



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

S. B. Civil Writ Petition No. 2118/2025

Narendra Singh S/o Shri Bhairun Singh, Aged About 41 years,
R/o VPO Jorawar Nagar Via Kanwat, Tehsil Srimadhopur, Distt.
Sikar (Raj.).

-----Petitioner

Versus

1. State of Rajasthan, through its Additional Chief Secretary,
Department of Finance, Secretariat Building, Jaipur (Raj.)
2. Directorate, Treassury and Accounts, through Director,
Jyoti Nagar, Jaipur (Raj.)
3. Rajasthan Staff Selection Board, through its President
State Agriculture Management Institution Campus,
Durgapura, Jaipur (Raj.)

-----Respondents

For Petitioner	:	Ms. Gayatri Rathore Senior Advocate assisted by Mr. Ganesh Dutt Gautam Advocate.
For Respondents	:	Ms. Mahi Yadav Additional Advocate General with Mr. Kuldeep Singh Rathore Advocate. Mr. Sandeep Maheshwari Advocate with Ms. Bhavna Ladha Advocate.

HON'BLE MR. JUSTICE ANAND SHARMA
Judgment

09/09/2025

1. By way of filing this writ petition under Article 226 of
the Constitution of India, the petitioner, an ex-serviceman, who
served in the Indian Army and thereafter took voluntary
retirement, seeks a direction for his appointment on the post of
Junior Accountant under the category of Ex-Servicemen (EWS)
pursuant to the advertisement dated 20.06.2023.
2. Petitioner has come out with a case that he participated
in the recruitment process under Ex-Servicemen (EWS) category



and having secured 322.33 marks, which were well above the cut-off marks of 277.60 prescribed for Ex-Servicemen EWS category, he was wrongly denied selection only on the ground that he is presently serving in substantive capacity as Village Development Officer (hereinafter to be referred as 'VDO') under the Department of Rural Development and Panchayati Raj on probation for two years in terms of appointment order dated 13.04.2023. According to the petitioner, since he was not confirmed in the services, hence, he continued to be only a temporary employee and, therefore, is entitled to claim the benefit of reservation as an Ex-Serviceman EWS for appointment to the post of Junior Accountant.

3. The respondents, while opposing the petition, submitted that the petitioner was appointed as VDO against a substantive vacancy on regular selection and though he was undergoing probation, he cannot be termed a temporary employee. Rule 7(30) of the Rajasthan Service Rules, 1951 (hereinafter to be referred as 'the RSR') clearly defines probationer as a person appointed against a substantive vacancy in the cadre of a service, which excludes him from the category of casual, ad hoc or temporary employees contemplated in the proviso to Rule 2-A of the Rajasthan Civil Services (Absorption of Ex-Servicemen) Rules, 1988 (hereinafter to be referred as 'the Rules of 1988'). Once an ex-serviceman secures regular employment under the State, he ceases to be eligible to avail further reservation under the same category and the action of



excluding the petitioner from the EWS Ex-servicemen list was fully justified.

4. Having heard learned counsel for the parties and on perusal of the material available on record, the issue which arises for consideration is whether a probationer appointed against a substantive vacancy under regular recruitment can still be treated as a temporary employee so as to continue to avail reservation benefits of Ex-serviceman in another recruitment.

5. The appointment order of the petitioner dated 13.04.2023 to the post of VDO specifically recites that he has been selected through regular recruitment process and appointed as probationer-trainee for a period of two years. Rule 7(30) of the RSR defines "probationer" as a person appointed against a substantive vacancy. Rule 8 of the RSR further clarifies that all appointments in Government service on or after 20.01.2006 shall be made initially as probationer-trainees on fixed remuneration for two years and only upon successful completion of probation such persons shall be placed in the pay scale. These provisions make it explicit that probation is not akin to temporary or casual appointment; rather, it is an integral part of substantive appointment in public service.

6. The reliance placed by the petitioner on the fact that during probation, he receives fixed remuneration and is not entitled to increments or certain service benefits, does not alter the legal character of his appointment. These are only incidents of probation and do not convert the substantive appointment into a temporary one. A probationer is on trial with respect to





performance, conduct and suitability, but nonetheless holds a post in the cadre substantively. The distinction between probationary status and temporary appointment has been consistently recognised in service jurisprudence.

7. The Coordinate Bench of this Court in **Lokendra Singh v. State of Rajasthan & Others (S.B. Civil Writ Petition No. 10008/2017 and other connected matters, decided on 30.11.2017)** has categorically held that where an employee is appointed through due process of selection against substantive vacancies, he must be treated as holding the post substantively notwithstanding his probationary status. The Court rejected the contention that such probationer is a mere temporary employee, and emphasised that substantive character of appointment cannot be denied merely because confirmation is pending. Applying the ratio of the said judgment, the petitioner herein, having been selected through regular recruitment against sanctioned vacancies, cannot be regarded as temporary, ad hoc or casual employee.

8. Rule 2-A of the Rules of 1988 lays down as under:

"(2-A) Once an Ex-Serviceman has joined service on the post under the Government of Rajasthan after availing of the benefit of reservation, his Ex-Serviceman status for the purpose of re-employment in Government of Rajasthan would cease. After joining the employment under the Government of Rajasthan the person would be deemed to be a civil employee:

Provided that in case of direct recruitment where experience of a lower post is essential for any post the Ex-Serviceman shall not be debarred from the benefit of Ex-Serviceman category only because of being employed in government service on a lower post of which experience is required for the direct recruitment on the higher post.

Provided further that in case an Ex-Serviceman applies for various posts before joining any employment under the Government of Rajasthan and give





selfdeclaration/undertaking to concerned employer about the date-wise details of application for various posts for which he/she had applied for before the joining the initial post under the Government of Rajasthan, shall not be debarred from the benefit of Ex-Servicemen category for appointment on such posts.

Provided also that the Ex-Serviceman who has been re-employed on Casual/Contract/temporary/ad-hoc basis under the Government of Rajasthan shall not be debarred from the benefit of Ex-Servicemen category.

Explanation: For the purpose of this rule post under the Government of Rajasthan means post under, -

- (a) any department of the State Government or its attached or subordinate office;
- (b) any State Public Sector Enterprise owned or controlled by the State Government;
- (c) any Body established or constituted by the Constitution whose expenditure is met from the Consolidated Fund of the State; or
- (d) any Body or Board or Corporation or Authority or Society or Trust or Autonomous Body (by whatever name called) established or constituted by an Act of the State Legislature or a Body owned or controlled by the State Government."

9. The proviso to Rule 2-A of the Rules of 1988, on which the petitioner places reliance, extends the benefit of Ex-servicemen reservation to those who are re-employed under the Government of Rajasthan on casual, contract, temporary or ad hoc basis. The legislative intent behind this proviso is to ensure that ex-servicemen, who are engaged in non-regular employment, are not deprived of the benefit of reservation. It cannot be interpreted so as to include within its fold persons like the petitioner, who already hold a regular substantive post in State service, albeit on probation. To accept the petitioner's contention would lead to an anomalous situation where an employee, who has secured regular appointment under one department, continues to consume reserved opportunities in other recruitments, thereby frustrating the very object of reservation, which is to extend benefit to unemployed ex-servicemen.





10. The argument that the pay scale of VDO is lower than to that of Junior Accountant is also of no avail. Once a person has already secured regular appointment in public service, comparative attractiveness of another post does not entitle him to claim the benefit of reservation which stands exhausted. The policy rationale is that reservation operates as a one-time benefit to facilitate initial re-employment of ex-servicemen and not as a perpetual device for career progression within government service.

This Court is, thus, of the considered view that the petitioner, being already appointed substantively as VDO on probation, does not fall within the ambit of casual, temporary, contract or ad hoc employees as envisaged in the proviso to Rule 2-A of the Rules of 1988. His exclusion from consideration under the category of Ex-servicemen EWS is in consonance with the statutory scheme as well as the principles laid down in **Lokendra Singh (supra)**. No illegality or arbitrariness can be attributed to the action of the respondents.

11. Resultantly, in view of foregoing discussion, it is clear that the writ petition filed by the petitioner is devoid of any substance and merit and consequently, the same is hereby dismissed.

12. Pending applications, if any, also stand dismissed.

(ANAND SHARMA),J

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