



REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. OF 2025
[Arising out of SLP (C) No. 23529 of 2023]

PINKY MEENA ...APPELLANT(S)

VERSUS

**THE HIGH COURT OF ...RESPONDENT(S)
JUDICATURE FOR RAJASTHAN
AT JODHPUR & ANR.**

JUDGMENT

SATISH CHANDRA SHARMA, J.

1. Leave granted.
2. The present appeal is arising out of order dated 24.08.2023 passed in D.B.Civil Writ Petition No. 6752 of 2020 by the High Court of Judicature for Rajasthan Bench at Jaipur (hereinafter referred to as "High Court") dismissing the writ petition preferred by the appellant. The High Court by way of the aforesaid order

has declined relief to the appellant against show cause notice dated 17.02.2020 and the discharge order dated 29.05.2020.

3. The facts of the case reveal that the appellant before this Court is holding a degree in Bachelor of Arts, Bachelor of Education, Bachelor of Laws and Masters in Law, and was serving as Teacher Grade-II in the Education Department, Government of Rajasthan with effect from 30.12.2014. The facts further reveal that an advertisement was issued by the High Court inviting applications for the post of Civil Judge and Judicial Magistrate on 18.11.2017. Pursuant to her application for the post of Civil Judge and Judicial Magistrate, she was selected for the post in question. The appointment order was issued on 11.02.2019 and the appellant joined as a trainee RJS on 06.03.2019, and completed her training successfully on 07.03.2020. Vide order dated 06.03.2020, the appellant was kept under Awaiting Posting Order (“APO”) and later her headquarter was changed vide order dated 23.03.2020 from Jodhpur to District and Sessions Judge, Jaipur Metro. A notice was issued to her on 17.02.2020 directing her to furnish a pointwise explanation to certain queries raised by the High Court and a reply was submitted by her on 02.03.2020. The show cause notice was issued under Rule 16 of Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 and an Inquiry Report was also submitted in the matter. The Inquiry Report was

placed before the Full Court of the High Court, and the Full Court arrived at a conclusion not to continue the appellant in service as she was a probationer and no certificate in respect of completion of probation period was issued by the High Court. The appellant being aggrieved by the order discharging her from service dated 29.05.2020 preferred a writ petition before the High Court and the High Court has dismissed the same.

4. The show cause notice issued by the respondent sought explanation from the appellant on five counts which are detailed as under:

“a) While studying in LL.B. first year, the petitioner also obtained degree of B.Ed. in the same year, thus fraudulently succeeding in showing attendance in both the courses. The contention of the petitioner is that she did not obtain the degree of LL.B and B.Ed. in the same year. As per the Ordinance No.168A of the Ordinance Handbook of Rajasthan University, a candidate cannot appear in two main examinations in the same year. As per the petitioner, LL.B First Year Examination is not main examination for obtaining the degree of LL.B.

b) The petitioner while being in Government job as a Teacher did her LL.M. and again fraudulently succeeded in showing attendance in both the courses. The petitioner has given the explanation that she did not show her attendance fraudulently at

two places simultaneously because generally no regular classes are held for LL.M. in the University.

c) The petitioner concealed the fact of her employment in Government job as a Teacher in the checklist submitted at the time of interview of RJS. To this the petitioner has given her explanation to the effect that, there were no columns in Checklist for Interview wherein she was required to say that she was employed in Government service. The petitioner submitted that she had filled her checklist on 02.11.2018, whereas the petitioner submitted her resignation from the government service on 25-10-2018 and had stopped reporting to service.

d) The petitioner did not obtain any permission or 'No Objection Certificate' from the Education Department for appearing in the RJS Examination. To this the petitioner has given explanation that there is no provision in RJS Rules to obtain prior permission from the employer for appearing in RJS examination.

e) The petitioner upon selection in RJS concealed this information from the High Court as well as from Education Department and joined the judicial services after resignation on medical grounds. To this the petitioner has explained that as on the date of joining RJS, the petitioner was not in Government service, therefore, no information was required to be furnished by the petitioner."

5. The aforesaid allegations reveal that the appellant while in service of the Education Department of the State of Rajasthan

obtained LL.B. and B.Ed degree in the same year, obtained LL.M. degree while being in service as a teacher showing her attendance as a regular student, and did not obtain permission from the employer while participating in the RJS examination meaning thereby No Objection Certification was not obtained by her from the State Government. It was also alleged that she concealed her resignation from government service while joining as a Civil Judge.

6. Learned counsel for the appellant has vehemently argued before this Court that so far as the allegation in respect of completing LL.B. and B.Ed courses together is concerned, misconduct, if any, was committed by the appellant while serving the Education Department and not while on probation in the judicial service, but the Education Department has not taken any action in the matter and the same cannot be a ground to discharge her as a Civil Judge. Learned Senior Counsel for the appellant has also argued before this Court that the appellant at the relevant point of time when she submitted her application form was no longer in service in the Education Department of the State of Rajasthan and on the contrary, she has successfully completed her probation period without any blemish. Learned Senior Counsel has further argued that the appellant had resigned from the government job while joining the Rajasthan Judicial Service and in case the order is not set aside, she will be rendered jobless.

It has also been argued that she is a tribal girl and has proved her worth by clearing the Rajasthan Judicial Service examination, hence, no purpose is going to be served by throwing her out especially when she has completed her training with flying colours.

7. Learned Senior Counsel has vehemently argued before this Court that a show cause notice was certainly issued to the appellant and a detailed inquiry also took place in the matter which was conducted by the Registrar (Vigilance) and the said inquiry took place behind the back of the appellant without appointing a Presenting Officer or without giving any chance to the appellant to explain before the Inquiry Officer; no effective hearing was afforded to the appellant nor the inquiry report was furnished to the appellant.

8. Learned Counsel has placed reliance on *Shamsher Singh Vs. State of Punjab* 1974 (2) SCC 831 to contend that the order discontinuing the services of the appellant is a stigmatic order as it was based upon an inquiry report holding the appellant guilty of the alleged misconduct. The order is violative of principles of natural justice and fair play as well as violative of Article 311 of the Constitution of India.

9. Learned Senior Counsel has further argued before this Court that the present case is not a case where the appellant has

suppressed material information relating to any criminal incidents. He has drawn the attention of this Court towards the application form submitted by the appellant which is on record and his contention is that on the date the form was submitted by the appellant, she was not in government service. A prayer has been made by the appellant for setting aside the order of discharge as well as the order passed by the High Court of Rajasthan.

10. The Respondent/High Court of Judicature for Rajasthan at Jodhpur has filed a detailed and exhaustive reply and on oath has stated that the appellant has pursued B.Ed and LL.B. degree simultaneously which is not permissible as per the provisions of Ordinance 168-A and Ordinance 168-B of the Hand Book of University of Rajasthan and, therefore, the appellant has misconducted herself. The respondents have admitted the factum of issuance of advertisement for the post of Civil Judge cadre on 18.11.2017 and have stated that the requirement of obtaining ‘No Objection Certificate’ (“NOC”) from the employer was a necessary requirement and the appellant did not obtain an NOC before joining as a Civil Judge.

11. The respondents have further stated that the appellant while serving as a Government Teacher has pursued LL.M. from 2015 to 2017 and obtained degree from University of Rajasthan

as a regular student without obtaining permission from the Education Department, and therefore, she has again misconducted herself.

12. The respondents have stated that a fact finding report was prepared by the Registrar (Vigilance) after seeking an explanation from the appellant and the allegations levelled in the show cause notice were established in the inquiry report. The respondents have further stated that the appellant has failed to disclose her earlier status of a government teacher in the application form and, therefore, the Full Court was justified in passing a resolution to discontinue her services and consequently, the order of discharge was issued in the matter.

13. The respondents have placed heavy reliance on Rules 44, 45, and 46 of the Rajasthan Judicial Service Rules, 2010, to contend that the appellant was a probationer and her probation period has neither been extended nor has she been confirmed rightly by the respondents as the Full Court has held that she is unfit for confirmation. The respondents have also placed reliance upon Rule 14 of the Rajasthan Judicial Service Rules, 2010, which deals with "*Employment by irregular or improper means*". The respondents have further placed reliance on ***Raj Kumar Vs. Union of India (1968) 3 SCR 857; Rajasthan Rajya Vidyut Prasaran Nigam Ltd. Vs. Anil Kanwariya (2021) 10 SCC 136;***

Hari Singh Mann Vs. State of Punjab AIR 1974 SC 2263; State of Punjab and another Vs. Sukh Raj Bahadur (1968) 3 SCR 234; and H.F.Sangati Vs. Registrar General, High Court of Karnataka (2001) 3 SCC 117; Rajesh Kohli Vs. High Court of Jammu & Kashmir and others (2010) 12 SCC 783; and Rajasthan High Court, Jodhpur Vs. Akashdeep Morya & Anr. 2021 INSC 485 and prayed for dismissal of the writ petition.

14. Heard learned counsel for the parties at length and perused the case file thoroughly.

15. The undisputed facts of the case reveal that the appellant belongs to the Scheduled Tribe category and holds a Bachelor degree in Arts, Bachelor degree in Law, Bachelor degree in Education and Master's degree in Law. The appellant started her service career on 30.12.2014 by joining as a Government Teacher Grade-II in the Education Department of the Government of Rajasthan. The advertisement was issued on 18.11.2017 inviting applications for the Rajasthan Judicial Service Examination – 2017 and the appellant did submit her application in the prescribed form for the post in question. The appellant was successful in the preliminary examination and it is noteworthy to mention here that the appellant was also suffering from lymphadenopathy tuberculosis during this period. She was successful in the main examination as well and thereafter, was

called for the interview on 09.10.2018. The appellant submitted her resignation vide letter dated 25.10.2018 from the post of Grade-II Teacher which was accepted on 28.12.2018. The appellant, at the time of interview, submitted a check list of documents provided by the Deputy Registrar (Examination) of the Rajasthan High Court, on 02.11.2018 and the appellant on the said date had resigned from her employment and, therefore, she has not mentioned about her being in government service in the check list. The final result was declared on 04.11.2018 declaring the appellant as a successful candidate.

16. Unfortunately, one Mr. Abhishek Verma filed a complaint against the appellant before the Rajasthan High Court, Jodhpur and this was the triggering factor for the entire action against the appellant herein. The appellant was appointed as a Civil Judge and Judicial Magistrate by an order dated 11.02.2019 on probation for a period of two years and she successfully completed one year RJS induction training from 06.03.2019 to 07.03.2020. Again, a complaint was filed by one Mr. Ram Niwash Meena on 22.03.2019 against the appellant before the High Court of Judicature for Rajasthan at Jodhpur and based upon the complaint of Mr. Ram Niwash Meena, Registrar (Vigilance) issued a show cause notice on 17.02.2020. The appellant did submit her reply to the show cause notice and an inquiry was held *without* participation of the appellant; however,

the inquiry officer granted a personal hearing to the appellant. The appellant was not issued any posting order and finally the Full Court based upon the said inquiry report arrived at a conclusion to discontinue the appellant from service by holding that she is not fit for confirmation in the Rajasthan Judicial Service and finally a discharge order was issued against her on 29.05.2020. Against the discharge order, the appellant filed a writ petition before the High Court, however, the same was dismissed which is impugned before this Court.

17. This Court has carefully gone through the show cause notice dated 17.02.2020 issued to the appellant and a bare perusal of the same establishes that misconduct, if any, in respect of obtaining LL.B. and B.Ed degree simultaneously relates to the service period prior to being a Judicial Officer. Similarly, in respect of LL.M. degree also, she was not a Judicial Officer and she was serving as a Teacher Grade-II in the Education Department of Government of Rajasthan. So far as the allegation with regarding to suppression of material information regarding past government service, the appellant submitted resignation on 25.10.2018 from the post of Teacher Grade-II and on the date of interview i.e. on 02.11.2018, she was required to furnish certain information as per the check list and it is a fact that on the date of interview, she was no longer a government servant as she had tendered her resignation and in those circumstances, there is

certainly an omission on the part of the appellant in not mentioning about her past record of government service.

18. This Court is of the considered opinion that as the appellant had submitted her resignation on 25.10.2018 much prior to her interview, which was conducted on 02.11.2018, the question of disclosing the past government service is certainly not a material irregularity or a serious misconduct for which she ought to be discharged from service especially when she has successfully completed her training without any blemish. Another important aspect of the case is that the appellant was suffering from lymphadenopathy tuberculosis since March 2018, and she was admitted to the hospital on and off and, therefore, the alleged suppression should not come in her way leading to discharge from service. This is certainly not a case where the appellant has suppressed criminal antecedents, which may materially affect her commitment to the judiciary.

19. The appellant has not submitted an NOC from the employer and an explanation has rightly been furnished by the appellant before this Court as well as the Inquiry Officer that at the relevant point of time when she appeared for the interview and when the result was declared, she had submitted her resignation. In the considered opinion of this Court, non-

disclosure of past government service cannot be a ground for discharging the appellant.

20. Rules 44, 45 and 46 of the Rajasthan Judicial Service Rules reads as under:

“44. Probation.- *All persons appointed to the service in the cadre of Civil Judge and District Judge by direct recruitment shall be placed on probation for a period of two years:*

Provided that such of them as have previous to their appointment to the service officiated on temporary post in the service may be permitted by the Appointing Authority on the recommendation of the Court to count such officiation or temporary service towards the period of probation.

45. Confirmation.- *(1) A probationer appointed to the service in the cadre of Civil Judge shall be confirmed in his appointment by the Court at the end of his initial or extended period of probation, if the Court is satisfied that he is fit for confirmation.*

(2) A person appointed to the service in the cadre of Senior Civil Judge by promotion shall be substantively appointed by the Court in the cadre as and when permanent vacancies occur.

(3) A probationer appointed to the service in the cadre of District Judge by direct recruitment shall be confirmed in his appointment by the Court at the end of his initial or extended period of probation, if the Court is satisfied that he is fit for confirmation.

(4) A person appointed to the service in the cadre of District Judge by promotion on the basis of merit-cum-seniority or by Limited Competitive Examination shall be confirmed in his appointment by the Court on availability of permanent vacancies in the cadre.

46. Unsatisfactory progress during probation and extension of probation period. - (1) *If it appears to the Court, at any time, during or at the end of the period of probation that a member of the service has not made sufficient use of the opportunities made available or that he has failed to give satisfactory performance, the Appointing Authority may, on recommendations of the Court, discharge him from service: Provided that the Court may, in special cases, for reasons to be recorded in writing, extend the period of probation of any member of the service for a specified period not exceeding one year.*

(2) An order sanctioning such extension of probation shall specify the exact date up to which the extension is granted and further specify as to whether the extended period will be counted for the purpose of increment.

(3) If the period of probation is extended on account of failure to give satisfactory service, such extension shall not count for increments, unless the authority granting the extension directs otherwise.

(4) If a probationer is discharged from service during or at the end of the initial or extended period

of probation under sub-rule (1), he shall not be entitled to any claim whatsoever."

21. Rule 46 deals with unsatisfactory progress during probation and extension of probation period. The aforesaid statutory provision of law certainly empowers the employer to extend the probation period and in case the performance of an employee during the probation period is unsatisfactory, it also gives a right to the employer to discharge the probationer. It is nobody's case that the performance of the appellant during the probationary period was unsatisfactory. In fact, she has successfully completed her training with flying colours and, therefore, by no stretch of imagination could her services be put to an end in the manner and method it has been done by the respondents.

22. The respondents have also placed heavy reliance on Rule 14 of the Rajasthan Judicial Service Rules, 2010, which reads as under:

"14. Employment by irregular or improper means.- A candidate who is or has been declared by the Recruiting Authority or the Appointing Authority, as the case may be, guilty of impersonation or of submitting fabricated or tampered with documents or of making statements which are incorrect or false or of suppressing material information or using or attempting to use

unfair means in the examination or interview or otherwise resorting to any other irregular or improper means for obtaining admission to the examination or appearance at any interview shall, in addition to rendering himself liable to criminal prosecution, be debarred either permanently or for a specified period,-

(a) by the Recruiting Authority or the Appointing Authority, as the case may be, from admission to any examination or appearing at any interview held by the Recruiting Authority for selection of candidates, or

(b) by the Government from employment under the Government.”

23. This Court has carefully gone through the aforementioned statutory provision of law which deals with employment by irregular or improper means. In the present case, at the best, it can be held that there was an omission on the part of the appellant in informing the employer about her past government service. Further, a reasonable explanation has also been provided by the appellant regarding her past government service by stating that at the time of submission of check list, the appellant was not in government service and, therefore, in those circumstance, she was not required to mention the same. In the considered opinion of this Court, the appellant has been awarded capital punishment for a minor irregularity (omission).

24 The services of a probationer could result either in a confirmation in the post or ended by way of termination *simpliciter*. However, if a probationer is terminated from service owing to a misconduct as a punishment, the termination would cause a stigma on him. If a probationer is unsuitable for a job and has been terminated then such a case is non-stigmatic as it is a termination *simpliciter*. Thus, the performance of a probationer has to be considered in order to ascertain whether it has been satisfactory or unsatisfactory. If the performance of a probationer has been unsatisfactory, he is liable to be terminated by the employer without conducting any inquiry. No right of hearing is also reserved with the probationer and hence, there would be no violation of principles of natural justice in such a case.

25. As noted, if a termination from service is not visited with any stigma and neither are there any civil consequences and nor is founded on misconduct, then, it would be a case of termination *simpliciter*. On the other hand, an assessment of remarks pertaining to the discharge of duties during the probationary period even without a finding of misconduct and termination on the basis of such remarks or assessment will be by way of punishment because such remarks or assessment would be stigmatic. According to the dictionary meaning, stigma is indicative of a blemish, disgrace indicating a deviation from a norm. Stigma might be inferred from the references quoted in the

termination order although the order itself might not contain anything offensive. Where there is a discharge from service after prescribed probation period was completed and the discharge order contain allegations against a probationer and surrounding circumstances also showed that discharge was not based solely on the assessment of the employee's work and conduct during probation, the termination was held to be stigmatic and punitive *vide Jaswantsingh Pratapsingh Jadeja vs. Rajkot Municipal Corporation, (2007) 10 SCC 71.*

26. Even though a probationer has no right to hold a post, it would not imply that the mandate of Articles 14 and 16 of the Constitution could be violated inasmuch as there cannot be any arbitrary or discriminatory discharge or an absence of application of mind in the matter of assessment of performance and consideration of relevant materials. Thus, in deciding whether, in a given case, a termination was by way of punishment or not, the courts have to look into the substance of the matter and not the form.

27. Further, the order discharging the appellant from service violates principles of natural justice, as the appellant was not provided an opportunity to be heard during the enquiry that was required to be conducted. At this juncture, reliance is placed on

Shamsher Singh v. State of Punjab (1974) 2 SCC 831, which clarified that:

“No abstract proposition can be laid down that where the services of a probationer are terminated without saying anything more in the order of termination than that the services are terminated it can never amount to a punishment in the facts and circumstances of the case. If a probationer is discharged on the ground of misconduct, or inefficiency or for similar reason without a proper enquiry and without his getting a reasonable opportunity of showing cause against his discharge it may in a given case amount of removal from service within the meaning of Art. 311 (2) of the Constitution.”

28. To holistically understand women's effective participation in the Judiciary, it is important to look at three main phenomena: (I) the entry of women into the legal profession; (II) the retention of women and growth of their numbers in the profession; and (III) the advancement of women, in numbers, to senior echelons of the profession.

29. Many have stressed that increased diversity within a judiciary, and ensuring judges are representative of society, enables the judiciary as a whole to better respond to diverse social and individual contexts and experiences. **It is a recognition of this fact that a greater representation of women in the judiciary, would greatly improve the overall quality of judicial decision making**

and this impacts generally and also specifically in cases affecting women.

30. Advancing women's greater participation in the judiciary also plays a role in promoting gender equality in broader ways:

- a. *Female judicial appointments, particularly at senior levels, can shift gender stereotypes, thereby changing attitudes and perceptions as to appropriate roles of men and women.*
- b. *Women's visibility as judicial officers can pave the way for women's greater representation in other decision-making positions, such as in legislative and executive branches of government.*
- c. *Higher numbers, and greater visibility, of women judges can increase the willingness of women to seek justice and enforce their rights through the courts.*

31. The country will greatly benefit from a judicial force that is competent, committed and most importantly, diverse. The appellant has shown great perseverance by fighting societal stigmas and gaining a rich education that will ultimately benefit the judicial system and the democratic project. This Court is of the opinion in the peculiar facts and circumstances of the case that the impugned show cause notice as well as the order of discharge deserve to be set aside and are accordingly set aside.

32. Accordingly, the appeal is allowed and the show cause notice dated 17.02.2020 and the discharge order dated 29.05.2020 are quashed. The appellant shall be entitled to reinstatement in service forthwith with all consequential benefits, including, fixation of seniority as per the merit list in the examination in question, notional fixation of pay, except back wages. It is further clarified that the respondent shall treat the appellant as to have successfully completed her probation period and the appellant shall be treated as a confirmed employee.

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

.....J.
[**B.V. NAGARATHNA**]

.....J.
[**SATISH CHANDRA SHARMA**]

NEW DELHI
May 22, 2025.