



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

S.B. Civil Writ Petition No. 1908/2022

Tikendra S/o Shri Om Prakash, Aged About 36 Years, R/o Kauthawas, Mohalla Pisangan, Police Station Pisangan District Ajmer.

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of Medical And Health, Govt. Of Rajasthan, Govt. Secretariat, Jaipur.
2. Director Medical And Health, Swasthya Bhawan, Tilak Marg, C-Scheme, Jaipur.
3. Chief Medical And Health Officer, Ajmer, Rajasthan.
4. Block Chief Medical Officer, Pisangan, Ajmer.
5. Senior Medical Officer, In-Charge Community Health Center, Pisangan, Ajmer.

-----Respondents

For Petitioner(s)	:	Mr. Ramdhan Choudhary through VC
For Respondent(s)	:	

HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL

Order

07/02/2022

This writ petition has been preferred assailing the legality and validity of the order (letter) dated 06.01.2022 containing an information that as on date, the post of temporary Helper in Drug Distribution Centre (DDC), Community Health Centre, Pisangan, Ajmer, is not vacant.

The facts in brief, as emerge in the writ petition, are that in pursuance of advertisement dated 27.09.2011 inviting applications for appointment on the post of Pharmacist and Helper on temporary contract basis, the petitioner was appointed as Helper in the office of Chief Medical Officer, Government Satellite Hospital, Ajmer. On an earlier occasion, when the petitioner felt



threat to his service, he preferred a Writ Petition No.8975/2014 wherein, a Coordinate Bench of this Court, vide its order dated 17.09.2015, directed the respondents to continue the petitioner till continuation of the scheme subject to number of sanctioned post of employees in order of the date of engagement. Thereafter, the petitioner was convicted by the Court of learned Additional Sessions Judge (Women Atrocities Cases), Ajmer in Sessions Case No.78/2016 (CIS No.272/2016) vide its judgment dated 23.10.2021 under Sections 498-A, 304-B & 406 IPC and Section 3/4 of the Dowry Prohibition Act, 1961 (for brevity "the Act of 1961") and was sentenced to maximum term of seven years. The sentence has been suspended by this court vide its order dated 17.12.2021 in SB Criminal Appeal No.1748/2021. Thereafter, the petitioner applied with the respondents to permit him to rejoin on the post of Helper whereupon, the Senior Medical Officer, In-charge, Community Health Centre, Pisangan has, vide its letter dated 06.01.2022 impugned in the writ petition, apprised the Block Chief Medical Officer, Pisangan that on account of pendency of criminal case, his services were terminated vide order dated 12.09.2016 and vide order dated 14.10.2016, another person was appointed against the vacant temporary post of Helper and as on date, there was no vacancy of Helper.

Learned counsel for the petitioner contended that he is entitled for reinstatement/rejoin on account of suspension of the sentence awarded to him by the learned trial Court vide its judgment dated 23.10.2021. He submitted that the petitioner has almost five years experience on the post of Helper and hence, the writ petition be allowed and the respondents may be directed to permit him to rejoin on the post of Helper.



Heard and considered.

Indisputably, the petitioner was appointed as Helper on purely contractual basis and his services have been terminated vide order dated 12.09.2016 which has not been challenged by him. A perusal of the letter dated 06.01.2022 reveals that in his place, one Shri Mahendra Kumar Prajapat has already been appointed on contract basis vide order dated 14.10.2016 who is still working and no post of Helper is vacant in the office. In view thereof, the petitioner is not entitled for reinstatement/rejoining on a temporary post on which he was appointed on purely contractual basis which, as a matter of fact, is not vacant also as on date. Learned counsel for the petitioner could not satisfy this Court as to his legal right to rejoin/reinstatement. Even otherwise also, the petitioner stands convicted under Sections 498-A, 304-B & 406 IPC and Section 3/4 of the Act of 1961 and vide order dated 17.12.2021, this Court has stayed sentence only; but, the order of conviction involving moral turpitude still stands and hence, he has no right to rejoin.

There is another aspect of the matter. The letter dated 06.01.2022 simply informs the Block Chief Medical Officer as to unavailability of vacancy on the post of temporary Helper in the office which cannot be said to be in violation of any of the rights of the petitioner, in absence of his claim as to the information being false.

In view thereof, this writ petition is devoid of merit and is dismissed accordingly.

(MAHENDAR KUMAR GOYAL),J