

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

S.B. Civil Writ Petition No. 13746/2025

Megha Kanwar Wife Of Shri Surendra Singh Chawra, Aged About 45 Years, Resident Of 55/1, Fort, Village Arjiya, District Bhilwara (Raj.).

----Petitioner

Versus

1. State Of Rajasthan, Through The Principal Secretary Department Of Finance, Government Secretariat, Jaipur-3020005 (Raj.).
2. Commissioner Department Of Commercial Taxes, Having Its Office At Kar Bhawan, Ambedkar Circle, Bhawani Singh Road, Jaipur-302005 (Raj.).
3. Additional Commissioner (Administration), Headquarter, Department Of Commercial Taxes, Government Of Rajasthan, Kar Bhawan, Ambedkar Circle, Bhawani Singh Road, Jaipur - 302005 (Raj.).
4. Deputy Commissioner (Administration), Commercial Tax Department, Bhilwara (Raj.)
5. Assistant Commissioner, Commercial Tax Department, Bhilwara (Raj.)
6. Commercial Tax Officer, Commercial Tax Department, Pratapgarh (Raj.)

----Respondents

For Petitioner(s)	:	Mr. Tanveer Ahmed
For Respondent(s)	:	Mr. Dheeraj Tripathi Mr. Kumarpal Gautam, Secretary Finance (Revenue) through VC

HON'BLE MR. JUSTICE RAVI CHIRANIA
Order**03/10/2025**

1. The Court issued notices to the respondents on 23.09.2025 and Additional Advocate General was directed to file reply in the matter.



2. Looking to the facts of the case that the husband of the petitioner, a Commercial Taxes Officer, suffered a Brain Hemorrhage in the year 2023 and thereafter, he is under treatment and in coma from the last more than two years and the respondents are not paying salary to her husband and also not reimbursing the medical bills without any justified reason, this matter was taken up today as an urgent case.

3. Looking to the serious medical condition of the husband of the petitioner, this Court instructed Mr. Dheeraj Tripathi, Assistant Government Counsel to ensure the presence of respondent No.2 before this Court physically or through VC mode. In view of the above noted circumstances, keeping into consideration the various directions issued by the Hon'ble Supreme Court regarding calling the senior officials in the Court matter physically or through VC, this Court called the concerned official looking to the gravity of the matter as noted above.

4. Mr. Kumarpal Gautam, Finance Secretary, Revenue, having additional charge of Commissioner, Department of Commercial Taxes, appeared through VC before this Court and submitted that he is not aware of the complete facts of the case however, the concerned employee has consumed all his medical and other leaves, therefore, as informed to him by his subordinates, payment of salary might not have been made. He assured this Court that he would look into the matter and would try to resolve the issue at the earliest at his end.

5. Before issuing any directions in this regard to the respondents, it would be apt to discuss the provisions of the Rights of Persons with Disabilities Act, 2016 (for short 'the Act of



2016') as applicable to the facts of the present case. Relevant section 20 of the Act of 2016 is reproduced as under:

20. Non-discrimination in employment.—(1) No Government establishment shall discriminate against any person with disability in any matter relating to employment:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this section.

(2) Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.

(3) No promotion shall be denied to a person merely on the ground of disability.

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(5) The appropriate Government may frame policies for posting and transfer of employees with disabilities.

Section 20(4) of the Act of 2016 mandates that no government establishment shall dispense with or reduce in rank any employee who acquires a disability during his or her service. The facts of the present case, as noted from the pleadings in the writ petition, shows that petitioner was last performing his duties as Commercial Taxes Officer without any medical problem however, he suffered Brain Hemorrhage in the year 2023 and on account of which he is in coma from the last more than two years. The family members took him to various hospitals for treatment, as mentioned in the writ petition, however his condition is stable and presently also he is in coma.

7. Mr. Tanveer Ahmed, counsel for the petitioner submits that ~~the department is aware of the fact that husband of the petitioner~~





is in coma from the last two years, despite this they are not paying him salary without any justified reason which is in violation of Section 20(4) of the Act of 2016 and Article 21 of the Constitution of India. Counsel further refers to a representation dated 22.07.2025, as submitted by the petitioner on behalf of her husband who is in coma, to the Principal Secretary, Finance, Commercial Taxes Department and other officials. However, despite knowing the serious medical condition of its own employee, the respondents paid no heed to the representation and have taken the present case as a routine matter. Counsel further submits that the husband of the petitioner is having 76% disability for which a unique disability card has also been issued by the Government along with the disability certificate issued by the Chief Medical & Health Officer, Bhilwara.

8. Counsel for the petitioner further submits that the issue as involved in the present case is not new rather well settled as Hon'ble Apex Court in various judgments have passed directions for providing salary and other service benefits in the case of government servants having serious medical condition and disability, considering the provisions of the Act of 2016. He further submits that the Coordinate Bench of this Court in a recent matter also issued certain directions to the concerned department for payment of salary and other benefits along with interest in the case of **Sunil Kumar Gupta Vs. State of Rajasthan & Ors (S.B. Civil Writ Petition No.9277/2021)** decided vide order dated 09.07.2025.

8.1 On the basis of the peculiar facts of this case and the law as laid down by the Hon'ble Supreme Court and Coordinate Benches





of this Hon'ble Court in the cases of medical ailment and permanent disability, considering the provisions of the Act of 2016 and mandate of Article 21 of the Constitution of India, the respondents needs to be directed to consider the grievance of the petitioner and pay the outstanding salary from August, 2024 and further reimburse all pending medical bills as per law. Counsel also submits that the petitioner be awarded compensation of Rs.1,00,000/- for the mental harassment as caused by the respondents for the illegal and arbitrary action, as pointed out in the petition.

9. This Court also heard Mr. Kumarpal Gautam, Finance Secretary, Revenue, who has appeared on a short notice of this Court, fairly stated that he is not aware about all the relevant facts of the case and therefore, assured that he would use his good offices to see that grievance of the petitioner who is wife of their employee is resolved in shortest possible time in accordance with law.

10. From the order sheets of this case, it is noted that the writ petition was filed in the last week of August, 2025 and the Coordinate Bench ordered to serve the copy of writ on AAG, who appears for the State Department. In the usual circumstances, the Courts decide the matters after taking the reply from the respondents however, as already mentioned above, deciding this matter in a routine way would cause further unnecessary hardship which is already continuing from the last more than two years and therefore, this Court deems it appropriate to dispose of this matter with certain directions to the respondents to resolve the



grievance of the petitioner in accordance with law within a reasonable time.

11. Before issuing directions, the judgment passed by the Hon'ble Supreme as referred by the counsel for the petitioner, needs a reference. The Hon'ble Apex Court in the case of **Bhagwan Dass & Anr. Vs. Punjab State Electricity Board- AIR 2008 SC 990** held as under:

"From the materials brought before the court by none other than the respondent-Board it is took the view that it was not right to continue a blind, useless man on the Boards rolls and to payhim monthly salary in return of no service. They accordingly persuaded each other that the appellant had himself asked for retirement from service and, therefore, he was not entitled to the protection of the Act. The only material on the basis of which the officers of the Board took the stand that the appellant had himself made a request for retirement on medical grounds was his letter dated July 17, 1996. The letter was written when a charge sheet was issued to him and in the letter he was trying to explain his absence from duty. In this letter he requested to be retired but at the same time asked that his wife should be given a suitable job in his place. In our view it is impossible to read that letter as a voluntary offer for retirement. Appellant No.1 was a Class IV employee, a Lineman. He completely lost his vision. He was not aware of any protection that the law afforded him and apparently believed that the blindness would cause him to lose his job, the source of livelihood of his family. The enormous mental pressure under which he would have been at that time is not difficult to imagine. In those circumstances it was the duty of the superior officers to explain to him the correct legal position and to tell him about his legal rights. Instead of doing that they threw him out of service by picking up a sentence from his letter, completely out of context. The action of the concerned officers of the Board, to our mind, was deprecable. We understand that the concerned officers were acting in what they believed to be the best interests of the Board. Still under the old mind-set it would appear to them just not right that the Board should spend good money on someone who was no longer of any use. But they were quite wrong, seen from any angle. From the narrow point of view the officers were duty bound to follow the law and it was not open to them to allow their bias to defeat the lawful rights of the disabled employee. From the larger point of view the officers failed to realise that the disabled too are equal citizens of the country and have as much share in its resources as any other citizen. The denial of their rights would not only be unjust and unfair to them and their families but would create larger and graver problems for the society at large. What the law permits to them is no charity or largess but their right as equal





citizens of the country. manifest that notwithstanding the clear and definite legislative mandate some officers of the Board."

12. Apart from the above judgment, the reference of the two judgments, as referred by the counsel for the petitioner also needs reference, as passed in the case of **Ummed Singh Vs. State of Rajasthan-2019 (4) RLW 3386** and **Sunil Kumar Gupta Vs. State of Rajasthan & Ors (S.B. Civil Writ Petition No.9277/2021)**. The judgments as passed by the Hon'ble Supreme Court in the case of **Bhagwan Dass (supra)** and by Coordinate Benches in **Ummed Singh (supra)** and **Sunil Kumar Gupta (supra)** show that in terms of the law as settled in the above cases, that the employer cannot run away from its responsibilities and duties to pay the salary and other benefits to an employee who has suffered disability for various reasons under the Act of 2016. The employer is required to pay all due service benefits including salary for which an employee is entitled under the law. The Coordinate Bench of this Court in the case of **Ummed Singh (supra)** specifically examined the provisions of Section 20(4) of the Act of 2016 and held as under:

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

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service: Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on am supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

4. From the perusal of the aforesaid it is apparent that the Parliament while enacting the said Act and the aforesaid section essentially intended that no government establishment would dispense with services of an employee who acquires disability during his service and have also provided what has to be done if the employee is found to be not suitable to perform his duties it proceeds to even come to the extent of directing to keep such a disabled employee on a supernumerary post.



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

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

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

13. The similar issue was further examined by the Coordinate Bench in the case of **Sunil Kumar Gupta (supra)** while again examining the provisions of Section 20(4) of the Act of 2016. In terms of the law as settled by the Hon'ble Supreme Court and in the two judgments of the Hon'ble High Court, as cited by the learned counsel for the petitioner, the issue is well settled and requires no further adjudication in regard to applicability of the law in this case. This Court has noted the serious medical condition of the husband of the petitioner and further that he has not been paid his salary from August, 2024 and more importantly,





respondents have not reimbursed the medical bills. As pointed out and cannot be disputed by the respondents that the cost of medical treatment in the case of a person who is in coma and continuously in bed and under treatment in the hospital, is very high and unbearable for a government servant who has not been paid salary for more than a year. Not making the payment of the due salary and not reimbursing the medical expenses is inhumane, arbitrary, unjustified and unreasonable on the part of the respondent-State Department specifically in the facts and circumstances of the present case.

Every person has a right to live a healthy and dignified life. The act of respondents in not making the payment of salary from August, 2024 and further not reimbursing the medical bills is in serious violation of Article 21 of the Constitution of India and the Act of 2016. The financial condition of a government servant who has not been paid salary from the last more than one year and is in coma from the last two years can easily be imagined by the respondents. Despite understanding the serious medical and poor financial condition, on account of the medical problem, the employee is going through, the respondents took no steps for resolving the grievance. They have completely failed in taking care of their employee who has worked for them with utmost dedication, honesty and integrity before his present medical condition. A sudden medical problem has declared the employee as a deadwood for the respondent- State Department and they are least bothered about his condition.

This Court is in pain noticing the inhumane and arbitrary approach and act of the respondents. Though in the usual





circumstances, as already mentioned above, the respondents would have been permitted to file the usual reply however, they would have taken further time in resolving the grievance of the petitioner which, as already mentioned above, hardly require any adjudication by this Court in terms of the law as laid down by the Hon'ble Supreme Court and the Coordinate Benches of this Court.

On the basis of the above discussion, the following directions are issued to the respondents:

(i) The respondents shall examine the case of the employee - Shri Surendra Singh Chawra, who is in coma from the last more than two years, regarding payment of due salary from August, 2024 and its concurrent payment in terms of the law as laid down by the Hon'ble Supreme Court in the case of **Bhagwan Dass (supra)**, and Coordinate Benches of this Court in **Ummed Singh (supra)** and **Sunil Kumar Gupta (supra)** along with the provisions of the Act of 2016 and applicable service conditions.

(ii) The consideration shall be made within a period of 7 days and on consideration, if the respondents find no real and genuine legal hurdle then they would make the payment of complete due amount against the salary and would reimburse all pending medical bills without any further delay.

(iii) The respondents are further directed to ensure that all future medical bills are also duly taken care of and paid at the earliest on submission without putting any administrative hurdles and obstacles.

(iv) This Court expect Mr. Kumarpal Gautam, Finance Secretary, Revenue, who appeared on a very short notice through



VC that he would use his good offices and would take all reasonable steps for compliance of the above directions.

14. The petition is, accordingly, disposed off. There shall be no order as to costs.

(RAVI CHIRANIA),J

RAHUL MIRKHANI/35

