



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 4591/2025

Bharti Jain W/o Late Shri Sumati Lal Kothari, Aged About 61 Years, R/o Near Jain Temple, Ganesh Chowk, Aspur, District Dungarpur, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Department Of Education, Government Of Rajasthan, Secretariat, Jaipur, Rajasthan.
2. The Director, Elementary Education, Bikaner, Rajasthan.
3. The District Education Officer (Elementary Education), District Dungarpur, Rajasthan.
4. The Block Elementary Education Officer, Panchayat Samiti Aspur, District Dungarpur, Rajasthan.
5. The Additional Director, Department Of Pension And Pensioners Welfare, Udaipur, Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Keshav Bhati
For Respondent(s)	:	Mr. Mahaveer Prasad Pareek, AGC Mr. D.S. Sodha

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Order

18/07/2025

1. Heard learned counsel for the petitioner.
2. Learned counsel for the petitioner submits that the controversy involved in the present case is squarely covered by a judgment dated 26.09.2024 rendered by this Court in **S.B. Civil Writ Petition No.4448/2024 (Ramprasad Gurjar Vs. The State of Rajasthan & Ors.)** in the following terms:-

"Provisions of Rule 12(b) of the Rules of 1996 read as under:-

"Rule 12. Commencement of qualifying service



(a) Except for compensation gratuity, a Government servant's service does not qualify till he has completed eighteen years of age.

(b) Subject to the provisions of these Rules, the qualifying service of a Government servant shall commence from the date he takes over charge of the post to which he is first appointed, either substantively or in an officiating or temporary capacity."

A bare perusal of Clause (b) of Rule 12 indicates that qualifying service of a Government servant shall commence from the date he takes charge on the post, for which, he is first appointed, either substantively or in an officiating or temporary capacity.

The term temporary post has been defined in Rule 7(35) of the Rajasthan Service Rules, 1951 ('Rules of 1951'), which reads as under:-

"Temporary post – means a post carrying a definite rate of pay sanctioned for a limited time."

The order of appointment of the petitioner dated 09.05.1985 reads as under:-

"कार्यालय आदेश

नियोजन कार्यालय के सूची में से निम्नलिखित आषार्थियों की प्रतिदिन अधिकतम 234/- प्रतिमाह कार्यग्रहण करने की तिथि से उनके नाम के सम्मुख अंकित विद्यालय में नियुक्त किया जाता है ये नियुक्तिया पूर्णतया अस्थायी है। बिना नोटिस इनकी सेवाये समाप्त की जा सकती है। दैनिक भत्ते पर की गई सेवाये नियमित राज्य कर्मचारी पद प्राप्त करने का आधार नहीं माना जायेगा। इन्हें पदस्थापन स्थान पर दिनांक 16.5.85 तक कार्यग्रहण करना होगा। अन्यथा नियुक्ति आदेश स्वत ही निरस्त समझे जायेगे।

संस्था प्रधान इनके कार्य एवं व्यवहार से संबंधित टिप्पणी प्रति माह की उपस्थिति के साथ संबंधित अधिकारी को प्रेषित करेंगे।"

A perusal of the terms above would clearly indicate that the petitioner was granted appointment on temporary post and once the appointment has been made on temporary post, in terms of Rule 12(b) of the Rules of 1996, the petitioner is entitled to get the said period counted towards his qualifying service.

In the case of Keshrimal Soni (supra), this Court after noticing the provisions of Rule 12(b) of the Rules of 1996 came to the following conclusion/ordered as under:-

"On perusal of above provision, it is abundantly clear that respondents cannot deny the benefit of pension on account of service tendered on urgent temporary basis. The respondents are under an obligation to take into account the service period of the petitioner in which he rendered service on temporary basis for the purpose of calculating qualifying service for pension. Therefore, this writ petition is disposed of



with direction to the respondents to consider the case of petitioner in the light of rule 12(b) of the Rules of 1996 and pass appropriate orders for the purpose of pension, within a period of three months from today and grant all benefits in accordance with law.”

In view of the above discussion, the writ petition filed by the petitioner is allowed. The respondents are directed to take into consideration the period from 06.06.1988 when the petitioner was appointed on temporary post for the purpose of calculating his qualifying service and grant him consequential benefits in accordance with law. Needful be done by the respondents within a period of two months.”

3. Learned counsel for the respondents is not in a position to refute the submissions made by learned counsel for the petitioner.
4. In view of the submissions made before this Court, the present writ petition is disposed of in terms of the judgment rendered by this Court in the case of **Ramprasad Gurjar** (supra).

(VINIT KUMAR MATHUR),J