

राजस्थान-सरकार
निदेशालय चिकित्सा एवं स्वास्थ्य सेवायें, राजस्थान-जयपुर।
क्रमांक: प.7(912)/निचिस्वा/विधि/अव./2014/495

दिनांक:-17.11.14

उप निदेशक (प्रशासन),
मुख्यालय एवं समन्वयक।

विषय:-राजस्थान उच्च न्यायालय, जयपुर में दायर एस0बी0सि0अव0 याचिका संख्या 1343/2014 (अन्तर्गत एस0बी0 सि0 रिट याचिका संख्या 1489/2012) सुरेश कुमार बेनीवाल (जीएनएम प्रशिक्षण अवधि को प्रतिनियुक्ति मानने बाबत) बनाम श्री दीपक उप्रेती, प्रमुख शासन सचिव, चिकित्सा एवं स्वास्थ्य विभाग, राजस्थान जयपुर व अन्य।

उपरोक्त विषयान्तर्गत उक्त अवमानना प्रकरण में प्रत्यर्थागण की ओर से आपको समन्वयक एतद् द्वारा नियुक्त किया जाता है। अतः आप इस प्रकरण के लिए श्री एस0के0गुप्ता, अतिरिक्त महाधिवक्ता, राजस्थान उच्च न्यायालय, जयपुर से सम्पर्क कर अवमानना प्रकरण का जवाब तैयार करवाकर माननीय न्यायालय में पेश कराने की कार्यवाही करावें जिससे इस प्रकरण का निस्तारण हो सकें।

प्रकरण में अवामनना याचिका की प्रति संलग्न कर लेख है कि पारित निर्णय की पूर्ण पालना सक्षम स्तर से कराये जाने हेतु प्रमुख शासन सचिव, चिकित्सा एवं स्वा0 विभाग, राजस्थान जयपुर द्वारा जारी आदेश क्रमांक प.7()/निचिस्वा/विधि/ 10/513 दिनांक 24.02.10 में वर्णित निर्देशानुसार पारित निर्णय की पालना संबंधी दायित्व का निर्वहन करते हुये प्रकरण में आप द्वारा की गई कार्यवाही से राज्य सरकार एवं अधोहस्ताक्षरकर्ता को समय-समय पर अवगत कराते रहे।

संलग्न-उपरोक्तानुसार।

निदेशक (जन स्वास्थ्य)
चिकित्सा एवं स्वास्थ्य सेवायें
राजस्थान, जयपुर।

दिनांक:-17.11.14

क्रमांक: प.7(912)/निचिस्वा/विधि/अव./2014/495

प्रतिलिपि निम्न को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है:-

1. शासन सचिव (विधि), राजस्थान सरकार को प्रेषित कर निवेदन है कि प्रकरण में श्री एस0के0गुप्ता, अतिरिक्त महाधिवक्ता, राजस्थान उच्च न्यायालय, जयपुर को पैरवी हेतु की गई नियुक्ति का अनुमोदन कराने का श्रम करें।
2. अतिरिक्त निदेशक (प्रशासन), मुख्यालय को मय अवमानना याचिका की प्रति संलग्न प्रेषित कर लेख है कि समन्वयक को आवश्यक जवाब हेतु तथ्यात्मक स्थिति से अवगत करावें। साथ ही निर्णय की नियमानुसार पालना/अपील/नो अपील की कार्यवाही करना सुनिश्चित कराने का श्रम करें।
संलग्न:-उपरोक्तानुसार।
3. संयुक्त निदेशक, चिकित्सा एवं स्वास्थ्य सेवायें, जोन-जयपुर।
4. श्री एस0के0गुप्ता, अतिरिक्त महाधिवक्ता, राजस्थान उच्च न्यायालय, जयपुर को उनके पत्रांक एसकेजी/एएजी/2014/425 दिनांक 12.11.2014 के क्रम में।
5. डीलिंग असिस्टेन्ट, उच्च न्यायालय जयपुर सीट, विधि अनुभाग, मुख्यालय को प्रेषित कर लेख है कि याचिका में पारित निर्णय में नियमानुसार अग्रिम कार्यवाही हेतु वांछित कार्यवाही सुनिश्चित करावें।
6. प्रभारी सर्वर रूम को मुख्यालय को वास्ते विभाग की साईड पर अपलोड एवं ई-मेल करने बाबत।
7. डाटा एन्ट्री ऑपरेटर, विधि अनुभाग, मुख्यालय।
8. रक्षित पत्रावली।

सहायक विधि परामर्शी
चिकित्सा एवं स्वास्थ्य सेवायें
राजस्थान, जयपुर।

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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

S.B.CIVIL CONTEMPT PETITION NO. 1343/2014

IN

S.B.CIVIL WRIT PETITION NO. 1489 / 2012

Suresh Kumar Beniwal ...Petitioner
Versus
Deepak Jpreti & Ors. ...Respondents

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JAIPUR

DATED: 07.10.14

COUNSEL FOR THE PETITIONER

(ANKUR RASTOGI / PRIYA RASTOGI)
Advocates

ANCUR RASTOGI
13/11/14



IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR

S.B.CIVIL CONTEMPT PETITION NO. 1343/2014

IN

S.B.CIVIL WRIT PETITION NO. 1489/2012

Suresh Kumar Beniwal S/o Sh. Bhana Ram, aged about 34 yrs., R/o C/o Hanuman Lal Mehra, Opp. Power House, Moh. Jata Bass Vill. Nimaz, Tehsil. Jaitaran, Distt. Pali (Raj).

..Petitioner

Versus

1. Deepak Upreti
Principal Secretary, Department of Medical & Health Services, Government of Rajasthan, Secretariat, Jaipur
2. Dinesh Jangid
Additional Director (Administration), Department of Medical & Health Services, Government of Rajasthan, Jaipur.

...Non-petitioners/Contemnors

S.B.CIVIL CONTEMPT PETITION UNDER SECTIONS 3, 11, 12, & 14 OF THE CONTEMPT OF COURTS ACT, 1971 AGAINST NON-PETITIONERS/CONTEMNORS FOR NON COMPLIANCE AND WILFULL DISOBEDIENCE OF THE JUDGEMENT DATED 20.05.2014 PASSED BY HON'BLE MR. JUSTICE MOHAMMAD RAFIQ, J. IN S.B.CIVIL WRIT PETITON NO.1489/2012

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To,

The Hon'ble Chief Justice And his other companion
Judges of the Hon'ble High Court of Judicature for
Rajasthan, Jaipur Bench, Jaipur.

MAY IT PLEASE THIS HON'BLE COURT,

The humble petitioner, above named, most
respectfully submits as under: -

1. That, the writ petition was filed by the petitioner for treating his training period as on deputation. Because, in case of similarly situated persons, non-petitioners have already paid complete salary with all consequential benefits by treating their services as on deputation.
2. That, due to non consideration of training period as on deputation on the ground that in exactly identical case, this court in the case of Iqbal Ahmed Afridi Vs. State of Rajasthan, S.B. Civil Writ Petition No.2760/88 decided on 15.2.2000 and in case of D.B. Special Appeal No.1468/2006 decided on 3rd March, 2008 and directed the respondents to treat the petitioner on deputation during the period of training and pay them salary and consequential benefits for the aforesaid period. However, in case of petitioner, this Hon'ble court has pleased to pass an order-dated 20.05.2014 in favour to the petitioner.
3. That, the Hon'ble Court on 20.05.2014 allowed writ petition of the petitioner and directed the



respondents to treat his training period as on deputation with all consequential benefits. A certified copy of the judgment passed by this Hon'ble court dated 20.05.2014 is filed herewith and marked as ANNEXURE-1. The operative portion of the Judgment dated 20.05.2014 is being reproduced as hereunder: -

"Consequently, the present petitions are disposed of with the direction that such of the petitioners, who have taken admission in government nursing colleges prior to 30.08.2011 i.e. the date on which the decision in the case of *Suman Kumari (supra)*" was delivered, shall be entitled to the same benefits as granted to the petitioners in the case of *Suman Kumari (supra)*. However, such benefits shall not be extended to those who are studying in private nursing institute and to those who have taken admission subsequent to 30.08.2011, whose case shall be governed by rules 97, 110 and 112 of the RSR for the grant of study leave and benefits as admissible according to the rules. Appropriate orders thereabout be passed on their applications.

Compliance of this order be made within a period of two months from the date of copy of this order is produced before the respondents."

4. That, the respondents have not passed appropriate order within two months i.e. for paying the salary and other allowances during the training period with consequential benefits despite passing the order of Hon'ble court. The case of the petitioner

[Handwritten signature]

for payment of salary and other consequential benefits and other emoluments has shown scant regards to the order of the Hon'ble Court.

5. That, the judgment of the Hon'ble Court dated 20.05.2014 has attained finality as no notice of appeal before the Division Bench or Hon'ble Supreme Court has been received to the petitioner till today and as such, contemnors are under obligation to comply the judgment of this Hon'ble Court.
6. That, the petitioner as soon as received the copy of the aforesaid order persuaded in the matter.
7. That, as one of the petitioners in said writ petition no. 2369/08, i.e. Smt. Kirti Mehta, had been paid full salary with all consequential benefits. As soon as this very facts came to knowledge of the petitioner and as has been conveyed to petitioner by the respondents that with regard to the negative response by the authorities despite passing of order by the Hon'ble Court and as such, the petitioner has filed one writ petition no.1489/2012, wherein, after issuing of notices, the Government counsel put his appearance before court and pleads his case.
8. The petitioner has also intimated to the respondents contemnors with regard to the Hon'ble court order dated 20.05.2014 with his intimation letter. But, since than, till today nothing has been done so far regarding compliance of the order

Handwritten signature

dated 20.05.2014. A copy of the intimation letter is filed herewith and marked as ANNEXURE-2.

9. That, the petitioner has already sent a legal notice, for committing contempt to the contemnors through his counsel. A copy of the Contempt notices is filed herewith and marked as ANNEXURE-3.

10. That, the contemnors by not passing the order in compliance of judgment dated 20.05.2014 of Hon'ble High Court have committed contempt of Court and as such, they are guilty of committing contempt. The request made by the petitioner has not yielded any result. The legal notice sent by the petitioner has also not been replied.

10. That, the contemnors have willfully disobeyed the direction of this Hon'ble Court and as such, they are guilty of committing contempt and are required to be punished under the Contempt of Courts Act, 1971.

It is, therefore, humbly prayed that;

- (i) This Contempt Petition may kindly be allowed and the respondents/contemnors may be punished severally under the provisions of the contempt of Courts Act, 1971 and the Hon'ble High Court may be pleased to direct the respondents/contemnors to comply the judgment dated 20.05.2014 immediately in the interest of justice and for upholding the dignity and majesty of law.
- (ii) This Hon'ble Court may please to direct the contemnors to pay the salary and other

[Handwritten signature]

allowances with consequential benefits
alongwith interest @ 18% per annum.

[Signature]

Humble Petitioner

Through Counsel

[Signature]

(ANKUR RASTOGI / PRIYA RASTOGI)

Advocates

NOTES:

1. That, the process fees, notices and extra sets of the Contempt Petition shall be filed within 3 days after admission of the contempt petition.
2. That, no such Contempt Petition has been filed prior to this before this Hon'ble Court.
3. It has been typed by my private Steno who is not an employee of this Hon'ble Court.
4. As pie papers are not readily available, it has been typed on stout papers.

COUNSEL FOR THE PETITIONER

[Signature]

(ANKUR RASTOGI / PRIYA RASTOGI)

Advocates

[Signature]

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR

S.B.CIVIL CONTEMPT PETITION NO. /2014

IN

S.B.CIVIL WRIT PETITION NO. 1489/2012

Suresh Kumar Beniwal ...Petitioner

Versus

Deepak Upreti & Ors. ...Respondents

AFFIDAVIT IN SUPPORT OF CONTEMPT PETITION

Suresh Kumar Beniwal S/o Sh. Bhana Ram, aged about 34 yrs., R/o C/o Hanuman Lal Mehra, Opp. Power House, Moh. Jata Bass Vill. Nimaz, Tehsil. Jaitaran, Distt. Pali (Raj.), do hereby take oath and state as under: -

1. That, I am petitioner in the present contempt petition and as such am well conversant with the facts and circumstances of the case.

2. That, the annexed contempt petition has been got drafted under my instructions by my Counsel. I admit the contents mentioned therein are true and correct to my personal knowledge.

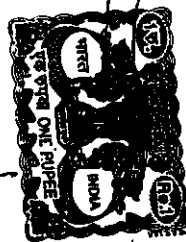
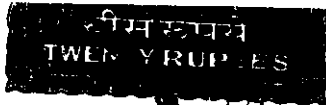
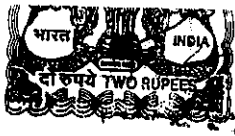
3. That, the contents of annexed contempt Petition are true and correct to my personal knowledge, while legal submissions made therein are believed to be true and correct on the basis of legal advice given to me.

Suresh Kumar Beniwal
DEPONENT

VERIFICATION

I, the above named deponent do hereby verify on oath that the contents of paras 1 to 3 of my above state affidavits are true and correct to my personal knowledge. Nothing material has been concealed in it and no part of it is false. So help me God.

Suresh Kumar Beniwal
DEPONENT



... true copy of Order dated.....

21/11/14

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

S.B. CIVIL WRIT PETITION NO. ¹⁴⁸⁹ /2012 ²³⁷³
31112

Suresh Kumar Beniwal S/o Sh. Bhera Ram, aged about 32 yrs.,
R/o C/o Hanuman Lal Mehra, Opp. Power House, Moh. Jata Bass
Vill. Nimaz, Tehsil. Jaitaran, Distt. Pali (Raj.)
.....Petitioner

Versus

1. State of Rajasthan through its Secretary. Medical and Health Department, Government of Rajasthan, Jaipur.
2. The Additional Director (Admn.), Medical and Health Department, Behind Secretariat, Tilak Marg, Jaipur

... Respondents

WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

AND

IN THE MATTER OF ARTICLE 14 AND 16 OF
THE CONSTITUTION OF INDIA

AND

IN THE MATTER OF RAJASTHAN NURSES,
MIDWIVES, HEALTH VISITERS, ANCILLARY
NURSES AND MIDWIVES REGISTRATION ACT,
1964

AND

IN THE MATTER OF RAJASTHAN NURSING
COUNCIL REGULATIONS, 1964

AND

IN THE MATTER OF RAJASTHAN SERVICE
RULES, 1951



सही - प्रतिलिपि
 2
 न्यायाधीश अशोक कुमार सिन्हा
 राजस्थान उच्च न्यायालय पीठ
 जयपुर

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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR
BENCH, JAIPUR

ORDER

S.B. CIVIL WRIT PETITION NO. 1489/2012

SURESH KUMAR BENIWAL VS. STATE OF RAJASTHAN & ANOTHER.

DATE OF ORDER

20.05.2014

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

Mr. Ankur Rastogi, for the petitioners.
Mr. J.M. Saxena, Additional Advocate General with Mr. Anurag
Lakawatia,
Mr. Sanjay Sharma, Government Counsel, for the respondents.

Order pronounced today in the open Court.

In the result, the writ petition is disposed of.

(See Separate Order in S.B. Civil Writ Petition No. 4936/2014, Sunil
Gurjar Vs. State of Rajasthan & Another).

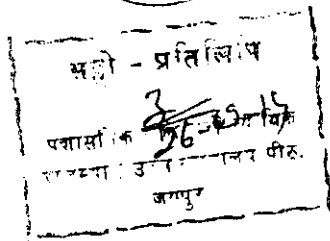


BY ORDER

[Handwritten Signature]

(COURT MASTER)

Manoj



राजस्थान उच्च न्यायालय, जयपुर
Correspondence No. 4936
19/3/14

20
TENTYRUPEES

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR
4936
S.B. CIVIL WRIT PETITION NO. /2014

Sunil Gurjar, S/o Sh. Khema Ram Gurjar, aged about 30 years
R/o Shiv Mandir ke samne ki gali, Ratnada, Jodhpur
(Rajasthan) ..Petitioner

Versus

1. State of Rajasthan through its Principal Secretary,
Medical and Health Department, Government of Rajasthan,
Secretariat, Jaipur.
2. The Additional Director (Administration), Medical and
Health Department, Medical Directorate. Behind
Secretariat, Tilak Marg, Jaipur

...Respondents

WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

AND

IN THE MATTER OF ARTICLE 14 AND 16 OF
THE CONSTITUTION OF INDIA

AND

IN THE MATTER OF RAJASTHAN NURSES,
MIDWIVES, HEALTH VISITERS, ANCILLARY
NURSES AND MIDWIVES REGISTRATION ACT,
1964

AND

IN THE MATTER OF RAJASTHAN NURSING
COUNCIL REGULATIONS, 1964

AND

IN THE MATTER OF RAJASTHAN SERVICE
RULES, 1951



सही - प्रतिनिधि
पञ्जाबीक दफ्तरकी नाम यिक
राजस्थान उच्च न्यायालय पीठ
जयपुर

MISSIO REB
Court Secret
U.S.

INDIA
TWO RUPEES
INDIA
TWO RUPEES

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR
BENCH, JAIPUR

ORDER

(1) S.B. CIVIL WRIT PETITION NO. 4936/2014

SUNIL GURJAR VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(2) S.B. CIVIL WRIT PETITION NO. 16486/2011

BHAGAT PACHAR VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(3) S.B. CIVIL WRIT PETITION NO. 16727/2011

GOPI KISHAN VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(4) S.B. CIVIL WRIT PETITION NO. 17052/2011

MANOJ DEVI VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(5) S.B. CIVIL WRIT PETITION NO. 17053/2011

SARITA VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(6) S.B. CIVIL WRIT PETITION NO. 1437/2012

NIDHI TIWARI VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(7) S.B. CIVIL WRIT PETITION NO. 1439/2012

SEEMA SOLANKI @ SEEMA VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(8) S.B. CIVIL WRIT PETITION NO. 1463/2012

MOHAN LAL SONAL VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(9) S.B. CIVIL WRIT PETITION NO. 1464/2012

MAYA NANKANI VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(10) S.B. CIVIL WRIT PETITION NO. 1489/2012

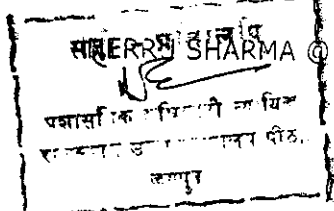
SURESH KUMAR BENIWAL VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(11) S.B. CIVIL WRIT PETITION NO. 4648/2012

SONIA JOHN VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(12) S.B. CIVIL WRIT PETITION NO. 6100/2012

SHERRAJ SHARMA @ NEERU VS. STATE OF RAJASTHAN & ANOTHER.
WITH



(13) S.B. CIVIL WRIT PETITION NO. 4937/2014

JAMIL AHMAD VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(14) S.B. CIVIL WRIT PETITION NO. 4938/2014

SURESH TAK VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(15) S.B. CIVIL WRIT PETITION NO. 4939/2014

SUNIL SEN VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(16) S.B. CIVIL WRIT PETITION NO. 4940/2014

SAJIN KUTTAN VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(17) S.B. CIVIL WRIT PETITION NO. 4941/2014

ELAZBETH ROSE VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(18) S.B. CIVIL WRIT PETITION NO. 4942/2014

KAMLESH KUMAR SHARMA VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(19) S.B. CIVIL WRIT PETITION NO. 4943/2014

SANGITA VS. STATE OF RAJASTHAN & ANOTHER.
WITH

(20) S.B. CIVIL WRIT PETITION NO. 7340/2012

OM PRAKASH VS. STATE OF RAJASTHAN & ANOTHER.

DATE OF ORDER 20.05.2014

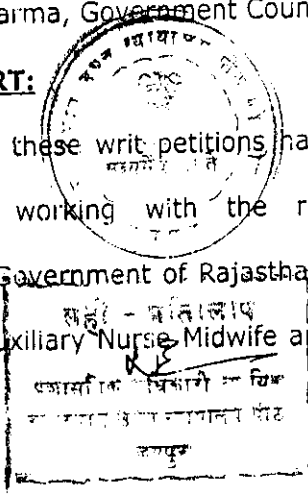
HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

REPORTABLE

Mr. Ankur Rastogi, for the petitioners.
Mr. J.M. Saxena, Additional Advocate General with Mr. Anurag Lakawatia,
Mr. Sanjay Sharma, Government Counsel, for the respondents.

BY THE COURT:

All these writ petitions have been filed by the petitioners substantively working with the respondent-Medical and Health Department, Government of Rajasthan on different posts such as Lab Technician, Auxiliary Nurse Midwife and L.D.C. The petitioners with a

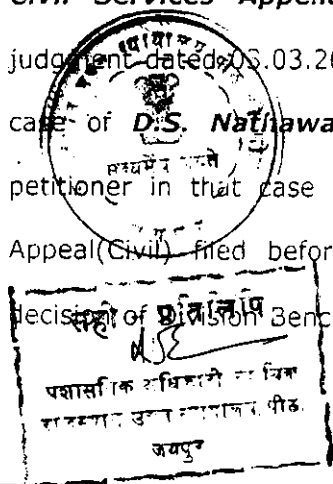


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view to advance their progress in the career are pursuing General Nursing Training Course in different batches. Some of them have applied as ex-service candidate against the seats earmarked for them whereas some are admitted to private nursing institutes. The petitioners applied for grant of study leave under Rule 109, 110 and 112 of the Rajasthan Service Rules, 1951(for short 'the RSR') with the request that during the period of their study, they be treated on deputation.

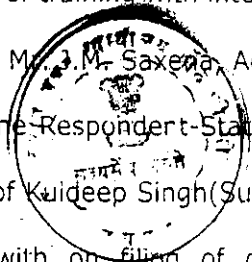
Learned counsel for the petitioners has relied upon the decision rendered by Co-ordinate Bench of this Court in the case of **Smt. Suman Kumari Vs. State of Rajasthan & Another(S.B. Civil Writ Petition No. 4415/2010 and other 15 connected writ petitions)** vide order dated 30.08.2011. The petitioners have given example of one Kuldeep Singh, who filed S.B. Civil Writ Petition No. 2510/2007(Kuldeep Singh Vs. State & Another) and one Ram Kumar Singh who also filed S.B. Civil Writ Petition No. 2324/2007(Ram Kumar Singh Vs. State & Another) and argued that in compliance of the decision, respondents treated study period of the aforementioned petitioners on deputation entitling them to all consequential benefits.

It is further contended that **D.B. Civil Special Appeal(Writ) No. 1468/2006(D.S. Nathawat Vs. The Rajasthan Civil Services Appellate Tribunal & Ors.)** was allowed vide judgment dated 05.03.2008. The Division Bench of this Court in the case of **D.S. Nathawat(supra)** held that training period of the petitioner in that case be treated on deputation. Special Leave to Appeal(Civil) filed before the Hon'ble Supreme Court against the decision of Division Bench of this Court has been dismissed vide order



dated 17.10.2008. Learned counsel for the petitioners has relied upon the judgment of the Co-ordinate Bench of this Court in the case of **Smt. Kirti Mehta & Others Vs. State of Rajasthan & Others(S.B. Civil Writ Petition No: 2369/2008)** decided vide order dated 24.07.2008, wherein writ petition was allowed following the decision in the case of **D.S. Nathawat(supra)**. It is argued that no distinction can be made between those who are undertaking studies in government nursing colleges or private nursing institutes. In fact, those studying in private nursing institutes have to pay heavy amount as fees as compared to government nursing colleges where only nominal fees is required to be paid. If the petitioners, who are studying in private nursing institutes, are treated dis-similarly that would amount to discrimination. It is contended that the respondent-Medical and Health Department, Government of Rajasthan ought to have given similar treatment to the petitioners at par with the medical officers, who are treated on duty when undertaking post graduation course and are paid stipend. Therefore, learned counsel for the petitioners has prayed that these writ petitions may be allowed and the respondents may be directed to treat the petitioners as on deputation for the course of General Nursing Training and to pay the petitioners full salary and all allowances including compensatory allowances till the completion of training with interest @ 18% per annum.

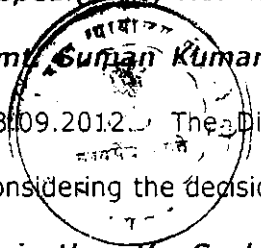
M. J. M. Saxena, Additional Advocate General appearing on behalf of the Respondent-State argued that the decisions delivered in the cases of **Kuldeep Singh(Supra)** and **Ram Kumar Singh(Supra)** were complied with on filing of contempt petition by them subject to outcome of special appeal. Regarding decision rendered in the case of



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पञ्जाब लिपि विभाग
राजस्थान उच्च न्यायालय पीठ,
जयपुर

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D.S. Nathawat(supra), it is argued that the Special Leave to Appeal(Civil) was filed by the State against the aforesaid decision. The Hon'ble Supreme Court rejected the argument of discrimination and held that if any person goes on study leave he would be granted benefits according to Rule 112 read with Rule 97 of the RSR and be entitled to only half of the salary. Hon'ble Supreme Court rejected the argument of discrimination holding that two wrongs do not make a right. In the present case, neither the petitioners were sent on deputation nor were they required to continue to discharge their existing duties in addition to their undertaking the course of study. It is argued that amended Rule 112 of the RSR does not permit the study leave to be treated as on deputation. This issue has been examined by Co-ordinate Bench of this Court in the case of **Suman Kumari(supra)** in which number of writ petitions were disposed of directing that to avoid discrimination for the present, the respondents have agreed to extend similar benefit to the petitioners. However, such arrangement would be limited to those who have already joined the training course of GNM and, now onwards, nobody would be allowed study leave benefit in violation of the provisions of RSR. Learned Additional Advocate General submitted that aforesaid decision was challenged before the Division Bench in **D.B. Civil Special Appeal(Writ) No. 198/2012(State of Rajasthan & Another Vs. Smt. Suman Kumari)** and other 21 special appeals decided on 03.09.2012. The Division Bench of this Court in that case while considering the decision of Hon'ble Apex Court in the case of **State of Rajasthan Vs. Sushil Sharma(SLP(C) No. 6037/1999)** observed that concession which has been given by the state counsel is against



सूची - प्रतिलिपि
 पञ्जाब के अधिकाारी - विद्व.
 राजस्थान उच्च न्यायालया पीठ,
 जयपुर

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the decision of Apex Court and plea of discrimination is required to be re-examined by the Single Bench. The State was, therefore, permitted to withdraw the special appeals with liberty to file review petitions. It was thereafter review petitions were filed in all the cases. However, review petitions were disposed of with liberty to the State to amend the RSR, though the judgment originally passed was kept intact to the extent of those who had already taken study leave prior to the judgment delivered in the case of **Suman Kumari(supra)** and not thereafter. Learned Additional Advocate General has also cited judgment of Co-ordinate Bench of this Court delivered in the case of **Komal Bhati Vs. State of Rajasthan & Anr.(S.B. Civil Writ Petition No. 13906/2009)** decided on 27.09.2014 and argued that in that judgment it was further clarified that case of the petitioner therein would be covered by the decision rendered in the case of **Suman Kumari(supra)**, if she was undertaking GNM course in government college instead of private college. If anyone is doing course in private college, then the relief granted in the aforesaid judgment may not be made admissible.

In view of above, it is clear that the controversy raised in these matters is no more res integra. Decision of Co-ordinate Bench of this Court in the case of **Suman Kumari(supra)** was clarified while deciding batch of review petitions(**S.B. Civil Review Petition No. 35/2013, Ishwar Kumar Sangela & Ors. Vs. State of Raj. & Anr. and other connected 20 matters**) vide order dated 17.10.2013 and further clarified in the case of **Komal Bhati(supra)** vide order dated 27.09.2011. In order therefore to maintain parity, all these writ petitions thus deserve to be decided in conformity therewith.

सही - प्रसिद्धि
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Consequently, the present petitions are disposed of with the direction that such of the petitioners, who have taken admission in government nursing colleges prior to 30.08.2011 i.e. the date on which the decision in the case of **Suman Kumari(supra)** was delivered, shall be entitled to the same benefits as granted to the petitioners in the case of **Suman Kumari(supra)**. However, such benefits shall not be extended to those who are studying in private nursing institutes and to those who have taken admission subsequent to 30.08.2011, whose case shall be governed by Rules 97, 110 and 112 of the RSR for the grant of study leave and benefits as admissible according to the rules. Appropriate orders thereabout be passed on their applications.

Compliance of this order be made within a period of two months from the date of copy of this order is produced before the respondents.

(MOHAMMAD RAFIQ),J.

Manoj,
S.No.133-151.



सही - प्रति लिखित
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प्रशासक अधिकारी, शिक्षा
राजस्थान उच्च न्यायालय पीठ,
जयपुर

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INTIMATION LETTER

To,

1. The Addl. Director (Admn.)
Medical & Health Services Department,
Jaipur.
2. Principal Secretary,
Medical & Health Services,
Secretariat, Jaipur.

Sub: For compliance of order-dated 20/05/2014
passed by Hon'ble Justice Mohd.Rafiq J.

Ref: S.B. Civil Writ Petition No. 1489/2012
Titled as Sureshkr. Beniwal Vs. State of Raj. & Anr.

Sir,

By the order of Hon'ble High Court a detailed order-dated 20/05/2014 is passed, by which applicant has been directed to serve the copy of order and as such, the G.N.M. Training period is to be counted as on deputation as much as with full salary and all consequential benefits. Copy of order is annexed herewith.

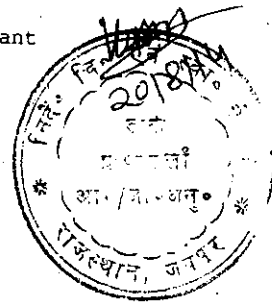
Hence do the needful within the stipulated time.

Jaipur

Applicant

Dated:

Through Counsel

25-8-14

7 5 AUG 2014

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Ankur Rastogi

Advocate
Lawyers chamber No. 05
Rajasthan High Court, Jaipur

Phone: 9414023422

Office :
192, Devi Nagar,
New sanganer Road,
Sodala, JAIPUR.

Date:

Counsel for:

Suresh Kumar Beniwal,
S/o Sh. Bhana Ram,
R/o C/o Hanuman Lal Mehra, Opp. Power House,
Moh. Jata Bass Vill. Nimaz, Tehsil. Jaitaran, Distt. Pali

To,

1. Deepak Upreti
Principal Secretary, Department of Medical & Health
Services, Government of Rajasthan, Secretariat, Jaipur
2. Dinesh Jangid
Additional Director (Administration),
Department of Medical & Health Services, Government of
Rajasthan, Jaipur.

Sub:- Notice of committing contempt of judgement dated
20.05.2014 passed in S.B. Civil Writ Petition NO. 1489/ 2012
in Suresh Kumar Beniwal Vs. State of Rajasthan &anr.

Dear Sirs,

Under the instructions and on behalf of my above
named client, I hereby serve upon you the notice
of contempt as under: -

That, I draw your kind attention towards the
judgment of Hon'ble High Court, which has been
passed on 20.05.2014 in S.B. Civil Writ Petition
No. 1489/2012 titled as Suresh Kumar Beniwal Vs.
State of Rajasthan & anr. (Copy given to you
earlier, acknowledgment receipt retained by me)

2. That, said writ petition was filed by my client
wherein my client has prayed for treating her
training period as on deputation. The said writ

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19 SEP 2014

डायारी क्रमांक

NO/PA/ADQL. DMHS (ADM)

19/9/14

ADDL. DMHS. (ADM)

ANKUR RASTOGI
ADVOCATE
Tel.: 9414023422

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petition of my client is allowed and relief is granted as under: -

"Consequently, the present petitions are disposed of with the direction that such of the petitioners, who have taken admission in government nursing colleges prior to 30.08.2011 i.e. the date on which the decision in the case of *Suman Kumari (supra)*" was delivered, shall be entitled to the same benefits as granted to the petitioners in the case of *Suman Kumari (supra)*. However, such benefits shall not be extended to those who are studying in private nursing institute and to those who have taken admission subsequent to 30.08.2011, whose case shall be governed by rules 97,110 and 112 of the RSR for the grant of study leave and benefits as admissible according to the rules. Appropriate orders thereabout be passed on their applications.

Compliance of this order be made within a period of two months from the date of copy of this order is produced before the respondents."

3. That, as has been quoted above that the compliance of the order-dated 20.05.2014 ought to have been complied within two months.
4. That, in compliance of order-dated 24.07.2008 you have already made payment one of the candidate KIRTI MEHTA and case of my client is not different at all.
5. That, non-compliance of order-dated 20.05.2014 tantamount to a contempt of court.

I, therefore, call upon you to look into the grievance of my client by passing appropriate order of full salary and other allowances during the aforesaid period with consequential benefits flowing thereof within 7 days from receipt of this notice. In case, necessary orders are not passed within stipulated time, my client will be forced to initiate contempt proceedings against you before the Hon'ble High Court.

Yours faithfully



(ANKUR RASTOGI)
Advocate

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH, JAIPUR

S.B.CIVIL CONTEMPT PETITION NO. /2014
IN
S.B.CIVIL WRIT PETITION NO. 1489/ 2012

Suresh Kumar Beniwal ...Petitioner
Versus
Deepak Upreti & Ors. ...Respondents

AFFIDAVIT IN SUPPORT OF DOCUMENTS

Suresh Kumar Beniwal S/o Sh. Bhana Ram, aged about 34 yrs., R/o C/o Hanuman Lal Mehra, Opp. Power House, Moh. Jata Bass Vill. Nimaz, Tehsil. Jaitaran, Distt. Pali (Raj.), do hereby take oath and state as under: -

1. That, I am petitioner in the present contempt petition and as such am well conversant with the facts and circumstances of the case.
2. That, the annexed Annexure-1 is the certified copy. While Annexure 2 & 3 are true and correct Photostat copies of the original documents.

[Handwritten Signature]
DEPONENT

VERIFICATION

I, the above named deponent do hereby verify on oath that the contents of paras 1 and 2 of my above state affidavits are true and correct to my personal knowledge. Nothing material has been concealed in it and no part of it is false. So help me God.

[Handwritten Signature]

[Handwritten Signature]
DEPONENT