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HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

Judgment reserved on : 26/10/2026

Judgment delivered on : 18/11/2026

Judgment (full) uploaded on : 18/11/2026

D.B. Civil Writ Petition No. 9649/2021

CNR: RJHC020562382021 | URN: CW / 21742U / 2021

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Puran Singh Purohit S/o Shri Onkar Singh Purohit, Aged About 40 Years, R/o Village Modi, Post Leveri, Via Nasirabad, District, Ajmer.

----Petitioner

Versus

1. Union Of India, Through Its General Manager, North-Western Railway, Jaipur.
2. Divisional Railway Manager (Establishment), North-Western Railway, Ajmer.

----Respondents

For Petitioner(s) : Mr. Raghunandan Sharma with
Ms. Manasvita Sharma
Mr. Ayush Bishnoi

For Respondent(s) : Mr. Ashish Kumar

DIVISION BENCH

HON'BLE THE CHIEF JUSTICE MR. SANJAY K. AGRAWAL
HON'BLE MR. JUSTICE SAMEER JAIN

C.A.V. Judgment

SANJAY K. AGRAWAL, CJ

For sake of exposition, this judgment is divided in the following parts:-

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1. The instant petition has been filed assailing the impugned order/letter dated 14.10.2015 passed by the respondents, whereby the offer of appointment letter dated 28.10.2014 was cancelled on account of adverse report of character verification of the petitioner; and the impugned order dated 13.08.2021 passed by the learned Central Administrative Tribunal, Jaipur Bench in OA/291/99/2016 whereby the original application made by the applicant-petitioner was dismissed.

SUBMISSIONS MADE BY LEARNED COUNSEL APPEARING FOR THE PETITIONER :

2. Learned counsel for the petitioner submitted that an advertisement came to be issued by the respondents in the year 2012 for recruitment to the post of Group-D Khalasi/Helper. It was contended that the petitioner fulfilled all the requisite eligibility criteria and qualifications prescribed under the advertisement and, accordingly, submitted his application under the physically handicapped quota.

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3. It was further submitted that, the written examination of the recruitment was held on 08.12.2013 and the result of the written examination was declared on 13.12.2013. Thereafter, upon completion of the selection process, the petitioner was informed vide communication dated 28.12.2014 that he was proposed to be appointed against the physically handicapped quota to the post of Group-D Khalasi/Helper (Passenger/Goods) in the Mechanical Department, in the pay scale of Rs.5,200–20,200/- with Grade Pay of Rs.1,800/-.

4. Learned counsel contended that, pursuant to the appointment order dated 28.10.2014, the petitioner appeared before the concerned authorities for joining and also furnished the original copies of the judgments passed in the criminal cases instituted against him. However, he was not permitted to join the service and was directed to await completion of the police verification of his documents, with an assurance that he would subsequently be informed regarding the date of joining. The petitioner in compliance with the directions issued by respondents, continued to await such intimation and duly furnished all the documents and information sought by the respondents.

5. It was submitted that, subsequently, vide communication dated 14.10.2015, the petitioner was informed that, in connection with Criminal Case Nos.27/2004 and 19/2006, he had been convicted and imposed with a fine of Rs.350/-, while in the other criminal proceedings, he had been extended the benefit of Sections 4 and 5 of the Probation of Offenders Act. On the basis of the aforesaid criminal antecedents and the adverse character

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verification report, the respondents took a decision to deny appointment to the petitioner and cancelled the offer of appointment dated 28.10.2014.

6. Learned counsel further submitted that, being aggrieved by the aforesaid decision dated 14.10.2015, whereby the petitioner's candidature was rejected and the offer of appointment was cancelled, the petitioner preferred Original Application No.291/99/2016 before the Central Administrative Tribunal, Jaipur Bench. However, the said Original Application came to be dismissed vide order dated 13.08.2021, for the reason that the advertisement pertains to the year 2012 and the impugned order therebefore dated 14.10.2015 does not warrants any interference.

7. It was, therefore, submitted that the petitioner, being aggrieved by the order dated 13.08.2021 passed by the learned Tribunal, as well as the decision of the respondents cancelling his offer of appointment on the basis of the adverse character verification report, has preferred the present writ petition seeking appropriate relief from this Court.

SUBMISSIONS MADE BY LEARNED COUNSEL APPEARING FOR THE RESPONDENTS :

8. *Per contra*, learned counsel for the respondents vehemently opposed the writ petition and submitted that the petitioner was denied appointment pursuant to the offer of appointment dated 28.10.2014, as he was admittedly found guilty by a competent criminal court for the offences punishable under Sections 147, 148, 149, 323 and 325 read with Section 34 of the IPC in Criminal Case No.19/2006, vide judgment dated 22.11.2013. It was

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contended that, although the petitioner was extended the benefit of Section 5 of the Probation of Offenders Act, the same did not amount to acquittal, and the petitioner continued to be a convicted person.

9. It was further submitted that, upon receipt of the petitioner's record, the same was forwarded for police verification to ascertain his character and criminal antecedents. The District Magistrate, Ajmer, in response to the office letter dated 10.11.2014, vide communication dated 29.12.2014, reported that Criminal Case No.27/2004 under Sections 239 and 337 of the IPC had been registered against the petitioner, wherein the petitioner was punished with a fine of Rs.350/- on 10.03.2005. It was further reported that, in Criminal Case No.19/2006, registered for the offences under Sections 147, 148, 149, 323 and 325 read with Section 34 of the IPC, the petitioner was held guilty by the competent criminal court, though the benefit of Section 5 of the Probation of Offenders Act was extended to him.

10. Learned counsel submitted that, upon receipt of the aforesaid adverse character verification report and after considering the facts and circumstances of the matter, the competent authority of the respondents took a conscious decision to cancel the offer of appointment issued to the petitioner, as he was not found suitable for permanent employment under the Central Government. It was contended that the said decision was taken in accordance with Condition No.3 of the offer of appointment dated 28.10.2014.

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11. It was further submitted that the findings recorded by the learned Tribunal are neither erroneous nor contrary to law, as the Tribunal had duly considered each and every aspect of the matter and examined the controversy in light of the settled legal position. Accordingly, the Tribunal rightly upheld the decision of the competent authority cancelling the petitioner's offer of appointment. Learned counsel contended that the ground raised by the petitioner regarding the extension of benefit under the Probation of Offenders Act was misconceived, as the grant of benefit under Section 5 of the said Act does not amount to acquittal. It was submitted that the petitioner had been held guilty by a competent criminal court and, therefore, could not claim an automatic right to appointment to a civil post under the Government.

12. It was further submitted that the Railways has consistently followed the policy that violation of the conditions stipulated in the offer of appointment renders the candidature liable to cancellation or the services liable to termination, without any notice. Learned counsel contended that the conditions incorporated in the offer of appointment were binding upon the petitioner and, upon their violation, the respondents were justified in withdrawing the offer of appointment. It was also submitted that the gravity of the offences committed by the petitioner was not relevant to the issue in view of the applicable Railway policy and the conditions of appointment.

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13. Learned counsel further submitted that the Hon'ble Supreme Court, in **Avtar Singh v. Union of India and ors.**[1], has laid down that the employer is required to take into consideration the applicable Government orders, instructions and rules while deciding the suitability of a candidate. It was contended that, in the present case, the petitioner had been convicted in two criminal cases and the offences committed by him could not be considered trivial in nature. Merely because the petitioner had been extended the benefit of Sections 4, 5 and 12 of the Probation of Offenders Act, the same did not preclude the employer from taking an appropriate decision in accordance with the applicable rules and policy.

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14. It was further contended that the present case involved a breach of the conditions stipulated in the offer of appointment, which had been duly accepted by the petitioner. The respondents were, thus, entitled to withdraw the offer of appointment upon finding that the petitioner did not satisfy the prescribed conditions of suitability. Learned counsel submitted that the petitioner had been clearly informed that, in the event of any information furnished by him being found false or any disqualification being discovered, his candidature would be liable to cancellation.

15. Lastly, learned counsel submitted that the learned Tribunal had passed a reasoned and speaking order after duly considering the law laid down by the Hon'ble Supreme Court and the High Court on the issue. The order passed by the learned Tribunal, as well as the cancellation of the offer of appointment, was just,

1 (2016) 8 SCC 471

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proper and in accordance with law. It was, prayed that the present writ petition be dismissed and the order passed by the learned Tribunal be upheld.

16. Having heard learned counsel for the parties, perused the material available on record and examined the order dated 13.08.2021 passed by the learned Central Administrative Tribunal, Jaipur Bench, this Court finds that the controversy involved in the present writ petition pertains to the petitioner's suitability for appointment to the post of Group-D Khalasi/Helper in the Mechanical Department of the Railways, in the physically handicapped quota, in view of his criminal antecedents and the adverse character verification report received from the competent authorities.

17. The undisputed factual position emerging from the record is that an advertisement came to be issued by the respondents in the year 2012 for recruitment to the post of Group-D Khalasi/Helper. The petitioner, claiming eligibility under the physically handicapped quota, participated in the selection process and was subsequently issued an offer of appointment dated 28.10.2014. However, the said offer of appointment was subject to the conditions stipulated therein, including verification of the petitioner's character and antecedents and his suitability for appointment in Government service. It is evident from the record that, during the process of character verification, the respondents received information regarding the criminal cases registered against the petitioner. In Criminal Case No.27/2004, registered under Sections 239 and 337 of the IPC, the petitioner was

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imposed with a fine of Rs.350/- vide order dated 10.03.2005. Further, in Criminal Case No.19/2006, registered for offences under Sections 147, 148, 149, 323 and 325 read with Section 34 of the IPC, the petitioner was held guilty by the competent criminal court vide judgment dated 22.11.2013, and the benefit of the Probation of Offenders Act was extended to him. Upon receipt of the aforesaid adverse character verification report, the competent authority, after considering the relevant facts and circumstances, took a decision to cancel the offer of appointment vide communication dated 14.10.2015. The said decision was subsequently upheld by the learned Tribunal.

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18. The principal contention advanced on behalf of the petitioner is that, since he had been extended the benefit of the Probation of Offenders Act, the respondents could not have denied him appointment on the basis of the criminal cases. The said contention, however, does not merit acceptance.

Legal position regarding the benefit of the Probation of Offenders Act :

19. The law is well settled that the benefit of probation granted by a criminal court does not, by itself, obliterate the finding of guilt recorded against an accused. The grant of probation primarily relates to the nature of the sentence to be imposed and does not necessarily erase the factum of conviction or the conduct which led to the criminal proceedings. In this regard, reliance may be placed upon the judgment of the Hon'ble Supreme Court in **Union of India v. Bakshi Ram[2],** wherein it was held that the conviction

2 (1990) 2 SCC 426

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remains intact notwithstanding the offender being released on probation, and that Section 12 of the Probation of Offenders Act does not preclude the employer from taking appropriate action in respect of the misconduct leading to the conviction. The aforesaid principle has also been reiterated in **Divisional Personnel Officer, Southern Railway v. T.R. Chellappan**[3], wherein the Hon'ble Supreme Court observed that the finding of guilt does not stand washed away merely because the accused has been released on probation.

20. It is, therefore, clear that the extension of the benefit of the Probation of Offenders Act cannot be construed as an automatic conferment of a right to appointment in Government service. The employer retains the authority to independently assess the suitability of a candidate in light of the nature of the offences, the circumstances in which they were committed and the requirements of the post in question.

21. At the same time, it is equally necessary to observe that the mere existence of a conviction cannot be treated as an inflexible or universal bar to appointment in every case. The decision of the employer must be founded upon an objective assessment of the relevant circumstances and the applicable service rules.

22. Further, it can be noted that the issue relating to the consideration of criminal antecedents at the stage of recruitment has been authoritatively settled by the Hon'ble Supreme Court in **Avtar Singh** (supra). In the aforesaid judgment, the Hon'ble Supreme Court laid down that the employer is entitled to examine

3 AIR 1975 SC 2216

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the criminal antecedents of a candidate and determine his suitability for appointment. In particular, the Court observed that where a conviction has been recorded in a case which is not trivial in nature, the employer may cancel the candidature or terminate the services of the employee, subject to consideration of the relevant circumstances and applicable rules. The Hon'ble Supreme Court further held that even where a candidate has truthfully disclosed the concluded criminal proceedings, the employer retains the right to consider his antecedents and cannot be compelled to appoint such candidate.

23. In the present case, the petitioner was not merely subjected to a prosecution which had culminated in an acquittal, rather, the record reveals that he was held guilty in Criminal Case No.19/2006 (supra) for the offences involving allegations of unlawful assembly, rioting and causing bodily injuries, including grievous hurt. The nature of the offences, therefore, cannot be equated with a trivial or technical infraction. The competent authority was justified in taking cognizance of the aforesaid criminal antecedents while assessing the petitioner's suitability for appointment to a civil post under the Central Government.

24. It is also pertinent to note that the respondents did not act solely on the basis of an unverified allegation or a pending criminal prosecution. The decision was taken after receipt of the character verification report from the District Magistrate, Ajmer, which disclosed the petitioner's involvement in two concluded criminal cases, one of which had resulted in a finding of guilt. The decision of the competent authority, therefore, cannot be said to

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be based upon extraneous considerations, provided that the same was taken in accordance with the applicable recruitment conditions and service instructions. The principle laid down in the aforesaid judgments squarely supports the proposition that selection or provisional appointment does not create an indefeasible right to appointment where the candidate is subsequently found unsuitable on account of his criminal antecedents.

Suitability for appointment and absence of an indefeasible right :

25. It is a settled proposition of law that mere participation in a selection process, being found eligible or even being selected for appointment does not confer an indefeasible right upon a candidate to claim appointment. The employer is entitled to examine whether the selected candidate satisfies all the requisite conditions of suitability before permitting him to enter Government service. In this regard, reliance may be placed upon **Shankarsan Dash v. Union of India**[4], wherein the Hon'ble Supreme Court held that even a selected candidate does not acquire an indefeasible right to appointment, though the State cannot act arbitrarily in declining appointment.

26. In the present case, the offer of appointment dated 28.10.2014 was expressly subject to the conditions stipulated therein (more specifically condition no.3), including verification of the petitioner's character and antecedents. The petitioner, therefore, could not claim an unconditional right to appointment

4 (1991) 3 SCC 47

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merely on the basis of his selection under the physically handicapped quota. The fact that the petitioner was eligible under the said quota cannot dispense with the requirement of suitability for appointment. Eligibility and suitability are two distinct considerations, and satisfaction of the former does not automatically establish the latter. It is further pertinent to observe that the respondents, upon receipt of the adverse character verification report, were required to take a decision in accordance with the conditions of the offer of appointment and the applicable rules governing recruitment. The competent authority, having examined the criminal antecedents of the petitioner, arrived at the conclusion that he was not suitable for appointment. The said decision, in the facts of the present case, cannot be interfered with merely because the petitioner had successfully participated in the selection process.

Relevance of the nature of offences and the employer's discretion :

27. The Hon'ble Supreme Court, in **Rajasthan Rajya Vidyut Prasaran Nigam Limited v. Anil Kanwaria**[5], dealt with a matter concerning appointment to the post of Technical Helper, wherein the candidate had suffered a conviction for offences under Sections 323 and 341 of the IPC and had been extended the benefit of the Probation of Offenders Act. The Hon'ble Supreme Court examined the suppression of criminal antecedents and the suitability of the candidate for appointment. The aforesaid judgment reinforces the principle that the employer is entitled to

5 (2021) 10 SCC 136

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assess the suitability of a candidate in the light of his criminal antecedents and the applicable recruitment conditions. In the present case, the petitioner was held guilty of offences under Sections 147, 148, 149, 323 and 325 read with Section 34 of the IPC. The nature of the offences, particularly those involving rioting and causing bodily injuries, was a relevant consideration for the competent authority while determining the petitioner's suitability for appointment.

28. The respondents were not required to ignore the aforesaid circumstances merely because the criminal court had extended the benefit of probation to the petitioner. The criminal court's decision concerning the sentence and the employer's assessment of suitability for public employment operate in distinct spheres. It is, therefore, evident that the competent authority was entitled to take into consideration the nature of the offences and the factum of conviction while determining whether the petitioner was suitable for appointment to a Group-D post under the Railways.

Scope of judicial review :

29. This Court is conscious of the fact that the power of judicial review in service matters is not intended to substitute the Court's own assessment of suitability for that of the competent appointing authority. Where the employer has taken a decision after examining the relevant material, in accordance with the applicable recruitment conditions and without any apparent arbitrariness, mala fides or consideration of extraneous material, the Court would ordinarily refrain from substituting its own opinion for that of the employer. In the present case, the decision of the

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respondents was founded upon the character verification report furnished by the District Magistrate, Ajmer, which disclosed the petitioner's criminal antecedents. The competent authority considered the said report and proceeded to cancel the offer of appointment in accordance with Condition No.3 of the offer of appointment dated 28.10.2014.

30. The petitioner has not been able to demonstrate that the decision of the competent authority was actuated by mala fides, founded upon irrelevant considerations or taken in disregard of the applicable rules and conditions of appointment. The learned Tribunal has also examined the controversy in its entirety and, upon consideration of the relevant material and the applicable legal principles, upheld the decision of the respondents. This Court does not find any perversity, jurisdictional error or patent illegality in the findings recorded by the learned Tribunal warranting interference in exercise of its writ jurisdiction.

Conclusion :

31. In view of the foregoing discussion, this Court is of the considered opinion that the petitioner, notwithstanding his eligibility and selection under the physically handicapped quota, was required to satisfy the respondents regarding his suitability for appointment. The offer of appointment dated 28.10.2014 was conditional in nature and did not confer upon the petitioner an unconditional or indefeasible right to enter Government service. The petitioner's contention that the extension of the benefit of the Probation of Offenders Act rendered him entitled to appointment is misconceived. The grant of probation does not obliterate the

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finding of guilt recorded by the competent criminal court, nor does it prevent the employer from independently examining the candidate's suitability in accordance with the applicable rules and conditions of appointment.

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32. The respondents, upon receipt of the adverse character verification report, were justified in considering the petitioner's criminal antecedents, particularly the conviction recorded in Criminal Case No.19/2006 for offences involving rioting and causing bodily injuries. The decision to cancel the offer of appointment cannot, in the facts and circumstances of the present case, be said to be arbitrary or contrary to the law laid down by the Hon'ble Supreme Court.

33. The learned Central Administrative Tribunal, Jaipur Bench, has duly considered the relevant facts, the conditions of the offer of appointment and the settled legal position governing the consideration of criminal antecedents at the stage of recruitment. The order dated 13.08.2021 does not suffer from any apparent illegality or infirmity warranting interference by this Court.

34. Consequently, this Court finds no merit in the present writ petition. The same is accordingly dismissed. The order dated 13.08.2021 passed by the learned Central Administrative Tribunal, Jaipur Bench, as well as the decision of the respondents cancelling the offer of appointment dated 28.10.2014, are upheld. No orders are passed as to costs. Pending applications, if any, shall stand disposed.

(SAMEER JAIN),J (SANJAY K. AGRAWAL),CJ

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