



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

S. B. Civil Writ Petition No. 5531/2025

Divya Kumar S/o Shri Sunil Kumar Gupta, aged about 30 years,
resident of H.No. 19, S.M. Vihar (Shiv Nagar), Bharatpur,
Rajasthan

-----Petitioner

Versus

1. State of Rajasthan, through the Principal Secretary,
Medical & Health Department, Secretariat, Jaipur.
2. The Director, State Health and Family Welfare Institution,
Jaipur.
3. The Director (Non-Gazette), Medical and Health Services,
Rajasthan, Jaipur.
4. The Joint Director, Medical and Health Services, Bharatpur
Zone, Bharatpur.
5. The Chief Medical and Health Officer, Bharatpur.
6. The Medical Superintendent and Principal Medical Officer,
Govt. Medical College and Hospital, Bharatpur.

-----Respondents

For Petitioner	:	Mr. Tanveer Ahamad Advocate.
For Respondents	:	Mr. Archit Bohra Additional Government Counsel with Mr. Rahul Verma Advocate.

HON'BLE MR. JUSTICE ANAND SHARMA
Judgment

RESERVED ON	::	11.09.2025
PRONOUNCED ON	::	20.09.2025

1. The petitioner has preferred the present writ petition assailing order dated 11.03.2025 passed by the Director, Medical & Health Services, whereby his representation for grant of bonus marks towards experience on the post of Pharmacist has been rejected. The petitioner prays for quashing of the said order and issuance of a direction to the respondents to award him 15 bonus



marks for his services rendered as COVID Health Assistant (CHA) on the ground that the petitioner discharged duties similar to that of a Pharmacist.

2. The facts pleaded by the petitioner, in brief, are that pursuant to advertisement dated 05.05.2023 issued by the State Health and Family Welfare Institution, whereby applications were invited for recruitment on as many as 2859 posts of Pharmacist, he submitted his application form. As per the advertisement, the aspirants were required to possess Diploma in Pharmacy as well as registration as Pharmacist with the Pharmacy Council of Rajasthan. It was also prescribed that selection shall be based on merit of the respective candidates, which shall be assessed by adding 70% of the marks obtained in prescribed professional qualification with the bonus marks (maximum 30%) to be awarded on the basis of experience certificate issued by the Competent Authority in prescribed format, for the similar work performed by the candidate, in any of the schemes of the Medical and Health Department of the State Government, either on contract basis or on temporary basis through placement agency or through PPP mode etc.

3. The petitioner claims that he worked as COVID Health Assistant between 14.07.2021 and 31.03.2022 and in that capacity, he also undertook the work of drug distribution, which is similar to the work of Pharmacist. The petitioner relied on the experience certificate dated 18.05.2023 issued by the Medical Officer Incharge of the Urban Primary Health Centre, Anand Nagar, Bharatpur, wherein it was mentioned that he performed similar work to that of Pharmacist. It is the case of the petitioner



that such service experience entitles him for award of bonus marks in terms of the notification dated 23.05.2022 and the Government order dated 25.04.2023.

4. The respondents, however, have opposed the writ petition by contending that the experience certificate dated 18.05.2023 was issued by the Medical Officer Incharge, who was neither competent, nor authorised to issue such certificate under the Pharmacist Direct Recruitment-2023. The competent certificate dated 29.05.2023 was issued by the Chief Medical & Health Officer (CMHO), Bharatpur duly countersigned by the Joint Director, Medical & Health Services Department, Bharatpur Zone, Bharatpur. In that certificate dated 29.05.2023, against column 6.2, it is categorically recorded that the petitioner did not perform work similar to that of Pharmacist. The respondents further submit that the work of a COVID Health Assistant cannot be equated with the work of a Pharmacist, as their qualifications, responsibilities and nature of duties are fundamentally different.

5. Learned counsel for the petitioner has contended that while nomenclature of post may differ, it is the actual nature of work which should be considered. It was urged that during the COVID-19 pandemic, Covid Health Assistants were engaged in drug distribution, which brought their work within the ambit of "similar work" as envisaged under the recruitment notification.

6. Per contra, learned counsel for the respondents has relied upon the authoritative certificate of the CMHO dated 29.05.2023, which unequivocally reflected that the work performed by the petitioner as CHA was not similar to the post of Pharmacist. It was argued that in absence of a valid and





competent certificate showing similarity of work, the petitioner cannot claim bonus marks. It was further argued that the Hon'ble Supreme Court in ***Sajid Khan v. L. Rahmathullah (Civil Appeal No. 17308 of 2017 & other connected appeals decided on 20.02.2025)*** has held that equivalence of experience has to be strictly construed in accordance with the recruitment rules and that administrative authorities are the best judges to assess whether the experience claimed is in fact similar to the advertised post. Reliance has also been placed by learned counsel for the Respondents on another judgment of Hon'ble Supreme Court in the case of ***Union of India v. Uzair Imran & Others, 2023 SCC OnLine SC 1308***, wherein it was reiterated that judicial review under Article 226 does not extend to rewriting eligibility criteria or substituting the administrative assessment of equivalence of qualifications and experience.

7. Having considered the rival submissions and perused the record, this Court finds that the foundational claim of the petitioner rests on the experience certificate dated 18.05.2023 issued by the Medical Officer Incharge, Urban Primary Health Centre, Anand Nagar, Bharatpur. However, under the Pharmacist Direct Recruitment process, only the CMHO is competent to issue experience certificates, as clarified in the advertisement itself. Hence, certificate dated 18.05.2023 issued by the Medical Officer Incharge cannot be treated as a valid document for the purpose of awarding bonus marks.

8. The only valid certificate on record is the one dated 29.05.2023 issued by the CMHO, Bharatpur duly countersigned by the Joint Director, Medical & Health Services Department,



Bharatpur Zone, Bharatpur. In clear terms, the said certificate revealed that the work of the petitioner as CHA was not similar to that of Pharmacist. Once the competent authority has issued such a certificate, the claim of the petitioner stands negated on the face of it.

9. The contention of the petitioner that distribution of drugs during COVID-19 brings the work of CHA within the fold of "similar work" of Pharmacist cannot be accepted. A Pharmacist is a qualified Diploma Holder registered under the Pharmacy Act, 1948 entrusted with professional responsibilities of maintaining drug inventory, dispensing medicines with due caution, providing patient counselling and assisting in clinical management. A COVID Health Assistant, on the other hand, was engaged temporarily during the pandemic crisis to perform auxiliary duties including distribution of medicines and support services. The scope, training and statutory responsibilities of a Pharmacist and CHA are distinct and cannot be treated as interchangeable.

10. The Hon'ble Supreme Court in **Sajid Khan (supra)** has held that unless the recruitment rules specifically equate the nature of duties of two posts, a candidate cannot claim similarity merely on the basis of some overlapping functions. Similarly, in **Union of India v. Uzair Imran & Others (supra)**, it has been emphasised by the Hon'ble Supreme Court that courts, while exercising powers of judicial review, cannot stretch the recruitment conditions to accommodate candidates by assuming equivalence of experience, when the competent authority has found otherwise.



11. This Court also notices that the claim of the petitioner is essentially based on a disputed question of fact, namely, whether the work discharged by him as CHA is similar to that of Pharmacist. Such disputed factual determination, when settled by the competent authority against the petitioner, cannot be re-examined in writ jurisdiction unless shown to be perverse or mala fide. No such case has been made out here.

12. The argument that bonus marks are a matter of right also deserves to be rejected. Bonus marks are in the nature of a policy benefit governed by the recruitment rules. Unless the rules clearly provide, the Court cannot enlarge the scope of eligibility by judicial interpretation.

13. In the present case, as the competent authority has categorically observed that the petitioner did not perform similar work of Pharmacist, the denial of bonus marks cannot be termed arbitrary, illegal or unreasonable. On the contrary, the action of the respondents is in strict adherence to the advertisement and recruitment rules.

14. Accordingly, this Court finds that the petitioner has failed to establish any violation of his legal or constitutional rights. The writ petition is wholly devoid of merit and the same is liable to be dismissed.

15. Writ petition is accordingly dismissed.

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

(ANAND SHARMA),J

MANOJ NARWANI /