



[2025:RJ-JD:40058]

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

S.B. Civil Writ Petition No. 15870/2025

Shaitan Ram S/o Shri Mota Ram, Aged About 36 Years, Resident
Of Village Mansagar, Post Danwara, Tehsil Baori, District Jodhpur
(Raj.).

-----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary,
Ayurved And Indian Medicine Department, Government Of
Rajasthan, Secretariat, Jaipur.
2. Deputy Secretary, Ayurved, Yoga And Naturopathy
Medicine, Unani, Siddha And Homeopathy (Ayush)
Department, Govt. Secretariat, Jaipur.
3. Director, Ayurved Department, Ashok Marg, Lohagal
Road, Savitri College Circle, Ajmer.
4. Additional Director (Administration), Directorate, Ayurved
Department, Ashok Marg, Lohagal Road, Ajmer.
5. Dr. Sarvepali Radhakrishnan Rajasthan Ayurved
Unhiversity, Through Its Registrar, Karwar, Nagaur Road,
Jodhpur (Raj.).
6. Deputy Director, Ayurved Department, Jodhpur (Raj.).

-----Respondents

For Petitioner(s)	:	Mr. Y.P. Khileree
For Respondent(s)	:	Mr. Tananjay Parmar for Mr. Deepak Boda, Dy. G.C.

HON'BLE MS. JUSTICE REKHA BORANA

Order

Reportable

09/09/2025

1. The present writ petition has been filed aggrieved of order
dated 09.06.2025 (Annexure-12) whereby the appointment of the
petitioner on the post of Compounder/Nurse Junior Grade stood
cancelled.



2. The facts are that the petitioner having work experience as Compounder/Nurse with Dr. Sarvepali Radhakrishnan Rajasthan Ayurved University, Jodhpur (respondent No.5) through placement agency, participated in the recruitment process initiated in pursuance to advertisement dated 07.06.2013.

3. As per condition No.7 of the said advertisement, bonus marks were to be granted to the candidates having work experience in terms of the conditions as specified therein.

4. At the first instance, the petitioner was not granted the bonus marks and hence, he preferred a writ petition (*S.B. Civil Writ Petition No.3906/2015*) before this Court which was dismissed vide order dated 23.09.2016. A Special Appeal (*D.B. Special Appeal (Writ) No.901/2016*) was preferred against the said order which came to be disposed of by the Division Bench vide order dated 28.03.2017.

5. Before the Division Bench, it was argued on behalf of the petitioner that the judgment as passed by the Division Bench of this Court at Jaipur Bench in ***D.B. Civil Writ Petition No.10246/2013; Yadvendra Shandilya & Ors. Vs. The State of Rajasthan & Ors.*** (decided on 26.02.2016) was not considered by the learned Single Judge while dismissing the writ petition.

6. Keeping into consideration the said submission, the Division Bench disposed of the Special Appeal while granting a liberty to the petitioner to file a review petition before the learned Single Judge.

7. In pursuance to the said liberty, a review petition (*S.B. Writ Review No.75/2017*) was filed by the petitioner which came to be





allowed vide order dated 24.08.2017. The Court while allowing the review petition observed and held as under:

*"This is how, the review petition has come before this Court. Mr. Yashpal Khileree, learned counsel appearing for the petitioner submits that the controversy in question is squarely covered by decision of this Court dated 26.02.2016 rendered by a Division Bench in D.B. Civil Writ Petition No.10246/2013 titled as **"Yadvendra Shandilya & Ors. Vs. State (Ayurved Department) & Ors."**, whereby the Division Bench at Jaipur has held that the persons appointed through placement agency or by the National Institute of Dr. Sarvepalli Radhakrishnan Rajasthan Ayurved University are entitled for grant of bonus marks in terms of Rule 19 of the Scheme. The relevant part of the aforesaid Division Bench judgment is reproduced hereunder for ready reference:-*

"We further make it clear that this Court has not expressed about the individual petitioner whether he had been engaged by the National Institute of Ayurved or engaged through placement agency and it is for the petitioner to place documentary evidence in support of their claim but we may hold that as regard the persons who are appointed through placement agency or by the national Institute of Ayurved, by virtue of decision of the State Government dated 08.02.2016 & the judgment of which reference has been made supra, may be considered for grant of benefit of bonus marks in terms of proviso to Rule, 19 of the Scheme of Rules for participating in the decision process and if found suitable and finds place in the order of merit after bonus marks may be considered for appointment & with these directions/observations, the writ petition stands disposed of."

Mr. Parvez, learned counsel appearing for the respondents is not in a position to dispute the above position of facts and law.

In view of extant factual and legal position, the review petition is allowed and hence, the order under Review/consideration dated 23.09.2016 is reviewed/recalled.

In view of the Division Bench judgment dated 26.02.2016, it is declared that the petitioner having worked as Ayurved Nurse/Compounder on contractual





basis with the respondent No.3 (Dr. Sarvepalli Radhakrishnan Rajasthan Ayurved University), is entitled for bonus marks on the basis of experience certificate dated 15.06.2013.

The respondents are directed to do the needful within a period of eight weeks from today.

It is however, clarified that if the petitioner falls in the merit list/select list, he shall be given appointment.

The petitioner shall be entitled to all the consequential benefits notionally and his appointment shall be treated from the date, candidates having equal numbers were given appointment.

Petition allowed, however without any order as to costs."

8. The judgment as passed by the Division Bench in *Yadvendra Shandilya* (supra) was however assailed by the State before Hon'ble the Apex Court in *Civil Appeal No.44-45/2020*.

9. Vide order dated 07.01.2020, Hon'ble the Apex Court set aside order dated 26.02.2016 passed in *Yadvendra Shandilya* (supra) and remanded the matter back to the Division Bench for decision afresh. However, Hon'ble the Apex Court directed for maintaining the status quo with respect to employment as was existing on the said date.

10. After the matter been remanded back, the Division Bench after hearing the petitions, proceeded on to dismiss the same vide judgment dated 12.12.2023. The Division Bench while dismissing the petitions held as under:

*7.12 Thus, consistent view of the Hon'ble Supreme Court and this Court in catena of decisions referred to hearinabove leaves no manner of doubt that the classification for the purposes of grant of bonus marks under amended Rule 19 is based on intelligible differentia and cannot be termed as unreasonable classification. **The petitioners' contention that the rules operate discriminatory, cannot be accepted as the petitioners have acquired experience while working***





in a Research and Training Institute of Ayurveda, be it under the Central Government, as there is qualitative difference between the experience gained while working in the State Government Services and specified Institutions, mentioned in the proviso to amended Rule 19.

7.13 The petitioners have placed heavy reliance on the decision of the Hon'ble Supreme Court in the case of **Dr. (Major) Meeta Sahai Versus State of Bihar & Others (Supra)**. That was a case where the appellant's work experience in an Army Hospital was not considered for grant of weightage and consequential selection and appointment as General Medical Officer in the State of Bihar on the ground that Rule applicable therein mandated that only services rendered in employment of a hospital run by the Government of Bihar could not be counted under the head of work experience. The decision in the aforesaid case turned mainly on the interpretation of the Rules. The consideration which weighed with the Hon'ble Supreme Court in the case of **Satya Dev Bhagaur & Others Versus State of Rajasthan and Others (Supra)** and other decisions of the Division Bench of this Court in the case of **Jagdish Prasad & Others Versus State of Rajasthan & Others (Supra)**, **Sandeep Kumar Saini & Others Versus State of Rajasthan & Others (Supra)** and many other decisions of the Hon'ble Supreme Court, relied upon in the case of **Sandeep Kumar Saini & Others Versus State of Rajasthan & Others (Supra)**, were neither raised nor decided. The contention of the State and Public Service Commission in that case are contained in paras 12 & 13 of the aforesaid judgment. The intelligible differentia which, on facts, as considered in various decisions hereinabove, was not even put-fourth and, therefore, there was no occasion for the Hon'ble Supreme Court to consider the case as to whether the classification was based on intelligible differentia on that count.

7.13.1 Therefore, the aforesaid decision in the case of **Dr.(Major) Meeta Sahai Versus State of Bihar & Others (Supra)** is distinguishable.8. In the result, the batch of writ petitions are sans-substratum and are dismissed.

9. No order as to costs.





10. A copy of this order be placed on record of each connected petition."

11. After judgment dated 12.12.2023 in *Yadvendra Shandilya* (supra) been passed by the Division Bench, the respondent authorities, vide order impugned dated 09.06.2025, observed that the petitioner was not entitled for bonus marks and if the bonus marks as awarded to him would not have been awarded, he would not have been entitled for the appointment. The appointment as granted to the petitioner was hence, cancelled.

12. Aggrieved of the above, the present writ petition has been filed.

13. Counsel for the petitioner submits that even though the review petition as filed by the petitioner was allowed in terms of the Division Bench judgment in *Yadvendra Shandilya* (supra) but then, the Special Appeal was decided on two grounds. Hon'ble the Apex Court has remanded the matter back while dealing with only one of the said grounds and not the other one. The finding on the other ground recorded by the Division Bench having not been set aside, the same would definitely govern the case of the petitioner.

14. So far as the petitioner is concerned, he having worked with the University at Rajasthan, did not claim the bonus marks qua any Central Government agency. The ratio laid down by the Division Bench in *Yadvendra Shandilya* (supra) which has been set aside by Hon'ble the Apex Court was qua the issue of the candidates having experience with some Central Government agencies only. That not being the case here, the petitioner definitely cannot be covered by the judgment as passed by Hon'ble the Apex Court.



15. Counsel submits that the petitioner would be covered by the second issue as decided by the Division Bench in *Yadvendra Shandilya* (supra). The said issue having not been considered and adjudicated by Hon'ble the Apex Court and the judgment qua the same having not been set aside, the same would definitely not apply to the present petitioner.

16. Counsel further submits that the issue whether the candidates having work experience with some State agency would be entitled for bonus marks, has already been settled in several other judgments and the petitioner would definitely be governed by the said ratio.

17. In support of his submission, counsel relied upon the judgment passed by a Co-ordinate Bench of this Court in a bunch of writ petitions led by ***S.B. Civil Writ Petition No.1723/2013; Mitendra Singh Rathore & Ors. vs. State of Rajasthan & Ors.*** (decided on 30.07.2013).

18. Counsel lastly submits that even otherwise vide notification dated 12.06.2021, an amendment has been made in Rule 19 of the Rules of 1966 whereby the name of Dr. Sarvepali Radhakrishnan Rajasthan Ayurved University, Jodhpur has been included. Meaning thereby, the candidates having work experience with the said University have now also been held entitled for bonus marks.

19. In view of the amendment in Rule 19 of the Rules of 1966 also, the appointment of the petitioner cannot be interfered with now, after he having worked for more than a period seven years.

20. Per contra counsel for the respondents submits that judgment dated 26.02.2016 as passed by the Division Bench in



Yadvendra Shandilya (supra) having been set aside, no part of the said judgment can be said to govern the issue. Once the judgment has been set aside, no part of the said judgment can be read and relied upon.

21. Counsel further submits that admittedly, the petitioner was granted the bonus marks because of his review petition having been decided in light of the Division Bench judgment in *Yadvendra Shandilya* (supra). The said judgment having been set aside, the petitioner definitely would have to face the same consequence and the same fate. Once the Division Bench of this Court has now held that such candidates would not be entitled to bonus marks, the petitioner definitely cannot be differentiated and would have to suffer the same fate.

22. Heard the counsels. Perused the record.

23. What is admitted on record is that the petitioner, at the first instance, when not awarded the bonus marks, challenged the same vide a writ petition before this Court.

24. It is not in dispute that the ground of his having work experience with Dr. Sarvepali Radhakrishnan Rajasthan Ayurved University, Jodhpur was very well raised at that point of time. The Court did not entertain the said ground and the writ petition of the petitioner was dismissed.

25. It is also an admitted fact that the special appeal as filed by the petitioner against the rejection of his writ petition was although disposed but a liberty was granted to him to file a review petition only on the ground of the earlier Division Bench judgment dated 26.02.2016 in *Yadvendra Shandilya* (supra) having not been considered by the learned Single Judge.



26. A bare perusal of the order passed by the learned Single Judge in S.B. Review Writ No.75/2017 (as reproduced hereinabove) reflects that the said review petition was allowed only in terms of of the ratio laid down in *Yadvendra Shandilya* (supra). The learned Single Judge did not consider any other aspect or ground.

27. Admittedly, judgment dated 26.02.2016 as passed in *Yadvendra Shandilya* (supra) was set aside by Hon'ble the Apex Court with the specific finding that letter dated 08.02.2016 as relied upon by the Division Bench was subsequently withdrawn by the State Government on 10.02.2017 and further that the said communication was just an interpretation by one of the officers of the Government. Neither could the same be termed to be a Government order nor would it have the effect of modifying Rule 19 of the Rajasthan Ayurvedic, Unani, Homeopathy and Naturopathy Subordinate Service Rules, 1966.

28. A bare perusal of the judgment as rendered by the Division Bench on 12.12.2023 in *Yadvendra Shandilya* (supra), after remand, reflects that the Court in unequivocal terms held that the classification as made by the State Government cannot be termed to be unreasonable or arbitrary. Therein, the Court while upholding the decision of grant of bonus marks to a limited number of candidates having work experience with the specified institutions/forums/agencies, was held to be good and the Court declined to interfere with the same.

29. In view of the above facts, this Court is of the clear opinion that once the petitioner chose to be governed by the ratio laid down in *Yadvendra Shandilya* (supra) and even was granted the



relief in terms of the ratio laid down in the said judgment, he cannot be now at this stage plead that his case is distinguishable from that in *Yadvendra Shandilya* (supra).

30. As is the settled position of law if a litigant claims to be governed by some other judgment or ratio laid down in some other judgment and he is even granted some relief in pursuance to the said relied upon judgment, he cannot subsequently turn back and plead that his case is distinguishable from the said judgment.

31. As held by a Co-ordinate Bench of this Court in ***S.B. Civil Writ Petition No.15076/2017; Narendra Kumar Chobdar & Ors. vs. State of Rajasthan & Ors.*** (order dated 22.03.2018), once an order is granted following/based on a particular order passed in other case, the petitioner claiming similarity while obtaining the said order has to **swim or sink together** i.e. the order in subsequent case has to follow the same fate as in the earlier case or vice versa. A similar view was taken by this Court in ***S.B. Writ Contempt No.1182/2025; Pradeep Purbia vs. The State of Rajasthan & Ors.*** (decided on 28.08.2025).

32. In view of the above settled position of law, this Court is of the clear opinion that the petitioner having been granted the relief by virtue of his review petition been allowed in light of the Division bench judgment in *Yadvendra Shandilya* (supra), would definitely be governed by the same ratio after judgment dated 26.02.2016 in *Yadvendra Shandilya* (supra) been set aside.

33. So far as the ground of the petitioner being entitled in view of the amendment in Rule 19 of the Rules of 1966 vide notification dated 12.06.2021 is concerned, admittedly, the recruitment



process in question was initiated vide advertisement dated 07.06.2013. By all means, the said recruitment process stood complete prior to notification dated 12.06.2021 having come into effect. Even the petitioner was afforded appointment in the year 2018. By any means, notification dated 12.06.2021 cannot have a retrospective effect and it cannot be concluded that amendment in Rule 19 vide notification dated 12.06.2021 would apply to the recruitment process of year 2013.

34. Further, amendment in Rule 19 of the Rules of 1966 vide notification dated 12.06.2021 itself fortifies the fact that candidates having work experience with Dr. Sarvepali Radhakrishnan Rajasthan Ayurved University were not entitled to bonus marks prior to the said notification having come into effect.

35. In view of the above overall analysis, this Court does not find any ground to interfere with the order impugned and the writ petition is hence **dismissed**.

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

(REKHA BORANA),J

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