



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

D.B. Special Appeal Writ No. 1149/2024

1. State Of Rajasthan, Through The Principal Secretary Medical And Health Department Secretariat Jaipur.
2. The Joint Secretary, Medical And Health (Group-3) Department Rajasthan Udaipur.
3. The Director, State Institute Of Health And Family Welfare Institution Jaipur.
4. The Director (Non-Gazetted), Medical And Health Services Rajasthan Jaipur,

----Appellants

Versus

Shailender Kumar Balwada S/o Kamal Singh, Aged About 24 Years, C-35 Piyush Path Flat No 402, Yuvraj Residency Bapu Nagar, Jaipur Rajasthan

----Respondent

For Appellant(s)	:	Mr. Narendra Singh Rajpurohit, AAG
For Respondent(s)	:	

HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL

Order(Oral)

04/05/2026

Per: Arun Monga, J.

1. The instant appeal is directed against the judgment dated 22.08.2024 rendered by learned Single Judge in S.B. Civil Writ Petition No. 10812/2024 whereby the writ petition filed by the respondent was allowed, directing the appellants to award bonus marks qua his work experience and if he was then found eligible, consider him for appointment as Assistant Radiographer.

2. Brief facts first. The appellants issued an advertisement dated 31.05.2023 for direct recruitment to the post of Assistant Radiographer, wherein the requisite qualifications were prescribed. The advertisement also provided for the grant of bonus marks under Rule 19 of the Rajasthan Medical and Health Subordinate Service Rules, 1965 (hereinafter referred to as the Rules of 1965).

2.1 Pursuant to the advertisement, the recruitment process was conducted, and the petitioner appeared for document verification. Thereafter, a provisional merit list was issued in which the petitioner was placed at Serial No. 57, subject to verification of the experience certificate from the issuing authority. Upon verification, it was concluded that the petitioner had not performed work of a similar nature as required for the grant of bonus marks. The petitioner thus filed a writ petition before this Court.

2.2 The writ petition was allowed primarily on the ground that the respondent had worked under the Public Private Partnership mode and was held entitled to the grant of bonus marks.

2.3 Hence, the present appeal.

3. Learned counsel for the appellants submits that the writ petitioner had worked with Modern Diagnostic Centre, Jaipur, which is a private institute. He contends that the said private agency had merely been awarded a tender for operating machines and carrying out diagnostic work, and no person was ever appointed directly by the State Government on contractual basis through the said institute. He argues that the work executed through a private agency under a tender arrangement cannot be treated as service rendered under the State so as to entitle the

petitioner to claim bonus marks. It is submitted that the Hon'ble Single Judge failed to appreciate this crucial aspect and erroneously extended the benefit of bonus marks to the petitioner for work allegedly performed with a private agency. Therefore, the impugned order dated 22.08.2024 is unsustainable and deserves to be quashed and set aside.

4. At this stage, before proceeding further, relevant of impugned judgment dated 22.08.2024 passed by learned Single Judge in S.B. Civil Writ Petition No. 10812/2024 be seen which is reproduced hereinbelow:-

"I have considered the submissions made at the bar and gone through the relevant record of the case.

The admitted position which emerges in the present case is that a detailed advertisement was issued by the respondents for appointment to the post of Assistant Radiographer on 31.05.2023. The said advertisement also laid down the procedure for awarding bonus marks. The petitioner applied for the said post and was shortlisted and selected in the provisional as well as final merit list, however, bonus marks on account of the fact that the petitioner performed his work as C.T. Technician (Radiographer) at the Modern Diagnostic Center, Jaipur under RUHS has not been granted to the petitioner. The fact that the petitioner has worked as C.T. Technician (Radiographer) at the Modern Diagnostic Center, Jaipur is undisputed as the same has been taken note by the competent authority while issuing experience certificate to the petitioner on 22.06.2023. The only ground on which the petitioner is not being granted appointment is that the petitioner has worked as C.T. Technician with Modern Diagnostic Center, Jaipur which is a private institute, therefore, he is not entitled for getting the bonus marks, is noted to be rejected for the reason that place where the petitioner has performed his work as C.T. Technician (Radiographer) is rendering its services in the enlisted hospitals under the PPP Mode. As per condition No. 3 (2) of the advertisement dated 31.05.2023, the persons who have worked at the places which are enlisted on PPP Mode of the State Government, their experience will be taken into consideration for grant of bonus marks. Since, the place where petitioner has worked as C.T. Technician (Radiographer) is enlisted by the State Government under the PPP Mode, as such, there is no reason to deprive the petitioner of the bonus marks for the work performed by him as C.T. Technician, in the circumstances, when the same is verified by the competent authority while issuing him experience certificate dated 22.06.2023.

In view of discussion made above, the writ petition merits acceptance. The same is hereby allowed. The respondents are directed to grant bonus marks to the petitioner on the basis of the document submitted by him towards his working experience. If the petitioner is otherwise found eligible, the respondents are directed to consider the case of the petitioner for giving him appointment on the post of Assistant Radiographer.

The stay application and other pending applications, if any, also stand disposed of."

5. In the aforesaid backdrop, upon perusal of the record made available and having heard learned counsel appearing for the appellant, at the outset, we may express a caveat that while we are in agreement with his argument that there are twin conditions contained in Clause (ज)(2) of the Advertisement. Namely, (a) that in the case of a private clinic, it should be operating under the PPP mode; and (b) that an employee claiming eligibility should not be an outsourced employee, however, when we proceeded to examine the matter further, it is borne out that there is no violation of either of those twin conditions.

6. Having gone through the reply filed before the learned Single Judge, it transpires that there is not even a whisper regarding the objection now being raised before us that the respondent (writ petitioner) was an outsourced employee of the PPP clinic in question.

7. In fact, on the contrary, it transpires that when the respondent submitted his eligibility certificate, the same was duly verified by the competent authority, and it has also been stated in the reply to the writ petition that the certificate was found to be genuine.

8. As regards the clinic being operated under the PPP mode, the same is also not disputed.

9. Therefore, we are in complete disagreement with the stand taken by the appellant that the petitioner was an outsourced employee and / or otherwise was not eligible.

10. Hence, no ground is made out in the matter for interference in the impugned judgment rendered by learned Single Judge which is based on sound reasoning, with which we are in respectful agreement. We need to add no more other than observing that we echo the same sentiments. Accordingly, the Special Appeal (Writ) stands dismissed.

11. Pending application(s), if any, also stand dismissed.

(MAHENDAR KUMAR GOYAL),J

(ARUN MONGA),J