

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

S.B. Civil Writ Petition No. 4667/2025

Ankit Mutha S/o Sh. Om Prakash Mutha, Aged About 33 Years,
Resident Of Outside Mutho Ki Bari, Near Mahi Gate, Nagaur
(Raj.)

-----Petitioner

Versus

1. State Of Rajasthan, Through The Principal Secretary,
Department Of Finance, Government Of Rajasthan,
Secretariat, Jaipur.
2. Director-Cum-Ex-Officio Joint Secretary, Department Of
Treasury And Accounts, Government Of Rajasthan,
Secretariat, Jaipur.

-----Respondents

For Petitioner(s)	:	Mr. Harish Kumar Purohit
For Respondent(s)	:	Mr. Mahaveer Bishnoi, AAG

HON'BLE MR. JUSTICE ARUN MONGA

Order

25/05/2026

1. The petitioner herein seeks quashing of the impugned order dated 10.02.2025 (Annexure-1) as illegal and direction to the respondents to appoint the petitioner to the post of Junior Accountant against the quota of Ministerial Employees in General Category from the date less meritorious persons were appointed, with all consequential benefits.
2. Learned counsel Mr. Dinesh Kumar Ojha, appearing on behalf of the petitioner would submit that the controversy involved herein has already been settled by a co-ordinate Bench of this Court at Jaipur vide judgment dated 09.09.2025 : **D.B. Civil Writ Petition No.348/2025 (Mayank Tiwari vs. State of Rajasthan & Ors.)**. Learned counsel for the respondents does not dispute the said submission.

3. The relevant portion of the judgment dated 09.09.2025 is reproduced as under :

"6. The controversy, therefore, narrows down to the core question whether a regularly selected probationer can be considered as holding a post substantively for the purposes of Rule 6(iii), and consequently, whether the exclusion of the petitioners despite higher merit can be sustained or not?

7. The legal position is that Rule 6(iii) of the 1963 Rules reserves 12.5% of the Junior Accountant posts for Ministerial Staff "holding a post in the cadre substantively." In the case of Lokendra Singh v. State of Rajasthan, S.B. CWP No. 10008/2017 decided on 30.11.2017, this court held that where employees have undergone due selection against substantive vacancies, they cannot be treated as not substantively appointed merely because no order of confirmation or lien exists at the relevant time. The Court categorically rejected the argument that absence of confirmation or lien bars consideration under the 12.5% Ministerial quota and declared that a probationer employee should be treated as holding a post of substantive capacity if appointed after due selection. Treating such candidates as not substantively appointed and denying them consideration for the quota was held to be a wrong interpretation of the rules. The absence of confirmation or lien at the time of application was held immaterial. This ratio was followed in Rekha Ram v. State of Rajasthan (S.B. Civil Writ Petition No. 7711/2017 and other cognate matters decided on 04.12.2017) involving JA/TRA recruitment. Aforesaid order dated 04.12.2017 passed by the Single Judge was unsuccessfully challenged by the State by preferring D.B. Civil Special Appeal (Writ) No. 292/2018 (State of Rajasthan Vs. Rekha Ram), which was dismissed on 05.02.2018 and further, even SLP No. 12269/2018 filed by the State Government was also dismissed by the Hon'ble Supreme Court vide order dated 05.10.2018.

8. The settled interpretation of the expression "substantively" in Rule 6(iii) thus attaches to the nature and source of appointment, i.e., regular selection against sanctioned vacancies, and not to the stage of confirmation or acquisition of lien.

9. On the admitted facts, the petitioners were regularly appointed to ministerial posts pursuant to due process and were serving on probation. In view of above judgment of Lokendra Singh (supra), such persons are to be considered as holding the post substantively, since probation status is only a phase in the tenure preceding confirmation and does not denude the substantive character of the appointment. The respondents' contrary view, equating probation with non-substantive status, stands foreclosed by the above binding ratio. The insistence on confirmation on the last date of application does not assist the respondents, for as of that date the petitioner was already a regularly appointed Ministerial employee. Substantive appointment under the Rules nowhere indicates confirmation of the employee after completion of the probation period.

10. The cut-off date mentioned in the advertisement concerns existence of eligibility and not stage of confirmation. Hence, it can be deduced that ME eligibility was already in existence on 26.07.2023. It can, therefore, safely be held that regularly appointed probationers do hold the post substantively for Rule 6(iii), and the view treating probation as disqualification for ME category is contrary to law.

11. Once ME eligibility is established, selection must proceed strictly on merit within the quota. Both the petitioners scored more than the notified ME cut-off of 584.7545 and the record shows that candidates with lower marks were included, hence, the exclusion of the petitioners is patently irrational and illogical. Having permitted the petitioners to compete in the ME category, evaluated them and declared category-wise cut-offs, the only lawful ground to refuse their inclusion could have been objective ineligibility. As probationary status is no bar in law for consideration of the

candidates in the category of ME, therefore, denial of inclusion amounts to manifest arbitrariness and non-application of mind.

12. *The preliminary objections raised by the respondents are without merit. It was contended that the petitioner has not challenged the advertisement or rules, but no such challenge was necessary as they only seeks correct application of Rule 6(iii) of the Rules of 1963. It was argued on behalf of State that the entire recruitment was handled by the Board, but administrative allocation of responsibility does not exclude an illegal decision from judicial review. Finally, the contention that a probationer is not eligible has already been overruled in the decision of Lokendra Singh (supra), which held that confirmation or lien is not a pre-condition to being treated as substantively appointed.*

In view of the above, crux of the above discussion is 13. that for the purposes of Rule 6(iii) of the 1963 Rules, a Government Ministerial employee appointed after due selection against substantive vacancies is to be treated as holding the post substantively even while on probation and notwithstanding absence of confirmation or lien. Such an employee is eligible for consideration under the 12.5% Ministerial Employees quota.

14. *Applying the settled law, the writ petitions deserve to be allowed and the same are hereby allowed. The final selection list dated 17.12.2024 is quashed to the extent it excludes the petitioners from the Ministerial Employees category on the ground of probationary status. The respondents are directed to recompute and revise the ME category selection for JA/TRA under the 2023 recruitment by including the petitioners as per their merit and since they have secured more marks against the cut-off of 584.7545, therefore, respondents are directed to issue appointment order on the post of Junior Accountant/Tehsil Revenue Accountant, if otherwise found suitable, within a period of two months from the date of receipt of certified copy of this order. The petitioners shall be entitled to all consequential and notional benefits, including seniority vis-à-vis candidates lower in merit who have already been appointed; however, no back-wages shall be payable in the absence of actual service, and monetary benefits shall flow prospectively from the date of appointment, while seniority shall be fixed according to merit position. There shall be no order as to costs.."*

4. Since, the controversy involved herein is squarely covered by the judgment, *ibid*, the present writ petition is also disposed of in the same terms.

5. Any pending applications also stand disposed of.

(ARUN MONGA),J