



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

D.B. Special Appeal Writ No. 1219/2025  
CNR: RJHC010533702025 | URN: SAW / 2293U / 2025

Dr. Anil Paliwal S/o Shri Chiranji Lal Paliwal, Aged About 60  
Years, R/o 2, Behind Shree Nath Hospital, Rajratan Complex,  
New Navratan, Udaipur, Rajasthan

-----Appellant

Versus

1. State Of Rajasthan, Through The Secretary, Department  
Of Higher Education, Government Of Rajasthan, 1St Floor,  
Main Building, Government Secretariat, Jaipur 302005,  
Rajasthan.
2. Commissioner, Department Of College Education,  
Government Of Rajasthan, Block-Iv, Dr. S. Radhakrishnan  
Shiksha Sankul, Jawahar Lal Nehru Marg, Jaipur 302015,  
Rajasthan.
3. Joint Director (Rvres), Commissionerate, Department Of  
College Education, Government Of Rajasthan, Block-Iv,  
Dr. S. Radhakrishnan Shiksha Sankul, Jawahar Lal Nehru  
Marg, Jaipur 302015, Rajasthan.
4. Principal, Government College, Kherwarda, Udaipur.

-----Respondents

Connected With

D.B. Special Appeal Writ No. 1027/2025  
CNR: RJHC010533682025 | URN: SAW / 1943U / 2025

Dr. Anil Paliwal S/o Shri Chiranji Lal Paliwal, Aged About 60  
Years, R/o 2, Behind Shree Nath Hospital, Rajratan Complex,  
New Navratan, Udaipur, Rajasthan

-----Appellant

Versus

1. State Of Rajasthan, Through The Secretary, Department  
Of Higher Education, Government Of Rajasthan, 1St Floor,  
Main Building, Government Secretariat, Jaipur 302005,  
Rajasthan
2. Commissioner, Department Of College Education,  
Government Of Rajasthan, Block-Iv, Dr. S. Radhakrishnan  
Shiksha Sankul, Jawahar Lal Nehru Marg, Jaipur 302015,



Rajasthan

3. Joint Director (Rvres), Commissionerate, Department Of College Education, Government Of Rajasthan, Block-Iv, Dr. S. Radhakrishnan Shiksha Sankul, Jawahar Lal Nehru Marg, Jaipur 302015, Rajasthan.
4. Principal, Government College, Kherwarda, Udaipur.

-----Respondents

D.B. Special Appeal Writ No. 1729/2025  
CNR: RJHC010812772025 | URN: SAW / 3092U / 2025

1. State Of Rajasthan, Through The Secretary, Department Of Higher Education, Government Of Rajasthan, 1St Floor, Main Building, Government Secretariat, Jaipur-302005, Rajasthan.
2. The Commissioner, Department Of College Education, Government Of Rajasthan, Block-Iv, Dr. S. Radhakrishnan Shiksha Sankul, Jawahar Lal Nehru Marg, Jaipur- 302015, Rajasthan.
3. The Joint Director, (Rvres), Commissionerate, Department Of College Education, Government Of Rajasthan, Block-Iv, Dr. S. Radhakrishnan Shiksha Sankul, Jawahar Lal Nehru Marg, Jaipur-302015, Rajasthan.
4. Principal, Government College, Kherwada, Udaipur

-----Appellants

Versus

Dr. Anil Paliwal S/o Shri Chiranji Pal Paliwal, R/o. 2, Behind Shree Nath Hospital, Rajratan Complex, New Navratan, Udaipur, Rajasthan.

-----Respondent

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|                   |   |                                                  |
|-------------------|---|--------------------------------------------------|
| For Appellant(s)  | : | Mr. Jaamvant Gurjar                              |
| For Respondent(s) | : | Mr. Ravindra Jala for<br>Mr. S.S. Ladreacha, AAG |

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**HON'BLE MR. JUSTICE VINIT KUMAR MATHUR**  
**HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA**  
**Judgment**

**28/10/2026**



1. Heard learned counsel for the parties.
2. Since all the three appeals arise out of a common order passed by learned Single Judge dated 01.04.2025, therefore, they are being decided by this common judgment.
3. The facts of D.B. Special Appeal Writ No. 1729/2025 are taken into consideration for deciding the controversy involved in these appeals.
4. Brief facts of the case are that the respondent-petitioner was working in the appellant-Department on the post of Lecturer. While serving as a Lecturer, he was posted to serve in the Commissionerate vide order dated 22.04.2022. The respondent-petitioner, instead of joining his services at Commissionerate, sent a communication to the appellant Department stating therein that since he is involved in the profession of teaching, therefore, he should be posted at a place where he can impart lectures and no useful purpose would be served by posting him on the work arrangement basis in Commissionerate and thereafter he joined his duties on 04.05.2022 and after joining the duties in the Commissionerate on 04.05.2022, he remained absent from 05.05.2022 without getting the leave sanctioned and without any permission from any competent authority to leave the headquarters. Thereafter, vide communication dated 05.05.2022, the respondent-petitioner again requested the appellant Department to post him on the post of a teaching job. Vide communication dated 17.05.2022, the appellant Department once again issued a letter directing the respondent-petitioner to join his duties at Commissionerate immediately, which were replied by the respondent-petitioner vide communications dated 18.05.2022 and





19.05.2022 insisting the appellant Department to post him on any academic post. When the respondent-petitioner did not join the duties in the Commissionerate, he was issued a show cause notice under Rule 17 of Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 dated 12.12.2022, which was replied by him, however, the same was not found satisfactory and thereafter the appellant Department issued a notice under Rule 86(4) of the Rajasthan Service Rules of 1951, which was replied by the respondent-petitioner. Since the reply filed by the respondent-petitioner was not found satisfactory, the order dated 07.09.2023 was passed by the appellant Department, whereby, the services of the respondent-petitioner were discharged as deemed to have resigned. The order dated 07.09.2023 was passed taking recourse to Rule 86 (4) of the Rules of 1951. Aggrieved by the order dated 07.09.2023, the respondent-petitioner filed a writ petition before this Court and the said writ petition was decided by the learned Single Judge vide order dated 01.04.2025. Besides this writ petition, the respondent-petitioner preferred two more writ petitions being CWP Nos.17086/2022 and 13163/2022 for grant of salary and for quashing the work arrangement order. The other two writ petitions were also decided along with the writ petition assailing the validity of the order dated 07.09.2023. Hence, these appeals have been preferred.

5. Learned counsel for the respondent-petitioner vehemently submitted that the order passed by the appellant Department on 07.09.2023 is not in-conformity with the provisions of law as the respondent-petitioner was never accorded any leave nor he was continuously absent for a period exceeding five years, therefore,





the applicability of Rule 86 (4) of the Rules of 1951 is not present in the present set of facts and at the best, the respondent-petitioner can be treated to be willfully absent from job for not having given the posting of his taste and, therefore, he was required to be proceeded in accordance with law. Learned counsel further submits that since the respondent-petitioner is well conversant with the teaching job, therefore, his placement in the Commissionerate on work arrangement basis is absolutely uncalled for and, therefore, his request to be placed on the teaching job was just, proper and correct. Learned counsel, however, fairly submits that the respondent-petitioner was absent from the duties after 05.05.2022 without being sanctioned leave or without any permission of the competent authority for leaving the headquarter.

6. Learned counsel for the State vehemently submitted before this Court that since the respondent – petitioner was absent from duty without any authorization, the competent authority of the Department has rightly proceeded against him and after giving him reasonable opportunity of hearing, the order dated 07.09.2023 has rightly been passed.

7. However, Learned counsel for the parties fairly submit that they are unable to satisfy this Court that the proceeding initiated against the respondent-petitioner were in accordance with the provisions of law holding the field. They, therefore, submit that the matter may be remitted back to the State Authorities for deciding the case of the respondent-petitioner in accordance with law.



8. We have considered the submissions made at the Bar and gone through the relevant record of the case including the impugned order dated 07.09.2023.

9. The facts noted here-in-above clearly depict that the respondent-petitioner, while working as a Lecturer in the appellant Department, was issued an order for joining his duties in the Commissionerate under the work arrangement basis, but the same being not of his taste, he insisted for posting him on any post of teaching job and, therefore, in these circumstances, he left the office on 05.05.2022 without taking appropriate leave from competent authorities and without the permission to leave headquarter. In these circumstances, the respondent-petitioner was served with a notice under Rule 17 of the Rules of 1958 and was ultimately proceeded under Rule 86 of the Rules of 1951.

10. We are at a loss to understand that how the appellant State has proceeded against the respondent-petitioner in the circumstances mentioned above under Rule 86 of the Rules of 1951. For brevity, Rule 86 of the Rules of 1951 is reproduced hereunder:-

*"86. Absence after expiry of leave:—(1) A Government servant who is absent from duty without leave or before leave applied for has been sanctioned by the competent authority shall be treated to have remained willfully absent from duty and such absence shall amount to interruption in service involving forfeiture of past service unless, on satisfactory reasons being furnished, the absence is regularized by grant of leave due or is commuted into extra-ordinary leave by the authority competent to sanction leave.*

*(2) (a) A Government servant who remains absent from duty after the expiry of the sanctioned leave or*





*after communication of refusal of extension of leave is not entitled to any pay and allowances for the period of such absence and the period of such absence shall be commuted into extra ordinary leave unless on satisfactory reasons being furnished, the period of absence is regularized by grant of leave due by the authority to grant leave. (b) Willful absence from duty after the expiry of leave renders a Government servant liable to disciplinary action.*

*(3) Notwithstanding the provisions contained in sub-rules (1) and (2) above the disciplinary authority may initiate departmental proceeding under Rajasthan Civil Services (Classification, Control & Appeal) Rules against a Government servant who willfully remains absent from duty for a period exceeding one month and if the charge of willful absence from duty is proved against him, he may be removed from service.*

*(4) No Government Servant shall be granted leave of any kind for a continuous period exceeding five years.*

*A Government Servant shall be deemed to have resigned from the service if he,-*

*(a) is absent without authorization for a period exceeding one year from the date of expiry of sanctioned leave or permission, or*

*(b) is absent from duty for a continuous period exceeding five years even if the period of unauthorized absence is for less than a year, or*

*(c) continuous on foreign service beyond the period approved by the State Government:*

*Provided that a reasonable opportunity to explain the reason for such absence or continuation of foreign service, shall be given to the Government Servant before the provisions of this sub-rule are invoked."*

11. A bare perusal of Rule 86 of the Rules of 1951 shows that a government servant will be deemed to have resigned from service,





if he continues to remain absent after the leave period is over for a period mentioned in (a), (b) and (c) in sub-rule (4) of the Rule of 86, but in the present case, neither the respondent-petitioner was granted any leave nor the same was ever sanctioned but he chose to remain absent from duty without authority of law.

12. Thus, we are clearly of the view that the appellant-State has wrongly proceeded under Rule 86 of the Rules of 1851 when the respondent-petitioner had not reported for duty after 05.05.2022 without any authority of law. The proper course for the appellant State was to take appropriate action as per the provisions of the Rajasthan Service Rules, 1951 taking into consideration the fact that the respondent-petitioner has absented from duty without authority of law. In this view of the matter, we feel that ends of justice will be met, if the matter is remitted back to the appellant-State for taking appropriate action in the matter by applying the correct provisions of the Rajasthan Service Rules, 1951.

13. In view of the discussions made above, the order dated 07.09.2023 and the order of learned Single Judge dated 01.04.2025 are quashed and set aside and the matter is remanded back to the competent authority of the appellant State for initiating the proceedings in accordance with the provisions of Rajasthan Service Rules, 1951.

14. It is further directed that the proceedings initiated shall be completed within a period of six months from the date of receipt of certified copy of this order.

15. Needless to say that reasonable opportunities to defend shall be given to the respondent-petitioner in the matter.





16. Further, the question of salary including other retrial benefits and placement of the respondent-petitioner in the Commissionerate on work arrangement basis shall also be decided by the State Authority in accordance with law.

17. The special appeals are disposed of in the above terms.

18. The stay application and other pending applications, if any, also stand disposed of.

**(CHANDRA SHEKHAR SHARMA),J      (VINIT KUMAR MATHUR),J**

Crt\_2 (2039)  
D-A/30-32  
Sanjay Solanki, PS