hereby quashed and set aside and the appeals preferred by the respondents in above writ petitions before the Tribunal stand rejected. S.B. Civil Writ Petitions No. 846/2026, 12/2023, 38/2023, 244/2023 and 18374/2024 filed by concerned individuals are hereby dismissed.

1. Pending applications, if any, shall also stand disposed of.
42. Office is directed to keep one copy of this judgment in each connected file for record.

(ANAND SHARMA),J

MANOJ NARWANI/

