



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

S.B. Civil Writ Petition No. 585/2025

Mohammed Aslam Silawat S/o Late Shri Arif Silawat, Aged About
28 Years, R/o Sadar Bazar, Hurda Seja, Bhilwara (Raj.).

-----Petitioner

Versus

1. State Of Rajasthan, The Director, Secondary Education,
Rajasthan, Bikaner (Raj.).
2. The District Education Officer, (Head Quarter), Secondary
Education, Bhilwara (Raj.).

-----Respondents

For Petitioner(s)	:	Mr. Rakesh Arora. Mr. Hardik Gautam.
For Respondent(s)	:	

HON'BLE MR. JUSTICE ARUN MONGA

Order (Oral)

15/01/2025

1. Assailed herein is an order dated 16.09.2024 (Annex.3), vide which, petitioner's application for appointment on compassionate grounds was rejected solely on account of his conviction by the trial court under Section 323 read with Section 341 of IPC, despite the fact that the trial did not impose any sentence on the petitioner, but merely imposed a fine of Rs. 500/- while extending the benefit of Section 4 of the Probation of Offenders Act.
2. Briefly speaking relevant facts as pleaded in the petition are as follows:-
 - 2.1. The father of the petitioner was serving as an Assistant Administrative Officer at the Government Higher Secondary School in Aasind, District Bhilwara (Rajasthan), until his death on

13.11.2023. Following his father's demise, the petitioner applied for compassionate appointment to the post of Junior Assistant on 21.12.2023. On 16.09.2024, the respondent No. 1 issued an office order listing individuals appointed on compassionate grounds, along with their respective district allotments. The petitioner's name appears at Serial No. 11 on the list, with Bhilwara District allotted to him. It is important to note that in 2020, an FIR was registered against the petitioner under Sections 323 and 341 of the IPC, and after a trial, he was convicted but he was let off on Probation with a fine of Rs. 500/-. This information was disclosed in the Police Verification Report submitted to the department. Despite this, on 04.11.2024, respondent No. 2 wrote to respondent No. 1 seeking further instructions regarding the issuance of the petitioner's appointment letter, considering his conviction. However, no final order regarding his appointment has been passed. In light of these circumstances, the petitioner sent a notice on 16.12.2024 demanding justice and requesting compassionate appointment due to his father's death, but his case has yet to be considered. Hence, this petition.

3. A perusal of the office order dated 16.09.2024 (Annex.3) passed by the competent authority reflects that as far as the appointment to the petitioner as Junior Assistant on compassionate grounds is concerned, there is no quibble about the same.

4. However, despite the allotment of the district to the petitioner, he has not been allowed to join on the post in question. Apparently, on the ground of previous criminal proceedings, as above.

5. The State did not file appeal against the said trial court order/judgment. The same has thus attained finality. I am of the view that once the petitioner was let off on probation he has to be given benefit of the very reason and the objective of enactment of Probation of Offenders Act.

6. In this context, reference may be had to a judgment rendered by me while I was a Judge in Punjab and Haryana High Court, in similar circumstances, in a case titled **Nasri Vs. State of Haryana.: CRM-A-38-MA-2017**, relevant whereof, for ready reference, is reproduced as below :-

"Probation can thus also be termed as an alternative form of punishment envisaged within the criminal justice system. In my opinion, following principles or what can be termed as potential benefits of release on probation ought to be kept in mind by the learned sentencing Courts below for exercise of judicial discretion to grant probation, provided a deserving case is made out.

a) Nature of the Offense: The severity and type of offense committed by the individual are important considerations. Less serious offenses, such as non-violent crimes or violent but arising out of self defense or first time offenses, might make an individual more eligible for probation.

b) Individualized Justice: Before grant of the benefit of release on probation, one has to take into consideration the individual circumstances of the offender viz., the nature of the crime vis-a-vis the potential for positive change. It allows for tailored sentencing that considers the unique needs and characteristics of the offender, promoting a more just and proportionate response to the offense.

c) Criminal History: A convict's prior criminal history must be assessed to determine if they have a pattern of repeat offenses. A history of violent or serious crimes might make an individual less likely to be granted probation.

d) Rehabilitation Potential: The offender's willingness and potential to rehabilitate play a significant role. If there's evidence that the individual is committed to changing their behavior, participating in counseling, and addressing the underlying causes of their criminal activity, they ought to be considered for probation.

e) Compliance with Probation Terms: Convicts on probation are required to follow specific conditions, such as regular reporting to a probation officer, avoiding criminal activity, and attending counseling or rehabilitation programs. A person's willingness and ability to comply with these terms would influence their eligibility for probation.

f) Preventing Recidivism:- Probation, as an alternative to incarceration, can indeed help prevent first-time offenders from becoming habitual or "hardened" criminals. By providing rehabilitation and support services, probation aims to address the underlying factors that contribute to criminal behaviour, giving offenders a chance to change their ways.

g) Community Ties: An assessment of offender's ties to the community, such as family, employment, and stable housing ought to be carried out. Strong community ties can indicate a support system that can help prevent further criminal activity.

h) Risk to Public Safety: The safety of the community is a crucial factor. Assessments are made to determine whether releasing an individual on probation poses a low risk of committing new offenses or harming others.

i) Reducing Overcrowding:- Probation can help alleviate the overcrowding of jails and prisons. Non-violent offenders who are eligible for probation can be kept under community supervision, freeing up space in correctional facilities for more serious offenders.

j) Promoting productivity:- By allowing offenders to remain in the community and engage in productive activities such as work, education, or community service, probation can contribute to making them productive members of society. This, in turn, can lead to them contributing as taxpayers instead of being a burden on the State.

k) Second chance and Reformation:- Probation offers a second chance to offenders by allowing them to avoid imprisonment and providing an opportunity for reformation. Through counselling, treatment, and supervision, offenders can address the root causes of their criminal behaviour and work towards positive change.

l) Reintegration into Society: Probation allows offenders to maintain ties with their families, jobs and communities, which can enhance their chances of successful reintegration after their sentence. This reduces the likelihood of recidivism and helps break the cycle of criminal behaviour.

m) Compensation to the aggrieved: Court can even ask the offender to pay compensation (by way of penalty) to the aggrieved person as means of retribution or penance as a pre condition of release on probation.

n) Probation Officer Assessment: Probation officer may be asked by a court to conduct an assessment of the offender to gather information about their background, behavior, and potential for rehabilitation. Such an assessment would help take an informed decision regarding probation.

o) Judicial Discretion: In the end, depending on facts and circumstances of the case, it is the discretion of court to determine whether to grant probation. It shall consider all relevant factors and balance the interests of rehabilitation, public safety, and justice in the decision-making process. The goal of probation is to offer an alternative to incarceration that addresses the individual needs of the offender while maintaining public safety."

7. The noble intent of enacting the Probation of Offenders Act is recidivism, rehabilitation as well as re-integration of an offender into the society. Thus not granting appointment to the petitioner would defeat the very purpose of the same.

8. As an upshot, the petition is disposed of with a direction to the respondents that if the petitioner's appointment is being withheld merely due to his having been let off on probation by the trial court, this shall not be considered as an impediment. If the petitioner is found otherwise eligible and meritorious, he will be allowed to join his services in the district already allotted to him, upon his approaching competent authority of the respondents with a web print of the instant order.

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

(ARUN MONGA),J

40-Jitender – Sumit /-

Whether Fit for Reporting: Yes / No