



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

S.B. Civil Writ Petition No. 6471/2025

Dr. Renu Kala Mathur W/o Dr. Ranjan Mathur, Aged About 59
Years, Residing At H.no. 26/2/3, Opposite Chanakya Hotel, Sadul
Ganj, Bikaner-334001, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Department
Of Personnel, Government Of Rajasthan, Jaipur Main
Building, Secretariat, Jaipur- 302005, Rajasthan Email-
Secy-Dop@rajasthan.gov.in
2. Principal Secretary, Department Of Medical And Health
Services, Government Of Rajasthan, Jaipur, Swasthya
Bhawan, Tilak Marg, C-Scheme, Jaipur-302005 Email-
Phs@rajasthan.gov.in
3. The Secretary, Department Of Medical And Health
Services (Group-Ii), Government Of Rajasthan, Jaipur,
Swasthya Bhawan, Tilak Marg, C-Scheme, Jaipur-302005
Email- Dsmedicalgroup2@gamil.com
4. The Director (Public Health), Medical And Health Services,
Government Of Rajasthan, Jaipur, Swasthya Bhawan,
Tilak Marg, C-Scheme, Jaipur-302005 Email- Directorph-
Rj@nic.in

-----Respondents

For Petitioner(s)	:	Ms. Abhilash Bora
For Respondent(s)	:	Ms. Rakhi Choudhary, for Mr. N.S. Rajpurohit, AAG

HON'BLE MS. JUSTICE REKHA BORANA

Judgment

09/04/2025

1. The present writ petition has been filed with a prayer to
quash and set aside the impugned order dated
06.03.2025/12.03.2025 (Annexure-8) whereby the petitioner has



been reflected to superannuate on 30.04.2025 on attaining the age of 60 years.

2. Learned counsel for the petitioner Ms. Abhilasha Bora submits that in light of the Division Bench judgment of this Court in **Dr. Sarvesh Pradhan Vs. State of Rajasthan & Ors; D.B. Civil Writ Petition No.5821/2023** (decided on 26.02.2024), the petitioner deserves to be continued in service till she attains the age of 62 years.

3. The facts are that the petitioner acquired qualification of Bachelor of Dental Surgeon (BDS) and was appointed on the post of Medical Officer (Dental) in the year 1995 after regular selection. She is at present posted as Principal Specialist in PBM Hospital & Associated Group of Hospitals (PBM), Bikaner.

4. As per the prevailing State Government Rules and Regulations pertaining to Medical Officer (Dental)(Group-II), and the Notification dated 31.03.2016, the petitioner was due to retire on 30.04.2025. However, vide the judgment passed in **Dr. Sarvesh Pradhan** (supra), it was held that the words, "Medical Officers holding BDS/MBBS degrees" shall be read into the notification dated 31.03.2016. As a consequence, it was held that the age of superannuation of the Medical Officers in dental stream shall also stand extended to 62 years.

5. The judgment as passed in **Dr. Sarvesh Pradhan** (supra) has attained finality and same has even been acted upon by the State Government. It is therefore prayed that the age of superannuation of the petitioner be extended for a period of two years and the order impugned dated 06.03.2025/12.03.2025 be set aside.



6. Learned counsel for the respondents is not in a position to refute the legal position as laid down in **Dr. Sarvesh Pradhan's** case (supra), and the fact that the present petitioner shall also be governed by the ratio laid down in the said case.

7. Heard learned counsel for the parties and perused the material available on record.

8. In **Dr. Sarvesh Pradhan's** case (supra), while dealing with Rule 56 of the Rajasthan Service Rules, 1951 and while relying upon the earlier Division Bench judgment of this Court in **Dr. Ranjan Mathur Vs. State of Rajasthan & Ors.; D.B. Civil Writ Petition No.6312/2022** (decided on 15.09.2022), the Court observed and held as under:

"9. *This Court is conscious of the judgment rendered in the case of **Dr. Rajan Mathur (supra)** by the Division Bench of this Hon'ble Court, the relevant portion is reproduced hereunder:*

" Heard submissions advanced at Bar and perused the material available on record.

The service conditions of Medical Teachers possessing MBBS degree and BDS degree is governed by the Rules of 1962. The Medical Teachers irrespective of their stream are required to discharge similar duties. The respondents have not placed on record any material which would justify the classification made by them in formation of two separate classes among the employees governed by the same service conditions and recruitment rules. Since, statistics with regard to number of MBBS and



Dental Medical Teachers available with the department has not been placed on record, it can safely be concluded that there is no intelligible differentia for treating the Medical Teachers holding the MBBS degrees and those holding BDS degree differently. On the contrary, petitioner has placed on record various documents/orders which reflect that in various services viz. Railways, Defence (Civilian Doctors under Directorate General of Armed Forces Medical Service) etc., a conscious decision has been taken to enhance the age of superannuation of dental doctors from 62 years to 65 years so as to bring them at par with MBBS doctors. The action of the respondents amounts to hostile discrimination insofar as the dental doctors have been denied the benefit of enhanced age of superannuation. The notification dated 30.03.2018, issued by the Government of Rajasthan is in clear violation of Article 14 of the Constitution of India.

*A co-ordinate bench of this Court in a batch of writ petitions led by the case of **Dr. Mahesh Chandra Sharma & Ors. v. State of Rajasthan** (D.B. C.W. No. 13496/2021) examining a similar controversy held that action of the state in fixing age of superannuation of AYUSH doctors lower in comparison to the allopathic doctors amounts to hostile discrimination.*



In the result of aforesaid discussion, the words-Medical Teachers holding BDS/MDS degrees shall be read into the notification dated 30.03.2018. Consequently, it is ordered that the petitioner shall be allowed to continue in service upto the age of 65 years. The respondent authorities shall pass necessary orders to continue Medical Teachers (Dental) in service till the age of 65 years with all consequential benefits. It is however made clear that the Medical Teachers (Dental) who have already superannuated shall not be entitled to claim reinstatement in service.

The writ petition is allowed in above terms. No order as to costs."

10. This Court also observes that the above said judgment **Dr. Rajan Mathur (supra)** was challenged before the Hon'ble Apex Court in **SLP(c) no. 19112/2022 (supra)** and the said petition was dismissed, the relevant portion whereof is reproduced as hereunder:

"It is not in dispute that this petition involves extending the higher age of retirement to BDS Doctors/teachers who are also engaged in teaching in medical colleges. We see no reason to interfere. The special leave petition is dismissed."

11. Thus, it is clear that there exists no intelligible differentia as claimed by the respondent State, and hence, in light of the aforesaid observations and looking into the factual matrix of the present case, this Court is of the opinion that a similar



controversy already being settled by a Coordinate Bench of this Hon'ble Court the present petition deserves to be allowed.

11.1. As a result of the aforesaid discussion, the words- Medical Officers holding BDS/MBBS degrees shall be read into the notification dated 31.03.2016.12.

*12. Consequently, this Court **allows** the present petition. Accordingly, while quashing and setting aside the order No.2/2023 (Annex.5), **qua the petitioner**, it is ordered that the petitioner shall be allowed to continue in service upto the age of 62 years. The respondent authorities shall pass necessary orders to continue Medical Officers (Dental) in service till the age of 62 years with all consequential benefits. It is however made clear that the Medical Officers (Dental) who have already superannuated shall not be entitled to claim reinstatement in the service, in pursuance of this order. All pending applications stand disposed of."*

9. In view of the above ratio and in view of the fact that **Dr. Sarvesh Pradhan's** case (supra) has attained finality having not been assailed further, the order impugned dated 06.03.2025/12.03.2025 definitely deserves to be quashed and set aside qua the present petitioner. The same is hence quashed and the present writ petition is **allowed** qua the present petitioner.

10. It is hereby held that the petitioner shall be permitted to continue in service till she attains the age of 62 years. Necessary orders be passed within a period of two weeks from now.

11. Before parting, this Court feels it essential to observe that although **Dr. Sarvesh Pradhan's** case (supra) is a *judgment in rem*, the respondent State Authorities have failed to pass



appropriate directions for compliance of the said judgment passed in *rem*.

12. Essentially the ratio laid down in ***Dr. Sarvesh Pradhan's*** case (*supra*), would apply to all the Medical Officers (Dental) and as per the said ratio, all the Medical Officers (Dental) shall be entitled to continue in service up to the age of 62 years of course with an exception to those who had already superannuated till 26.02.2024 i.e. the date of the judgment passed in ***Dr. Sarvesh Pradhan*** (*supra*).

13. Evidently, the above is a *judgment in rem* and as held by a Co-ordinate Bench of this Court in ***Naresh Singhal Vs. State of Rajasthan & Ors.; S.B. Civil Writ Petition No.6372/2024*** (decided on 02.05.2024) and other connected matters, in all cases where the judgment is a *judgment in rem* and has attained finality, the State authorities are bound to follow and apply the same qua all the similarly situated persons and cannot unnecessarily compel the aggrieved persons to knock the doors of the Court again and again to get a similar order. Therein the Court held as under:

"19. Justice is not a saleable commodity. The State Authorities cannot be allowed to compel the aggrieved persons to approach the Court of Law and get the same order. Once a issue has been decided by the Court of Law and the same has not been challenged by the State Authorities before any Appellate Court and thus, it attained finality, then the State Authorities are bound by the same. The State should not unnecessarily compel the aggrieved persons to knock the doors of the Court again



and again for getting a similar order. The "doctrine of finality of judgment" is applicable in such matters. It is settled proposition of law that when a judgment is pronounced by the Court, affecting the rights of public at large, then the said judgment should be treated as a judgment in rem with intention to give benefit to all the similarly situated persons, whether they approached the Court or not. With such a pronouncement, the obligation is casted upon the authorities to itself extend the benefit thereof to all the similarly situated persons."

14. In view of the above, it is expected of the respondent State Authorities to issue an appropriate circular/notification reflecting the fact of the age of superannuation of the Medical Officers holding BDS/MBBS degree to be 62 years with immediate effect.

15. It is further expected of the respondent State Authorities to issue a common notice/circular on their official website to the said purpose so that none of the aggrieved persons is required to knock the doors of the Court again and again.

16. Stay petition and pending applications, if any, stand **disposed of.**

(REKHA BORANA),J

175-Praveen/Devanshi-