

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

S.B. Civil Writ Petition No. 11673/2025

1. Kiran Meena D/o Jai Singh Meena, Aged About 26 Years, R/o Purohiton Ka Baas, Kali Pahadi, Dausa Currently Posted At Office Of The Aen, Phed Sub-Division Vii-Pratap Nagar, Udaipur.
2. Ravina Kumari D/o Shri Dayal Meena, Aged About 28 Years, R/o Nahar Badapura Ronsi, Karauli Currently Posted At Office Of Aen, Phed Sub-Division Mansarovar, Dist. Jaipur.

-----Petitioners

Versus

1. State Of Rajasthan, Through The Secretary, Public Health And Engineering Department, Government Of Rajasthan, Jaipur.
2. The Chief Engineer (Administration), Public Health And Engineering Department, Jal Bhawan, Civil Lines, Jaipur.

-----Respondents

For Petitioner(s)	:	Ms. Priyanka Bhootra, through V.C.
For Respondent(s)	:	Mr. Mayank Vyas for Mr. P.S. Chundawat, AGC.

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

05/05/2026

By way of filing the present writ petition under Article 226 of the Constitution of India, the petitioners have prayed for the following reliefs:

"It is, therefore, humbly prayed that the record of the case may kindly be called for and the writ petition filed by the petitioner may kindly be allowed and;

1. That the respondent department may kindly be directed to transfer the petitioner to the vacant post of Junior Engineer (Degree Holders) in accordance with Rule 6(4) of the Rules of 1967.

2. That the respondent department may kindly be directed to grant consequential benefits as per Rule 6(4) from the date of eligibility of the petitioner.

3. That any other order, this Hon'ble Court may deem fit, may be passed in favour of the petitioner.

4. The writ petition may kindly be allowed with costs throughout."

2. Learned counsel for the petitioners submitted that the petitioners are holding the post of Junior Engineer (Diploma Holder) in the respondent – Public Health and Engineering Department (PHED) since 08.12.2022. In the respondent department, the post of Junior Engineer is bifurcated as Junior Engineer (Degree Holder) and Junior Engineer (Diploma Holder). He further submitted that the petitioners, after joining the respondent department, obtained a Bachelor's Degree in Civil Engineering from Rajasthan Technical University and Jai Narayan Vyas University, Jodhpur, on 02.04.2025 and 07.11.2024 respectively. The petitioners, after acquiring the qualification of Bachelor in Civil Engineering, requested the respondents to transfer their services or consider their services against the post of Junior Engineer (Degree Holder) in conformity with the Rajasthan Engineering Subordinate Service (Public Health Branch) Rules, 1967. The competent authority of the respondent department, however, did not give any reply to the representations submitted by the petitioners. Hence, they have filed the present writ petition seeking direction upon the respondents to transfer their services against the vacant post of Junior Engineer (Degree Holder).

3. Learned counsel for the respondents submitted that though it may be true that the petitioners have acquired the qualification of Bachelor in Civil Engineering while in service, no benefit of the said degree can be extended to the petitioners. Learned counsel submitted that the Government of Rajasthan, Department of

Personnel, has issued a circular dated 18.11.2006 indicating therein that no government employee can pursue his/her studies while in service without specific permission of the competent authority and, in case he/she does so, disciplinary action will be taken against the employee and the said degree or diploma will not be taken on record. Learned counsel submitted that since the petitioners have obtained a Bachelor's Degree in Civil Engineering without approval/consent from the competent authority, they cannot claim any service benefit thereof, and the present writ petition deserves to be dismissed as being devoid of any merit.

4. Heard.

5. Having heard learned counsel for the parties at Bar and perused the material available on record, this Court finds that though the Rajasthan Engineering Subordinate Service (Public Health Branch) Rules, 1967 provide for different modes of recruitment for the post of Junior Engineer (Diploma Holder) and Junior Engineer (Degree Holder), in cases where a Junior Engineer, while in service, acquires a Bachelor's Degree in Engineering, he can be permitted to change the category from Diploma Holder to Degree Holder.

6. Rule 6(1)(A) of the Rajasthan Engineering Subordinate Service (Public Health Branch) Rules, 1967 is reproduced below for ready reference:

"Methods of Recruitment: - Recruitment to the Service after the commencement of these rules shall be made by the following methods in the proportion as indicated in column 3 of the schedule-
(a) direct recruitment in accordance with Part IV of these rules, and
(b) promotion (in accordance with Part V of these rules): Provided-
(1) that if the Appointing Authority is satisfied, in consultation with the Commission, where necessary, that suitable persons are not available for appointment by either method of recruitment in a particular year, appointment by the other method in relaxation of the prescribed proportion may be made in the same manner as specified in these rules; (1A) If a Diploma Holder Junior Engineer attains the qualifications of B.E. (Civil/Mechanical/Electrical) or AMIE, he shall be entitled, on his application and subject to availability of vacancy, to

be appointed by direct recruitment, but in that case his seniority amongst the Junior Engineers (Degree Holders) shall be determined from the date of occurrence of vacancy against which such Junior Engineer has been appointed on the post of Junior Engineer (Degree Holder), and one-third of his previous experience shall be counted as experience on the post of Junior Engineer for the purpose of promotion to the next higher post."

7. This Court finds that in the present case, the petitioners, at the time of seeking appointment as Junior Engineers, were pursuing their studies for a Bachelor of Engineering degree. After obtaining the Bachelor's Degree in Engineering, they requested the respondents for change of category from Diploma to Degree quota. It is true that the petitioners were required to take permission from the respondents to pursue their Bachelor of Engineering course or at least inform the department about pursuing the said course; however, once the petitioners have obtained a valid degree, the request to enter the same in service records or to change the category from Diploma Holder to Degree Holder cannot be denied on the ground that the same was obtained without permission of the employer. Though they may be subjected to disciplinary action as mentioned in the circular dated 18.11.2006 (Annexure-R/1) issued by the Department of Personnel.

8. This Court, in the case of ***Rajbala v. State of Rajasthan (S.B. CWP No. 1858/1993)*** decided on 24.08.2005, has held as under:

"5. The stand of the respondents to the effect that the B.Ed. degree from M.D.S. University was obtained by the petitioner without permission of the employer is also of no consequence, as it may be a reason for initiating disciplinary action, but once the petitioner acquired the aforesaid degree, it cannot be said that she is not possessing a valid degree. In view of it, the petitioner is certainly eligible to hold the post of Teacher Gr. III."

9. This Court, in the case of ***Charu Joshi v. State of Rajasthan & Ors. (S.B. CWP No. 419/2015)*** decided on 22.01.2016, has held as under:

"In the present case, the petitioner, on the date of application, had only the qualification of Diploma Holder, even though he was undergoing the A.M.I.E. course and was in the final year. If the petitioner had applied, there was no guarantee that he would have qualified. The only surety in his hands was that he was a Diploma Holder and had a reasonable opportunity of being appointed as Junior Engineer (Diploma Holder). In case he did not qualify in the degree course, he would have lost the opportunity under the Diploma quota as well. Rule 6(1A) only specifies that if a Junior Engineer (Diploma Holder) attains the qualification, he shall be entitled to be appointed as Junior Engineer (Degree Holder) by way of transfer against the quota of direct recruitment, only on availability of a vacancy. Non-consideration of his candidature on the ground that he did not apply in the advertisement under the Degree Holder quota, especially since he was already undergoing the third/final year examination, is not tenable in view of the fact that the petitioner would be entitled to transfer only in case there is a vacancy, and then, of course, the seniority would be reckoned as per rules.

10. In view of the above, the above-noted writ petition is allowed with the direction to the respondent to consider the case of the petitioner for transfer in the quota of direct recruitment of Junior Engineer (Degree Holder) by way of transfer, in case there is a vacancy, and to compute his seniority according to the Rules."

10. In view of the aforesaid discussion, the present writ petition is allowed. The respondents are directed to transfer the petitioners against the direct recruitment posts of Junior Engineer (Degree Holder), in case there is a vacancy, and compute their seniority in accordance with the Rules. The entire exercise in conformity with the order shall be conducted within a period of three months from today.

11. The stay application stands disposed of.

(KULDEEP MATHUR),J