



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

S.B. Civil Writ Petition No. 10803/2026

Devilal Bheel S/o Late Shri Bherulal Bheel, Aged About 30 Years,
R/o 563, Nai Abadi Ghatiyawali, Tehsil And District Chittorgarh,
Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through The Principal Secretary,
Department Of Water, Resources, Jaipur, Rajasthan.
2. Principal Secretary, Department Of Personnel, Main
Building, Secretariat, Jaipur (Raj.).
3. The Chief Engineer, Water Resources Department,
Jaipur.
4. Additional Chief Engineer (Headquarters), Water
Resources Department, Udaipur, Being Member Of The
Committee Constituted Vide Proceedings Dated 10-04-
2026.
5. Superintending Engineer (Administration And E-
Governance), Water Resources Division, Udaipur.
6. Assistant Engineer, Water Resources Sub Division Ii,
Chittorgarh, Rajasthan.

----Respondents

For Petitioner(s) : Mr. Twinkle Purohit
For Respondent(s) :

HON'BLE MR. JUSTICE ARUN MONGA

Order(Oral)

Reportable
18/05/2026

1. Petitioner has filed this writ petition seeking following relief:-

*“(i) The minutes of meeting dated 10.04.2026 (Annex-7), declaring the petitioner ineligible may kindly be declared illegal, without jurisdiction and be quashed and set aside.
(ii) The respondent authority may kindly be directed to grant a suitable appointment to the petitioner forthwith.”*
2. Brief fact of the case as stated by learned counsel for the petitioner are that the petitioner's father, was serving as a Class-IV employee in the respondent department since 01.01.1985 and continued in service till his demise on 12.08.2024. It is further



submitted that the petitioner and his family members were wholly dependent upon the income of the deceased employee and, after his death, the family was left in financial hardship.

2.1 Thereafter, the mother of the petitioner submitted an application dated 26.09.2024 before the respondent authorities seeking compassionate appointment in favour of the petitioner. The petitioner also independently submitted an application on the same date requesting appointment on compassionate grounds in place of his deceased father.

2.2 Petitioner furnished all requisite documents and affidavits on 05.05.2025 for consideration of his case. According to the respondents, the petitioner had also disclosed the pendency of a criminal case at the time of submission of the documents.

2.3 Upon scrutiny of the documents, the competent authority, vide order dated 06.10.2025, recommended the petitioner's case for compassionate appointment. Thereafter, respondent No. 3, vide communication dated 14.10.2025, sought a character verification report from the Superintendent of Police, Chittorgarh.

2.4 Petitioner was never supplied with the said report, the Committee constituted by the respondent department, while considering the matter, relied upon the circular dated 04.12.2019 and rejected the petitioner's claim for compassionate appointment vide minutes of meeting dated 10.04.2026, solely on the basis of the criminal case decided against the petitioner. It is contended that the Committee failed to consider the facts and circumstances of the case, particularly the benefit of probation granted to the petitioner by the competent Court. The said decision was thereafter communicated to the petitioner vide communication dated 15.04.2026.



2.5 With regard to the criminal case, learned counsel submits that FIR No. 77/2015 came to be registered against the petitioner for offences under Sections 454 and 380 IPC. The trial culminated in a judgment dated 15.12.2016 passed by the Court of Civil Judge and Judicial Magistrate, Chittorgarh, whereby the petitioner was convicted and sentenced to undergo simple imprisonment for a period of three years along with a fine of Rs. 2,000/-.

2.6 Petitioner then preferred an appeal before the Court of Additional District and Sessions Judge No. 1, Chittorgarh, which came to be decided on 12.06.2019. The appellate Court upheld the conviction but modified the sentence by reducing the imprisonment from three years to one year while maintaining the fine imposed.

2.7 Thereafter petitioner preferred S.B. Criminal Revision Petition No. 76/2019 before this Court. The said revision petition was partly allowed vide order dated 18.03.2025, whereby this Court extended the benefit of Section 4 of the Probation of Offenders Act, 1958 to the petitioner and directed his release on probation subject to furnishing of bonds and maintenance of peace and good behaviour for a period of two years.

2.8 The petitioner asserts that in view of Section 12 of the Probation of Offenders Act, 1958, a person who has been granted the benefit under Sections 3 or 4 of the said Act does not suffer any disqualification attached to the conviction. Therefore, the respondents could not have treated the conviction as a disqualification for the purpose of compassionate appointment.

2.9 Hence, this writ petition.

3. Learned counsel for the petitioner submits that the circular dated 04.12.2019 specifically treats persons who have been extended the benefit under Section 12 of the Probation of Offenders Act, 1958 as eligible for appointment, and does not contemplate any further scrutiny



by a Committee. It is contended that despite the petitioner having been granted the benefit under Sections 4 and 12 of the Act, the respondent authorities illegally constituted a Committee and rejected his candidature, thereby importing a condition wholly alien to the governing policy. The impugned action is thus assailed as arbitrary, without jurisdiction, and contrary to the circular dated 04.12.2019.

3.1 It is further argued that the minutes of the meeting dated 10.04.2026 disclose complete non-application of mind, inasmuch as the Committee failed to advert to the material facts, the outcome of the criminal proceedings, and the statutory protection expressly available to the petitioner.

4. In the aforesaid backdrop, I have heard learned counsel for the petitioner and perused the case record.

5. Given the nature of order being passed, the requirement of issuance of notice to the respondents is dispensed with since the very basis thereof is a circular dated 04.12.2019 issued by the State Government.

6. Circular dated 04.12.2019, *ibid*, issued by Department of Personnel, Government of Rajasthan reads as under:-

“Situations where a candidate may be considered eligible for appointment:

(i) Candidates who have not been found guilty in a criminal investigation and within the period of one year from issuance of result in the relevant recruitment process final report after investigation has been presented before the competent court.

(ii) In cases of acquittal, a committee constituted by the department in this regard, which includes a police officer as a member, will thoroughly examine the candidate's antecedents, the severity of the charges, and the basis of acquittal (whether the acquittal was granted honorably or on the basis of benefit of doubt/compromise), and will take decision on the issue of appointment of the candidate.

(iii) Cases of candidates who have been extended the benefit of probation and have been released on probation under Section 12 of the Probation of Offenders Act (conviction does not entail any disqualification/does not have any adverse effect on government service/future life).

(iv) Cases of candidates who have been convicted and granted the benefit of Section 24(1) of the Juvenile Justice (Care and Protection of Children) Act, 2005,





All appointing authorities are expected that they will take appropriate decisions in connection with the character/police verification of candidates at the time of appointment, keeping in view the provisions of the relevant service rules and these guidelines. And they would neither keep cases of this nature unnecessarily pending nor refer them to the Personnel Department."

A perusal of the above reveals that the circular enumerates the situations in which a candidate with criminal antecedents may nonetheless be considered eligible for appointment. Clause (iii) thereof specifically covers cases of candidates who have been extended the benefit of probation and released on probation under Section 12 of the Probation of Offenders Act, expressly providing that such conviction does not entail any disqualification or carry any adverse effect on government service or future life.

7. The provision that lies at the heart of the matter is Section 12 of the Probation of Offenders Act, 1958, which reads as under:

" 12. Removal of disqualification attaching to conviction.- Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of Section 3 or Section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law:

Provided that nothing in this section shall apply to a person who, after his release, is sentenced for the original offence or is convicted and sentenced for any subsequent offence."

The import of this provision is unambiguous and far-reaching. The legislature, in its wisdom, has enacted an express statutory shield in favour of persons dealt with under Sections 3 and 4 of the Act, that is, persons released on admonition or on probation of good conduct. By the operation of Section 12, such a person is statutorily absolved of every disqualification that would otherwise attach to a conviction. The provision is non-obstante in character, employing the phrase "notwithstanding anything contained in any other law," which means it overrides any contrary provision in any other statute, rule, or circular.



The disqualification is not merely waived or condoned as an act of executive discretion, it is extinguished by force of law. A person who has been extended the benefit under Section 4 and who has not subsequently been convicted of any offence stands, in the eye of the law, as if the conviction never carried any civil consequence.

8. Reverting once again to the Clause (iii) of the circular dated 04.12.2019, *ibid*, it is a direct reflection of aforesaid statutory mandate. It does not create an independent entitlement, it merely acknowledges and gives administrative effect to what Parliament has already declared. Accordingly, when the Committee constituted by the respondent department chose to reject the petitioner's candidature on the ground of his conviction, it acted in direct defiance of both the statutory protection under Section 12 and the departmental policy under the circular.

9. The petitioner was otherwise found meritorious in all respects. To hold that a person on probation is disentitled from being reintegrated into public employment would defeat the very intent and objective of the Probation of Offenders Act, 1958, which is designed to afford rehabilitation and restore the offender to normal social life. The Act proceeds on the philosophy that a first or minor offender ought not to be permanently stigmatised, and that society is better served by his reformation than by his exclusion. Any administrative action that nullifies this legislative purpose must necessarily be regarded as arbitrary and unsustainable in law.

10. As an upshot, the decision taken qua the petitioner as per the minutes of meeting dated 10.04.2026 is set aside and the Competent Authority of the respondents is directed to consider the case of the petitioner afresh, *de hors* the fact that he was released on probation



under Section 12, *ibid*. Needless to say in case he is found otherwise eligible and meritorious, he shall be given the benefit thereof in accordance with law.

- 11. The writ petition is disposed of.
- 12. All pending applications also stand disposed of.

(ARUN MONGA),J

105-Devanshi/-

