



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

D.B. Special Appeal Writ No. 551/2026

1. State Of Rajasthan, Through The Secretary, Department Of Medical Education (Group-1) Department, Jaipur, Rajasthan.
2. The Deputy Secretary, Department Of Medical Education, Jaipur, Rajasthan.
3. The Principal And Controller, Dr. S.N. Medical College And Associated Groups Of Hospitals, Jodhpur, Rajasthan.

----Appellants

Versus

Dr. Mukteshwar Kumar S/o Shri Parasnath Gupta, Aged About 47 Years, R/o H. No. 54, Prithviraj Nagar, Jhalamand Circle, Jodhpur, Rajasthan.

----Respondent

For Appellant(s) : Mr. N.S. Rajpurohit, AAG
Ms. Aditi Sharma

For Respondent(s) : Mr. Vineet Jain, Sr.Adv. Assisted by
Mr. Manan Bafna
Mr. Nikhil Saran
Mr. Chirag Mathur
Mr. Akshat Verma

HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE SANDEEP SHAH
Order(Oral)

Reportable
06/05/2026

Per: Arun Monga, J.

1. The appeal is directed against the order dated 03.12.2025 passed by the learned Single Judge, vide which writ petition filed by respondent was allowed and the order dated 15.10.2025 rejecting his resignation was set aside, thereby directing the appellants to accept his and issue him relieving order to join the new services.



2. The relevant facts of the case, in brief, are that the respondent was initially appointed as an Assistant Professor in the Department of Surgery at Dr. S.N. Medical College. In the year 2019, he appeared in the NEET Super Specialty Examination and, upon selection, was allotted Ram Manohar Lohia Institute of Medical Sciences for pursuing the M.Ch. course in Urology. For the said purpose, he was granted extraordinary leave without pay under Rule 96 of the Rajasthan Service Rules, 1956, and accordingly joined the course at the aforesaid institute.

2.1 Upon completion of the M.Ch. (Urology) course, the respondent secured a work position at the said institute and submitted his resignation to the appellants. Thereafter, pursuant to Advertisement dated 21.02.2025, the respondent was selected for appointment to the post of Associate Professor (Urology) vide an Office Memorandum dated 02.07.2025.

2.2 However, the resignation was not processed and kept pending. The respondent then filed a writ petition before this Court. During the pendency of the writ petition, the appellants passed an order dated 05.10.2025 rejecting his resignation, which was subsequently set aside by the impugned order dated 03.12.2025.

2.3 Hence, this instant appeal.

3. Mr. N.S. Rajpurohit, learned counsel for the appellants submits that the learned Single Judge erred in basing the his reasoning solely on the premise that the respondent had not executed the requisite bond, while incorrectly interpreting Rules 96, 121 and 121-A of the Rajasthan Service Rules, 1956. It is contended that Rule 121 pertains to study leave, Rule 121-A permits grant of extraordinary leave for higher studies, whereas Rule 96 independently governs extraordinary leave for



Government servants serving within the State of Rajasthan, under which the respondent was validly granted leave.

3.1 He further argues that the requirement of execution of bond under Rule 121-A cannot be construed in isolation, as the object thereof is to secure continued service to the State by doctors completing higher medical education. He submits that once the permissible study leave stood exhausted, the extraordinary leave granted under Rule 96 continued to operate independently and lawfully. The learned Single Judge, therefore, failed to appreciate the true scope and interplay of Rule 94 read with Rule 121-A of the Rules of 1956.

3.2 Learned counsel also urges that the State Government, in exercise of its executive powers under Article 162 of the Constitution of India, is competent to issue general instructions consistent with Rule 121-A, and the interpretation adopted by the learned Single Judge has the effect of unduly restricting the operation of the said provisions.

4. *Per contra*, Mr. Jain, learned Senior counsel for the respondent supports the impugned order and submits that the learned Single Judge has rightly passed the impugned order after considering facts and circumstances as well as the applicable provisions of law. Appeal be thus dismissed, he canvasses.

5. Heard learned counsel for the appellants as well as learned Senior appearing for the respondent and perused the material available on record.

6. We are unable to persuade ourselves to take a view other than the one already taken by the learned Single Judge. In order to appreciate the same, the relevant thereof is reproduced here in below:

“9. The Rule is very clear that such an execution of bond required to be made only in case of study leave is granted. The undisputed fact in the present case is that the petitioner is not granted study leave and the undisputed fact is also that the petitioner has not executed any bond.



The respondents reliance upon a decision of the State Government with regard to interpretation of Rule 121-A of RSR. The decision of State of Rajasthan indicates Clause-3 of Clarification of Rule 121-A of RSR, which says that Rule 121-A of RSR applicable to both the cases of study leave as well as the extra-ordinary leave for the purpose of study in India or Abroad.

10. The said Clarification is self-interpretation of Rule 121-A of RSR by the State Government. When the statue is very clear that the bond is required to be made only in a case of study leave in RSR. There is no wording of extra-ordinary leave in the said Rule. The execution of bond is required in a case of study leave admissible for the reason that an employee, who availed leave would get the pecuniary benefit of salary while pursuing the study. That is a reason there is a compulsory requirement of execution of bond to serve a specified period for the reason of sponsoring the petitioner's education by giving the study leave + pecuniary benefit, but in extra-ordinary leave, there is no case of any grant of pecuniary benefit, and a leave without pay is applicable. This cannot be said to be a study by availing pecuniary benefit from the employer, therefore, the requirement of execution of the bond as contemplated in Rule 121-A of RSR, cannot be expanded to include extra-ordinary leave, which is contrary to the legislative intention enumerated in the Rule 121-A of RSR. Even the grant of permission for study purpose while granting extra-ordinary leave, there is a clear indication therein that the leave is granted without pay. It clearly means that during the study period, the petitioner is not gaining any pecuniary benefit for the period of study of Super Speciality Course; therefore, there is no pecuniary loss to State. Perhaps that was the reason the respondents have not insisted for execution of bond. Without the bond and contrary to the Rule 121-A of RSR, the respondents cannot reject the resignation of the petitioner, which is right of the employee to resign the post subject to other conditions of the employment, therefore, the impugned order is required to be set aside."

7. Having heard as above and perused the file, at the outset, we are of the view that the reasoning given in paragraphs 9 and 10 of the judgment under challenge requires no interference by us. The same is founded on sound logic and proper discussion, with which we are in agreement. There is neither any infirmity in law nor otherwise any regularity so as to grant any intelligence to the appellants. As noted, though we are in respectful agreement with the view already expressed by the learned Single Judge and need add no more other than observe that we reiterate the same, but a little discussion to supplement it may not be out of place.

8. Reliance is placed on the Clarification issued by the State Government purporting to extend Rule 121-A to extraordinary leave as



well. However, a self-serving executive clarification cannot enlarge, amend, or override the express language of a statutory rule. The State Government cannot, through an executive instruction under Article 162 of the Constitution, modify or expand the scope of a rule that has been framed under a specific statutory framework. Article 162 only permits executive action consistent with legislation. It cannot be used as a tool to impose obligations that the rules themselves do not contemplate.

9. The rationale underlying the bond requirement under Rule 121-A is explicitly tied to pecuniary benefit. An employee on study leave draws salary, and the State sponsors his education at public expense. A bond ensures the State recovers the benefit of its investment through continued service. In the respondent's case, extraordinary leave was granted without pay under Rule 96. The respondent did not draw any salary, did not receive any financial sponsorship, and the State suffered no pecuniary loss whatsoever during the leave period. When the very foundation for imposing a bond is absent, the obligation itself cannot be fastened upon the respondent. To hold otherwise would be to impose a burden without any corresponding benefit having been conferred, a proposition contrary to both fairness and legal logic.

10. The learned Single Judge thus correctly held that Rule 121-A of the Rajasthan Service Rules, 1956 expressly contemplates execution of a bond only in cases of study leave, and not extraordinary leave. The statutory language is plain and unambiguous, where the intent is to impose a bond obligation, it is said so explicitly. The express mention of study leave excludes extraordinary leave from the bond requirement. We are neither inclined nor can expand the scope of a restrictive provision beyond its plain text on the basis of departmental convenience.



11. Moreover, it is an undisputed fact that no bond was ever executed by the respondent. The appellants themselves never insisted upon execution of a bond at the time of granting extraordinary leave, which itself demonstrates their understanding that no bond was required in such cases. Having failed to secure a bond at the relevant time, the appellants cannot now manufacture a retrospective obligation to defeat the respondent's right to resign. Resignation is a vested right of an employee, subject only to applicable service conditions. In the absence of any valid bond restricting that right, the rejection of the respondent's resignation is without legal authority and amounts to forced retention in service, which we feel is impermissible in law.

12. Having opined as above, there is yet another aspect of the matter viz. the appellants' attempt to conflate the three rules must be rejected.

- a). Rule 121 governs study leave with pay;
- b). Rule 121-A provides for extraordinary leave for the purpose of study, but the bond condition within it is tied to the study leave framework;
and
- c). Rule 96 is a general provision governing extraordinary leave.

The appellants cannot selectively import the bond obligation from Rule 121-A into a grant of leave that was specifically made under Rule 96. Each rule operates within its own domain, and the learned Single Judge correctly appreciated this distinction.

13. The respondent completed his M.Ch. (Urology) course, secured a position at RML Institute, and was subsequently selected through a fresh competitive process for the post of Associate Professor (Urology) pursuant to Advertisement dated 21.02.2025. He was issued an appointment order on 02.07.2025. His resignation from his previous



post was a natural and lawful step in that progression. The State's refusal to accept his resignation does not serve any public interest. In fact, it only frustrates the respondent's legitimate career advancement and his appointment to a higher post in the same medical education system. He is transitioning to a higher position within the medical/academic ecosystem. Holding him to a post he has resigned from, against his will and without any legal basis, would be an exercise in coercion rather than governance.

14. Resultantly, the appeal, being bereft of merit, stands dismissed.

15. All pending applications also stand disposed of.

(SANDEEP SHAH),J

(ARUN MONGA),J

29-charul/Mohit/-