

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 12900/2010

1. State of Rajasthan through Secretary to the Government, Education Department, Rajasthan, Jaipur.

2. Director Secondary Education, Rajasthan, Bikaner.

3. District Education Officer, Secondary Education-II, Bhilwara.

-----Petitioners

Versus

1. Arjun Lal Bunkar son of Shri Hira Lal Bunkar, Head Master, Government Secondary School, Jhar, District Jaipur, R/o H-51, Green Park, Agra Road, Jaipur [behind Rajesh Couch]

2. Rajasthan Civil Services Appellate Tribunal, Rajasthan, Jaipur.

-----Respondents

For Petitioner(s)

:

Mr. Devansh Sharma, Dy.G.C.

For Respondent(s)

:

Mr. Akhil Simlote, Adv. with
Mr. Dikshsant Jain, Adv.

HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Order

1. Date of conclusion of arguments

16/02/2026
2. Date on which the judgment was reserved

16/02/2026
3. Whether the full judgment or only the operative part is pronounced

Full Judgment
4. Date of pronouncement

18/02/2026

Reportable

1. This writ petition challenges the judgment dated 07.04.2010 passed by the Rajasthan Civil Services Appellate Tribunal, which granted pay protection to the respondent No.1 for earlier service rendered at the Navodaya Vidyalaya Samiti and also directed the petitioners to compute the earlier services of the respondent No.1 for the purpose of granting pension.

2. It is argued that the services provided at the Navodaya Vidyalaya Samiti do not fall under the scope of government entities, as they are operated by a society registered under the Societies Registration Act. Moreover, the rules governing employee service conditions are not dictated by Article 309 of the Constitution.

3. Rule 26 of the RSR provides pay protection only to employees working in state or central government institutions. Merely funding or managing the institution does not make its employees government employees. An educational institution registered under the Societies Registration Act, 1860, is regarded as a private, non-governmental body, not a government department. As a result, its staff are typically not classified as government employees; they are governed by the society's rules and relevant state education regulations. While the state government may regulate employment conditions in aided institutions (those receiving maintenance grants), this does not automatically make their employees government workers. The management is responsible for hiring, and employees are not considered to be working directly under the state or central government.

4. It is also contended that the learned presiding Officer of the Tribunal granted the benefit of pay protection and pensionary benefits considering that in another matter, an employee of Kendriya Vidyalaya Schools was also granted pay protection; however, the employee of Kendriya Vidyalaya Schools directly

comes under the Central Government, whereas, Navodaya Vidyalaya Samiti is not under the direct control of the Central Government. It is further contended that the notification dated 29.09.2014 and memorandum dated 06.03.2015 brought in by the Finance Department are applicable from the promulgation of the Rajasthan Civil Services (Revised Pay Scale) Rules, 2008, which became effective from 01.01.2006. Further, there is no mention in the said notification that any Autonomous body / Non-Governmental body would come within the purview of pay fixation.

5. The counsel for the petitioner cites the following judgments:-

- (i) Shri P.N. Mishra Vs. Union of India & Ors., 2012
SCC OnLine Jhar 273.
- (ii) V. Jeev Vs. State of Tamil Nadu & Ors., 2011 SCC
OnLine Mad 1898
- (iii) Pintu Chowdhury Vs. Union of India, 2024 SCC
OnLine Tri 614

6. Conversely, the respondent's counsel defends the impugned order, arguing that, under Rule 26 of the RSR, the previous institution where the respondent No.1 served was under direct government control and funded by the government, thereby qualifying it as an "institution of the Government of India".

7. Learned counsel for respondent No.1 placed reliance upon the judgment passed in **S.B. Civil Writ Petition No.10573/2008, Pokar Mal Samota & Ors. Vs. State of Rajasthan & Ors.**, whereby the Court directed the State Government to consider the grievance of the petitioners in

accordance with circular notification dated 13.07.2007 and Office order dated 12.06.2009.

Learned counsel for respondent No.1 also argues that, as per the notification Annexure-2 dated 16.03.2015, Annexure-3 dated 30.10.2017, and Annexure-4 Office Memorandum dated 17.02.2020, the respondent No.1 is entitled to fixation of pay as well as grant of pension for the earlier service rendered in the Navodaya Vidyalaya Samiti.

8. Heard, perused & scanned the relevant material.

9. It's undisputed that the petitioner was appointed to the post of Headmaster after passing the examination conducted by the Rajasthan Public Service Commission.

10. It's also not in dispute that the petitioner worked as/ teacher under the Scheme of Navodaya Vidyalaya Samiti.

11. It's also admitted that the said Institution was registered under the Societies Act and imparts the function of providing education, thus it is a self-governing organisation established by the government to perform specific functions with independence, flexibility, and minimal day-to-day interference. While funded through ministries' grants-in-aid, the body operates under its own regulations.

12. Rule 26 of the RSR reads as follows:-

"Provided further also that a government servant who is already in regular service of State Government, if appointed by direct recruitment on a post higher than the initial post of the State service on 'probation' of one year and the pay last drawn by him is higher than the entry pay prescribed for the new post, his pay will be fixed in the Level in the Pay Matrix of the new post at the equal Cell with

reference to the pay of the previous post and if there is no equal Cell then at next higher Cell.

Provided further also that a person who is already in regular service of the Government of India and other State Governments, including institutions of Government of India and other State Government, if appointed by direct recruitment under the State Government on a post higher than the post last held under the previous employer and on a post higher than the initial post of State Service on 'probation' and the pay last drawn by him is higher than the entry pay prescribed for the new post his pay will be fixed in the Level in the Pay Matrix of the new post at the equal Cell with reference to the pay of the previous post and if there is no equal Cell than at next higher Cell."

13. The aforesaid proviso of the rule, though, provides that a Central Government institution employee may be granted pay protection; however, an educational institution, even if it adopts the Government service rules and there may be pervasive government control, cannot, as a matter of right, claim parity with the central or State government employees.

14. In **State of Maharashtra & Ors. v. Bhagwan & Ors, 2022 SCC OnLine SC 1315**, the Supreme Court emphasised that an institution registered under the Societies Registration Act, 1860, is an independent, autonomous body, often administered by its own governing council.

15. The apex court further observed that merely because such autonomous bodies might have adopted the Government Service Rules and/or in the Governing Council there may be a representative of the Government and/or merely because the

State/Central Government funds such institution, employees of such autonomous bodies cannot, as a matter of right, claim parity with the State/Central Government employees. This is more particularly, when the employees of such autonomous bodies are governed by their own Service Rules and service conditions.”

16. The Apex court, while cautioning the Courts to refrain from interfering with policy decisions that might have cascading effects and financial implications, observed that whether to grant certain benefits to employees should be left to the expert body and that the Court cannot interfere lightly. Granting of certain benefits may result in a cascading effect having adverse financial consequences.

17. Furthermore, recently, the state government has issued Circular No. F9(109)FD/Rules/2005 dated 1st September 2025, which reads as under:-

“It has come to notice of the Government that against advertisement for various services in the State Government for direct recruitment, the employees of State PSUs Autonomous Bodies/Local Bodies/Panchayati Raj Institutions etc. apply for recruitment. In case they are selected for appointment in the service of the State Government after appointment they claim for protection of pay last drawn and for counting of service rendered in the State PSUs/Autonomous Bodies/Local Bodies/Panchayati Raj Institutions, etc.

The protection of pay on new appointment is permissible under rule 24 and 26 of RSR only to Government Servants who were already in service of the Government after regular selection as per the provisions of the relevant service rules. These

provisions are not applicable to the employees of State PSUs/Autonomous Bodies/Local Bodies/Panchayati Raj Institutions etc. i.e. other than Government Servants.

Under the Rajasthan Civil Services (Conduct) Rules, 1971 also the "Government Servant" means any person appointed by the Government to any civil service or post in connection with the affairs of the State.

It is pointed out that the expression "the Rajasthan Government Servant" means all persons whose conditions of service are regulated by the rules promulgated under the proviso to article 309 of the Constitution and their salary is charged to consolidated fund of the State.

Similar is the provision in the case of reverse position i.e. State Government Employees are appointed in State PSUs/Autonomous Bodies/Local Bodies/Panchayati Raj Institutions etc. In this regard the relevant provision as contained in Section (I) of Appendix-IX of RCS (Pension) Rules, 1996, the relevant provision is reproduced below:-

Pay Fixation:- A Government Servant selected for a post in State PSUs Autonomous Bodies will be free to negotiate his emoluments with the enterprise/body. On appointment to a post in a Public Sector enterprise/ autonomous body on immediate absorption basis, a Government servant will be at par with other employees of the enterprise/body and will be governed by the rules of the enterprise/body in all respects.

In view of the above provisions for appointment in Government Service. No protection of pay shall be granted to the pay last drawn in the State PSUs/

Autonomous Bodies/Local Bodies/Panchayati Raj
Institutions, etc.”

18. Thus, the aforesaid legal proposition and the circular issued by the government unequivocally state that an employee of an autonomous body has no vested right to claim pay protection or any benefit arising from previous employment. The subsequent circular/memorandum referred to by learned counsel for the respondent No.1 is not relevant, and it nowhere states that an appointee from an autonomous body shall be entitled to the benefit of pay protection under Rule 26 of the RSR and further pensionary benefits.

19. The impugned Judgment has been passed entirely ignoring the respondent No. 1's nature of the earlier employment, hence unsustainable.

20. Resultantly, the writ petition is allowed, and the impugned Judgment passed by the Rajasthan Civil Services Appellate Tribunal granting benefits to the respondent No.1 is set aside.

(PRAVEER BHATNAGAR),J