

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

S.B. Civil Writ Petition No. 12245/2025

Virendra Singh S/o Vishnu Singh, Aged About 55 Years, R/o
Village Dhingi, Tehsil Taranagar, Dist. Churu.

-----Petitioner

Versus

1. The State Of Rajasthan, Through Principal Secretary,
Department Of Education, Government Of Rajasthan,
Jaipur.
2. The Director, Secondary Education, Government Of
Rajasthan, Bikaner.
3. The Joint Director, (School Education), Churu Region
Churu.

-----Respondents

For Petitioner(s)	:	Mr. Dinesh Kumar Ojha
For Respondent(s)	:	Mr. N.K. Mehta, DGC

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

07/05/2026

By way of filing the present writ petition, the petitioner has
prayed for the following reliefs:-

*"It is, therefore, humbly prayed that the present writ
petition may kindly be allowed and the order dated
02.08.2024 (ANNEXURE-9) may kindly be quashed and set
aside and the confer respondents benefit w.e.f. of may be to
directed second ACP to the petitioner 01.07.2012 with all
consequential benefits and the respondents may further be
directed to revised the pay of petitioner accordingly while
granting him benefit of second ACP w.e.f. 01.07.2012."*

2. Having heard learned counsel for the parties and upon
perusal of the material available on record, this Court finds that
the petitioner, who is presently holding the post of Teacher Grade-
II in the respondent department, was extended the benefit of

second ACP vide order dated 27.07.2016 (Annex.4) on completion of eighteen years of service w.e.f. 01.07.2014 instead of 01.07.2009, on account that he had more than two children after 30.06.2002, thereby rendering him ineligible for promotion for a period of five years.

3. The benefit of ACP extended to the petitioner vide order dated 27.07.2016 (Annex.4) came to be withdrawn by the respondents vide order dated 02.08.2024 (Annex.9) without assigning any reasons and without affording any opportunity of hearing to the petitioner.

4. The respondents, in paragraph 7 of their reply, have indicated the following reasons for withdrawal of the ACP benefit granted to the petitioner on completion of eighteen years of service:-

"7. That the averments made in para no.7 of the writ petition are not disputed insofar as they are in conformity with the orders dated 29.5.2013 and 30.7.2015 vide Annex.6 and Annex.7 attached to the writ petition. It is reiterated in this regard that vide memorandum dated 6.10.2015 issued by the Finance Department, benefit of ACP was admissible to the petitioner after a period of 5 years from the date of his entitlement in view of having third child after cut-off date. The benefit of second ACP was inadvertently extended to the petitioner w.e.f. 1.7.2014 and accordingly, his fixation under the Revised Pay-scale Rules, 2017 was made wrongly. Upon submission of application dated 24.7.2024 by the petitioner, aforesaid mistakes have been rectified by the competent authority.

In the meantime, petitioner was also promoted to the post of School Lecturer against the vacancies of the year 2010-11 vide order dated 29.5.2013. However, petitioner was not allowed joining on the said post upon having knowledge of third child of the petitioner born after cut-off date. Thereafter, petitioner was promoted to the post of School Lecturer against the vacancies of the year 2015-16 vide order dated 30.7.2015."

5. This Court finds that the reasons/explanation furnished by the respondents in their reply for withdrawal of the ACP benefit granted to the petitioner on completion of eighteen years of service are wholly unsatisfactory. As a matter of fact, the order dated 27.07.2016 (Annex.4) itself reflects that although the petitioner became entitled to the benefit of second ACP on completion of eighteen years of service w.e.f. 01.07.2009, the said benefit was actually granted to him only w.e.f. 01.07.2014, i.e., after a period of five years, on account that he had more than two children after 30.06.2002.

6. This Court further finds that the benefit of ACP on completion of eighteen years of service was granted to the petitioner by the respondents on their own after due verification of the service record, and there was neither any misrepresentation nor any fraud on the part of the petitioner. Once the pay of the petitioner had been fixed pursuant to grant of the ACP benefit, a vested right accrued in his favour and such benefit could not have been withdrawn without affording him an opportunity of hearing. Admittedly, no notice or opportunity of hearing was extended to the petitioner before issuance of the impugned order dated 02.08.2024 (Annex.9) withdrawing the benefit of ACP granted vide order dated 27.07.2016 (Annex.4).

7. In view of the above, the present writ petition is allowed. The impugned order dated 02.08.2024 (Annex.9) issued by the Joint Director, School Education, Churu Division, Churu, withdrawing the benefit of second ACP granted to the petitioner, is hereby quashed and set aside. The respondents are directed not to disturb the benefit of second ACP already extended to the

petitioner vide order dated 27.07.2016. The pay fixation of the petitioner shall be revised accordingly.

8. The stay petition and all pending applications, if any, also stand disposed of.

(KULDEEP MATHUR),J

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