

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

S.B. Civil Writ Petition No. 6787/2026

Mohammed Aslam S/o Shri Mohammed Sulemani, Aged About
49 Years, R/o Diddu Sipahiyo Ka Mohalla, Songiri Kue Pass,
Bikaner, Rajasthan.

-----Petitioner

Versus

1. The State Of Rajasthan, Through The Secretary Medical
And Health Department, Secretariat, Jaipur, Rajasthan.
2. The Director, Medical And Health Services, Jaipur,
Rajasthan.
3. The Secretary, Department Of Personnel, Government Of
Rajasthan, Jaipur.
4. The Chief Medical And Health Officer, Bikaner, Rajasthan.
5. The Principal And Controller, Sardar Patel Medical Science
College, Bikaner.
6. Superintendent, P.b.m. Hospital, Bikaner.

-----Respondents

For Petitioner(s)	:	Mr. Naman Mohnot Ms. Manisha Phophaliya
For Respondent(s)	:	-

HON'BLE MR. JUSTICE FARJAND ALI

Order

27/03/2026

1. By way of filing the instant writ petitions, the petitioner has
made the following prayers:-

“(i) By an appropriate writ, order or direction, the
respondents be directed to confer the benefits and
grant fixation of their salary of Selection Grades after
completion of 9, 18 and 27 years of service in the
upgraded pay scales counting their services w.e.f. the

date of their initial appointment with all consequential benefits including arrears of salary;

(ii) Any other appropriate writ, order or direction, the respondents be directed to count the services of the petitioner rendered by him as Nurse Grade II in the same department under the Rules of 1965 for all purposes including pension, seniority, gratuity, commutation of leave etc. and to confer him all the benefits accruing from the past services rendered by him in the department of Medical and Health as Medical Officer under the Rules of 1965;

(iii) Any other appropriate writ or order or direction which is favorable to the petitioner in the facts and circumstances of the case may kindly be granted to the petitioner.

(iv) Costs of the litigation be allowed in favour of the petitioner."

2. Indisputedly the petitioner's recruitment process got commenced with the advertisement dated 11-12.01.2010 issued by the respondent department. The controversy and principal issue involved in this case has already been dealt with by a Division Bench of this Court in D.B. Civil Special Appeal (Writ) No.380/2016 titled as ***State of Rajasthan & Ors. Vs. Dr. Dinesh Kumar Soni*** and it is apprised to this court that an SLP as well as review in the SLP against the order above have been dismissed. Observing all those things in a judgment rendered in a batch of Special Appeal Writs led by **D.B. Spl. Appl. Writ No.532/2016 (The State of Rajasthan & Ors. vs. Dr.**

Paritosh Ujjwal & Ors.), Hon'ble the Division Bench while considering the nature of appointment, existence of cadre, post upon which appointment was made and upon making observance on following up the entire procedure, i.e., inviting of applications etc., dismissed the appeals filed by the State. In **Dr. Paritosh Ujjwal** (supra), the Division Bench while dealing with akin facts, while relying upon the Apex Court judgment in the case of **Jaggo v. Union of India & Ors.; (2024) SCC ONLINE SC 3836**, observed as under:-

"25. Though appellants has taken conflicting stands as to the writ petitioner being engaged on contractual or urgent temporary engagement or ad-hoc basis, the fact is that the writ petitioner performed the duties which was integral to the post of medical officer and their long standing services was under the direct supervision of the Government Department. Not only this, the grant of pay-scales and other allowances which is payable to the post in hand further fortify the stand that the writ petitioner was simply labeled as temporary but they was discharging the regular duties and was working against the sanctioned posts."

11. Therein, the Division Bench concluded as under:-

*"28. Another consideration which is weighing in our mind is that against the same impugned order an appeal filed by the State Government being D.B. Civil Special Appeal (Writ) No.380 of 2016 titled "State of Rajasthan & Ors. v. Dr. Dinesh Kumar Soni" has already been dismissed, though on the ground of limitation and SLP as well as review in the SLP has been dismissed. We is not inclined to take a different view in the present case. **In the present***

cases, the appointments was against the vacant posts and after undertaking the selection process, though not by the Commission but by a Screening Committee, the same was having all the trappings of regular recruitment, inasmuch as, the writ petitioner was held entitled for regular pay-scales, increments and all other allowances which is clear from the appointment order itself. Thus, the denial of the tenure of service undertaken by the petitioner pursuant to the appointment order dated 28th November 1996 is not all justified and the learned Single Judge has rightly considered all the aspects of the matter while allowing the writ petition filed by the petitioner."

3. The Division Bench vide the above order, affirmed the following order of the learned Single Judge passed in ***S.B. Civil Writ Petition No.9582/2008; Dr. Paritosh Ujjwal Vs. State of Rajasthan & Ors.*** (decided on 12.02.2014):

"7. Consequently, these writ petition is allowed with a direction to the State Government to grant the benefit of continuity of service to the petitioner and the period of service rendered earlier, may be reckoned from the initial date of appointment for all purposes since the new 2008 Rules now stand repealed w.e.f. 03.01.2012 and in the saving clause of the said Notification, it is clearly provided that the appointments, orders and anything done under the said Rules of 2008 shall be deemed to has been made in the provisions of Rajasthan Medical & Health Service Rules, 1963.

8. *The writ petition is, accordingly, allowed with aforesaid observations and directions. No costs. A copy of the order be sent to the concerned parties forthwith."*

4. The submission of the learned counsel for the State that in the case of **Dr. Paritosh Ujjwal** (supra), a Selection Committee had been constituted for the purpose of recruitment of the petitioner therein, whereas in the present case, the aspirants were merely allowed through the advertisement to drop their relevant papers in the boxes installed, does not carry much substance. I am of the view that in the case of petitioner also, the entire selection process was followed up in accordance with the procedure established by law. The issue involved in this case has adequately been answered and thus the petitioner too deserve to get the same treatment as has been given in the case of **Dr. Paritosh Ujjwal** (supra). Hence, I am of the view that the controversy involved in the case referred supra and the case in hand is the same and there are no distinguishable features so as to disentitle the petitioner to get the same benefit as has been given to the petitioner in the case of **Dr. Paritosh Ujjwal** (supra) in the same terms and conditions and fashion.

5. In view of the ratio laid down in *Dr. Paritosh Ujjwal* (supra), the present writ petitions are allowed.

6. The respondents are directed to compute the services of the petitioner from the date of their initial appointment on temporary/ adhoc/urgent basis and after the said computation, grant them the benefit of continuity of service for all purposes. Appropriate orders be passed within a period of eight weeks from now.

7. Stay petition and all pending applications, if any, stand disposed of.

(FARJAND ALI),J

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