

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 16155/2025

Shriman Meena S/o Shri Bhamburam Meena, Aged About 54 Years, R/o Village And Post Salempur Khurd, Tehsil Bhusawar, District Bharatpur.

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Agriculture Department, Govt. Of Rajasthan, Secretariat, Jaipur.
2. Commissioner, Agriculture Department, Pant Krishi Pant Bhawan, C-Scheme, Jaipur.
3. Assistant Director, Agriculture (Extension) Bayana District Bharatpur.

-----Respondents

For Petitioner(s)	:	Mr. R.S. Bhardwaj
For Respondent(s)	:	Mr. B.S. Chhaba, AAG with Mr. Hardik Singh and Mr. Rahul Gupta

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

25/02/2026

1. Instant writ petition has been filed by the petitioner with following prayers:

"It is, therefore, humbly prayed that Your Lordships may graciously be pleased to accept and allow this writ petition and

- i) by appropriate writ order or direction the respondents may kindly be directed to adjust the petitioner on supernumerary post or pay salary under the provision of Section 20(4) of Act 2016 looking to his 79% permanent disability with all consequential benefit.
- ii) by appropriate writ order or direction the respondents may

kindly be directed to release due salary and other service benefits to the petitioner. The arrears of salary and other benefits may also be released with interest @ 6% p.a.

iii) by appropriate writ order or direction the respondents may further be directed to pay salary to the petitioner on month to month basis regularly and other service benefits in terms of section 20(4) of the Act 2016 and after attaining the age of superannuation, he may be released all retiral benefits.

iv) Any other relief which this Hon'ble Court deems just and proper in the facts and circumstances of the case may also be given in favour of the Petitioner.

v) Cost may also be awarded in favour of petitioner."

2. The facts of the case are that the petitioner was initially appointed on the post of Agriculture Supervisor on 09.12.1993, but during services, the petitioner has suffered from neurological disease which resulted in affecting right upper and right lower limb along with right eye. The Medical Board, SMS Hospital, Jaipur has examined the petitioner and on the basis of said report, the CMHO, Bharatpur has issued a disability certificate dated 30.05.2025, that petitioner is having disability of 30% of low vision and 70% of chronic neurological conditions. Due to this condition, the petitioner is unable to discharge his field duties w.e.f. 01.01.2025 and since then the respondents have not paid salary to the petitioner.
3. The petitioner placed reliance upon section 20(4) of the Rights of Persons with Disabilities Act, 2016 (in short "RPWD Act, 2016") and the judgment in case of **Sunil Kumar**

**Gupta Vs. State of Rajasthan and Ors., S.B. Civil Writ
Petition No. 92277/2021 decided on 9.7.2025.**

4. Learned counsel appearing on behalf of petitioner while placing reliance upon judgment in case of **Sunil Kumar Gupta Vs. State of Rajasthan and others (supra)** has submitted that the petitioner has suffered neurological disease which resulted into permanent disability. He also submitted that now it is not possible for the petitioner to discharge field duties but the respondents instead of following the provision of section 20(4) of the Rights of Persons with Disabilities Act, 2016 has insisted the petitioner to present himself on duty and if the petitioner did not report on duty, then the salary and other dues were not paid to the petitioner. He further referred the medical certificate and submitted that the respondents have failed to take action as per the mandate under the law.
5. Aforesaid contentions were opposed by learned AAG appearing on behalf of respondents and submitted that the petitioner is required to present himself before the respondent authority and if the petitioner failed to attend duty, then actions as prescribed under the law is required to be taken against him. He further placed reliance upon reply filed by the state and submitted that the state is a welfare state and they are following the provision of law in letter and spirit and there is no discrimination with the petitioner. He also submitted that the petitioner has submitted representation on 23-09-2025, but remained continuously absent without submitting any medical certificate. He further

referred to Rule 53 of Pension Rules, 1996 and submitted that if any person incompetent to discharge official duties, then it is a case of compulsory retirement on completion of 15 years of qualifying service. He also referred the letter dated 13-11-2025 (Annexure-R/1) and submitted that the department is still waiting for the reply from the petitioner, but he has not submitted any reply till date.

6. Heard learned counsel for parties have perused the material placed on record.
7. The material on record indicate that the petitioner was appointed as agriculture supervisor on 09.12.1993 and till 20.02.2025, no departmental proceedings were instituted against him. The petitioner was examined by medical board for the purpose of medical leave from 24.09.2024 to 01.02.2025, as the petitioner has suffered from stroke. As per certificate, the the petitioner admitted on multiple times and was undergone operation on 16.01.2025 and 17.01.2025. Based on this certificate, the CMHO Bharatpur has issued a disability certificate on 30.5.2025 in favor of petitioner by assessing that disability. There is no proof to indicate that whether this certificate is issued under the guidelines as issued by the Government of India under Section 56 of the Rights of Persons with Disabilities Act, 2016. The petitioner has also produced unique disability ID to show that he is suffering from permanent disablement. The petitioner has submitted application on 23.9.2025 and acknowledging the application, a reply is sent to the

petitioner on 13.11.2025. In the meanwhile, the petitioner has filed present writ petition on 13.10.2025.

8. Here in this case, no treatment record has been filed on record, but the certificate dated 20-01-2025 issued by the Medical Board for sanction of leave clearly indicates that the petitioner has suffered from stroke. The certificate is only for recommendation of leave and it does not provide total assessment of the condition of the petitioner. The disability certificate dated 30-05-2025 (Annexure-3) is also not sufficient to show that the petitioner is suffering from permanent disability of 79% or more.

9. Section 20(4) of the Act of 2016 is reproduced as under:

"(4) No government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service: Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits: Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier."

10. A Coordinate Bench of this Court in **Umed Singh v. State of Rajasthan (2019) 4 WLC 215** while referring judgment in case of **Bhagwan Das v. Punjab State Electricity Board, AIR 2008 SC 990, Kunal Singh v. Union of India, AIR 2003 SC 1623, and Tulcha Ram v. State of Rajasthan, S.B. Civil Writ Petition No.**

4862/1998 decided on 25.03.2017, has held that an employee is entitled to all medical facilities and reimbursement of treatment expenses as are available to an employee in service, and considering the acute condition of the employee, the department was directed to deposit monthly salary.

11. A Coordinate Bench of this Court in **Sunil Kumar v. State of Rajasthan & Others, S.B. Civil Writ Petition No. 9277/2021 decided on 09.07.2025**, also relied upon the judgments in **Bhagwan Das (supra) and Umed Singh (supra)** and directed release of arrears of salary with interest at the rate of 6% per annum.
12. Section 20 (4) of the Rights of Persons with Disabilities Act, 2016 prohibits any government establishment from taking any prejudicial actions against an employee who acquires a disability during service. It also provides that if any employee becomes unsuitable for current post, then he should be shifted to another post with same pay scale and service benefits. In absence of a suitable post, he may be placed on a supernumerary post until a suitable vacancy arises or superannuation whichever is earlier. Neither such person be denied any promotion avenues nor chance for consideration on any of the promotion, if same is due during this period.
13. In case of **Jane Kaushik Vs. Union of India** reported as **2025 INSC 1428**, Hon'ble Supreme Court has considered two issues. Firstly, reasonable accommodation and secondly ommissive discrimination. In case of **Vikas Kumar Vs. UPSC**

(2021) 5 SCC 370 and Kabir Paharia Vs. N.M.C. 2025

SCC Online SC 1025, the doctrine of reasonable accommodation under the Rights of Persons with Disabilities Act, 2016 was elaborated by Hon'ble Supreme Court and held that it casts as a positive duty upon State and not a charity.

14. Having considered the legal position as mentioned herein above, if the petitioner has suffered any permanent disability while in service, then the respondents are duty bound to act positively in accordance with section 20(4) of the Rights of Persons with Disabilities Act, 2016. A specific stress in reply is made about Rule 53 of the Pension Rules, 1996 wherein it has been mentioned that at any time after a government servant has completed 15 years qualifying service or has attained 50 years whichever is earlier, if he is incompetent to discharge his official duties, the government may retire concerned government servant in public interest. We fail to understand the defence of the respondent department, in particular, when a duty is casted upon them under the Rights of Persons with Disabilities Act, 2016, not to discriminate against the petitioner. It appears that the respondent department is not aware about the provision of Section 20 of the Rights of Persons with Disabilities Act, 2016. It required a sensitive approach and also empathetic humanitarian behaviour from the administrators. The department may sensitise their officers and employees about the provision under the provisions of Rights of Persons with Disabilities Act, 2016.

15. Here in this case, if petitioner is suffering from stroke and unable to present him to discharge the duty and if he has submitted any representation supported with the certificate of disability issued by CMHO, whether legally valid or not, the respondent department is under an obligation to consider the certificate, but it cannot resort to Rule 53 of Rajasthan Civil Services (Pension) Rules, 1996. Thus, while considering the material available on record, we are of the view that if the petitioner is unable to discharge his duty in wake of permanent disability, then the respondents are under an obligation to accommodate him under Section 20(4) of the Rights of Persons with Disabilities Act, 2016 and assign him a duty which is suitable to him or which he may discharge, but till the availability of duty or till superannuation, the petitioner be kept on a supernumerary post so as to give effect to the provision under Section 20(4) of the Rights of Persons with Disabilities Act.
16. The respondent may direct the petitioner to submit his treatment record and also periodical assessment about his disability. In the instant case, the petitioner has suffered stroke which means the petitioner has suffered ischemic strokes which resulted into disability. The court cannot predict about the treatment and further cure of the petitioner depend upon rehabilitation and treatment. The petitioner has not filed any treatment record to establish the cause behind his disability. There may be possibility of recovery, therefore it is appropriate to direct the respondent to consider the case of petitioner in assigning him any other duty, but at the

same time, the respondents are at liberty to assess the status of disability on periodical basis strictly in accordance with Chapter X of the Rights of Persons with Disabilities Act, 2016.

17. The writ petition is partly allowed and the respondent(s) are directed to consider the case of present petitioner under Section 20(4) of RPWD Act, 2016 for assigning him any other duty provided he is unable to discharge his duty in view of his permanent disability which has to be assessed, strictly in accordance with Chapter-X of the RPWD Act, 2016. The petitioner is directed to submit all treatment record to the respondents and make himself available for assessment by an authority as per Chapter-X of RPWD Act, 2016.
18. With aforesaid, the writ petition along with misc. application, if any, stands disposed of.

(ASHOK KUMAR JAIN),J