

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN**  
**BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 14181/2023

Dr. Sadhana Kansal D/o Dr. Prahalad Singh Kansal, R/o 301, Raj Regency, R.k. Nagar Near Ruchi Hospital, Bara Road Kota, Rajasthan

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Higher Education, Government Secretariat, Jaipur.
2. The Director, College Education, Block-4, Shiksha Sankul, Jln Marg-Jaipur, Rajasthan

----Respondents

Connected With

- (1) S.B. Civil Writ Petition No. 14211/2014
- (2) S.B. Civil Writ Petition No. 365/2015
- (3) S.B. Civil Writ Petition No. 8148/2017
- (4) S.B. Civil Writ Petition No. 9287/2017
- (5) S.B. Civil Writ Petition No. 18971/2017
- (6) S.B. Civil Writ Petition No. 11075/2020
- (7) S.B. Civil Writ Petition No. 170/2006
- (8) S.B. Civil Writ Petition No. 5349/2007
- (9) S.B. Civil Writ Petition No. 12452/2008
- (10) S.B. Civil Writ Petition No. 13511/2012
- (11) S.B. Civil Writ Petition No. 13512/2012
- (12) S.B. Civil Writ Petition No. 12156/2013
- (13) S.B. Civil Writ Petition No. 19835/2013
- (14) S.B. Civil Writ Petition No. 19836/2013
- (15) S.B. Civil Writ Petition No. 2483/2014
- (16) S.B. Civil Writ Petition No. 8301/2014
- (17) S.B. Civil Writ Petition No. 10343/2015
- (18) S.B. Civil Writ Petition No. 17695/2015
- (19) S.B. Civil Writ Petition No. 6849/2016
- (20) S.B. Civil Writ Petition No. 11253/2018
- (21) S.B. Civil Writ Petition No. 4378/2019
- (22) S.B. Civil Writ Petition No. 10601/2019

(23) S.B. Civil Writ Petition No. 13318/2024

(24) SB Civil Writ Petition No. 20430/2013

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For Petitioner(s) : Mr.RN Mathur, Sr.Adv. With  
Mr.Abhay Singh  
Mr.Ajatshatru Mina  
Mr.Movil Jeenwal  
Mr.Himanshu Kala  
Mr.Nripraj Singh  
Mr.Vinod Kumar Sharma  
Mr.Tarun Choudhary

For Respondent(s) : Mr.Vigyan Shah, AAG with  
Mr.Yash Joshi  
Mr.Aditya Singh, Dy.GC  
Mr.MF Baig

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**HON'BLE MR. JUSTICE SAMEER JAIN**

**Judgment**

**Reserved on :: 24/03/2025**

**Pronounced on :: 23/05/2025**

1. In the present batch of writ petitions, the core controversy requiring adjudication predominantly pertains as to whether the previous service rendered on temporary/ ad-hoc basis can be counted for grant of benefit of Career Advancement Scheme (herein after referred to as "CAS"). Although ancillary issues are also raised, the principal question of law revolves around the legality and validity of the impugned addendum and non-consideration of the petitioners' candidature for want of certain eligibility conditions. Having regard to the commonality of issues both in law and in fact, and with the consent of learned counsel appearing for the respective parties, this Court deems it appropriate to treat **SBCWP NO. 14181/2023** titled as **Dr. Sadhana Kansal Vs. State of Rajasthan and Ors.** as the lead petition for the purposes of this adjudication.

2. It is, however, considered apposite to clarify at the outset that though the subject matter in the writ petitions is

substantially similar or pertains to an identical legal issue, the factual matrix varies to some extent in each case. In certain writ petitions, there are distinguishing features such as a break in the continuity of service, the involvement of a previous employer under private management, and issues concerning the recovery of monetary benefits. These factual distinctions, while not altering the core legal question, may have a bearing on the reliefs sought and the adjudication of individual claims. They do not impinge upon or detract from the common questions of law which fall for consideration before this Court. Accordingly, the judgment rendered herein shall apply to all the writ petitions connected and heard together with the lead matter, on a *mutatis mutandis* basis, subject to necessary adaptation to the individual factual contexts where required.

3. Before proceeding to examine the present petitions on their merits, it is imperative to first delineate the foundational facts and the core issues arising therein. A precise appreciation of the factual matrix and procedural background as stated in the lead petition is essential to contextualize the grievances of the petitioners and the legal questions that fall for adjudication. For instance the salient aspects and plea made that is vital for adjudication as stated in the petitions are, therefore, stated and summarized as under:

3.1 **SBCWP No. 14181/2023** is filed for issuance of writ in nature of mandamus or to direct the respondents to grant the benefit of senior scale and selection scale under the CAS while

counting service from initial date of appointment and to revise the pay of the petitioner accordingly.

3.1.1 The nitty-gritty of the matter is that the petitioner was initially appointed on the post of lecturer (Sanskrit) on 07.07.1986 on temporary basis at Mohta College, Rajgarh Dist. Churu – a private institution, which was renewed at various intervals. Subsequently the petitioner was appointed on probation for two years vide appointment letter dated 27.04.1989, and the service of the petitioner was confirmed by the office letter dated 25.11.1991. Despite the same the petitioner was not considered for CAS. Resultantly a writ petition was filed by the petitioner (Sangeeta & Ors. Vs. State of Rajasthan: SB Civil Writ Petition No.6793/2005) which was decided by order dated 20.12.2011.

3.1.2 It is noted that the petitioner participated in the process of regular recruitment pursuant to an advertisement issued by the Rajasthan Public Service Commission (RPSC). Upon being duly selected and found eligible for appointment to the post of Lecturer (Sanskrit), the petitioner was offered and accepted the appointment. Consequently, the petitioner was formally appointed and joined duties on 31.07.1996, at Shri Moha Lal Jalan Government College, Ratangarh, Rajasthan. However, the petitioner claimed benefit under the CAS, which was disagreed by the respondents for the reason that the petitioner had resigned from service for a specific period.

3.2 **SBCWP No. 4378/2019** is filed assailing the actions of the respondents whereby, they have not considered the ad-hoc

service period from 1995 to 1997 for granting of the benefit under the CAS.

3.3 **SBCWP No. 170/2006** is filed seeking directions for consideration of the initial date of appointment of the petitioner for further consideration of seniority and CAS.

3.4 **SBCWP No. 17695/2015** is filed assailing the impugned order dated 16.04.2015 whereby the benefit of senior and selection scale was sanctioned to the petitioner therein, from the year 1992 *sans* incorporation of technical break of 9 days in service and without counting the period of service from the initial date of appointment.

3.5 **SBCWP No. 14211/2014** is filed seeking directions to grant benefit of seniority and selection scale to the petitioner under CAS from the date of his initial appointment and in context of order passed by the Apex Court in State of Rajasthan Vs. Milap Chand Jain & Ors.: SLP (Civil) No. 20363-20368/2013.

4. The petitioners were represented by various counsel, who have unanimously submitted that during the course of service, the University Grants Commission (UGC) introduced the Career Advancement Scheme (CAS) for Lecturers, under which the benefit of senior scale and selection grade is conferred upon completion of the prescribed number of years of satisfactory and continuous service.

5. In this context, it was submitted by learned Senior counsel Mr. R.N. Mathur and learned counsel Mr. Ajatshatru Mina that the issue at hand is no longer *res integra*, having been settled through various Office Memoranda, Circulars, and Notifications

issued by the respondent authorities from time to time, and further crystallized by authoritative pronouncement of the Hon'ble Supreme Court in the case of **State of Rajasthan & Another vs. Milap Chand Jain & Another**, reported in **(2013) 14 SCC 562**. It was contended that as per the said decision and the settled proposition of law, the entire length of service rendered by the petitioner, including the service rendered on an ad-hoc or probationary basis, and even if such service was under a private management, is required to be taken into consideration for the purpose of determining eligibility and calculation of benefits under the CAS framework.

6. Learned counsel appearing for the petitioners further submitted that the All India Council for Technical Education (AICTE) does not differentiate between regular/substantive appointments and other forms of employment for the purpose of extending benefits under the CAS. In support of this contention, reliance was placed upon the Government of Rajasthan's order dated 01.05.1989 (Annexure No. P/7), whereby CAS was directed to be implemented in accordance with the norms prescribed by the University Grants Commission (hereinafter referred to as "UGC"). Further reliance was placed upon the UGC Guidelines of the year 1998 and 2010, which govern the eligibility and procedural framework for advancement under CAS.

7. To buttress the petitioner's claim, learned counsel placed reliance upon several judicial precedents, *inter alia*, **State of Rajasthan & Anr. Vs. Dr. Ramnarayan Jha: DB Special Appeal (Writ) No.1275/2022, Dr. Navneet Verma & Ors. Vs.**

**State of Rajasthan & Anr.: SB Civil Writ Petition No.12332/2016, Dr. Deshbandu Tyagi & Anr. Vs.State of Rajasthan & Ors.: SB Civil Writ Petition No.2658/2005, DB Special Appeal (Writ) No.1289/1997: State of Rajasthan & Ors. Vs. Dr. Suresh Chandra.**

8. Placing reliance upon the aforementioned decisions, Government orders, and UGC Guidelines, it was emphatically submitted that the petitioners are entitled to the benefit of CAS, and denial thereof is contrary to the settled legal position.

9. Further, learned counsel Mr. Tarun Choudhary, submitted that the present batch of cases may be broadly classified into three distinct categories for the purpose of adjudication:

**Category I:** pertains to those cases in which recovery orders are issued against the petitioners, but where interim protection is already granted by this Court. In these matters, learned counsel had fairly conceded that the impugned recovery orders may be set aside in view of the binding judgment rendered by the Hon'ble Supreme Court in **Rajasthan Agricultural University, Bikaner vs. Zabar Singh Solanki, Civil Appeal No. 8509 of 2024.**

**Category II** encompasses those writ petitions wherein the benefit under CAS is denied on the ground of break in service. In support of the argument that such denial is unsustainable, reliance was placed upon the Division Bench judgment in **State of Rajasthan vs. Smt. Anita Kothari, D.B. Special Appeal (Writ) No. 1333/2016.**

**Category III** includes cases where the petitioners' claims for CAS benefits are founded on the principle laid down by the Hon'ble Supreme Court in *Milap Chand Jain & Anr. (supra)* wherein it was held that the entire length of service, including ad-hoc, probationary, and even service rendered in private institutions is ought to be counted for the purpose of CAS.

10. Accordingly, it was prayed that the writ petitions falling under each category be adjudicated in accordance with the legal position settled in the respective precedents cited hereinabove.

11. *Per contra*, learned Additional Advocate General, Mr. Vigyan Shah, appearing on behalf of the respondents, assisted by learned Deputy Government Counsel, Mr. Aditya Singh, made the following submissions whilst stoutly opposing the contentions made by the learned counsel for the petitioners:

12. It was contended that the legal issue involved in the present writ petitions, particularly with regard to the grant of benefit under the CAS, is no longer *res integra*, having been conclusively settled by the Hon'ble Supreme Court in **Rajasthan Agricultural University, Bikaner (supra)**. Learned counsel further submitted that the said ratio is duly considered and reaffirmed in earlier decisions of the Hon'ble Supreme Court, including **Milap Chand Jain & Anr. (supra)** and **Dr. Suresh Chand Agarwal (supra)**. These decisions collectively reinforce the legal framework governing the grant of CAS benefits.

13. It was further submitted that the Government of Rajasthan had issued various policy directives and circulars dated 01.05.1989, 18.01.1991, and 19.05.2001 respectively, which

unambiguously lay down the eligibility criteria for grant of CAS. As per these circulars, the benefit of CAS can only be conferred upon a candidate who has completed the requisite years of qualifying service, post regular appointment. The said circulars make it explicitly clear that the appointment must be made through the duly prescribed selection procedure, and that appointments made on an ad-hoc basis or for duration of less than one year shall not be reckoned for the purposes of CAS entitlement. Emphasis was laid upon the deliberate and categorical usage of the phrase "after regular appointment", as indicative of the legislative and policy intent of the State Government in regulating the grant of CAS benefits.

14. In support of the contentions made insofar, learned counsel placed reliance upon Rule 2(i) and Parts-IV, V, VI, more particularly Rules 22 to 27 of the **Rajasthan Technical Education Service Rules, 1973 (hereinafter referred to as the "Rules of 1973")**, which are framed under Article 309 of the Constitution of India. It was submitted that these statutory provisions clearly delineate the service conditions, eligibility criteria, and avenues for advancement of technical education service personnel, and must necessarily govern any consideration for the award of CAS.

15. In view of the foregoing submissions, learned counsel for the respondents prayed that the writ petition(s) be dismissed as being devoid of merit, and that the policy position of the State Government, supported by statutory rules and authoritative judicial pronouncements, be upheld.

16. Having heard the rival arguments advanced by the learned counsel for all the parties, undertaking a scrupulous examination of the record pertaining to the case, scanning the precedents cited at the Bar and juxtaposing the contentions noted herein above, this Court is view that prior to a substantive adjudication of the matter on its merits, it is appropriate to delineate and formally note down the issues which are before this Court for adjudication:

**Issue 1:** Whether service rendered by an employee in a temporary or ad-hoc capacity prior to regular appointment can be reckoned for the purpose of eligibility under the Career Advancement Scheme (CAS), in accordance with the applicable statutory regulations and judicial precedents?

**Issue 2:** Whether benefits granted under the Career Advancement Scheme (CAS) in contravention of the governing rules and regulations can be subject to recovery by the employer, particularly in the absence of misrepresentation or fraud on the part of the employee?

17. To tender an efficacious dealing to the issues framed hereinabove, this Court deems it apposite to rely upon the precedents of Hon'ble Supreme Court, whereby it had delineated the boundaries of eligibility under the CAS, affirming that only regular service counts towards the scheme's benefits. While safeguarding employees from retrospective financial recoveries, the judgment underscores the importance of adhering to established policy frameworks and the limited scope of judicial intervention in administrative policy matters. These formulations

align with the legal principles established in **Rajasthan Agricultural University, Bikaner (supra)** which held that ad-hoc service cannot be counted for CAS benefits unless specific conditions are met, and that recovery of benefits already granted may not be permissible in the absence of misrepresentation or fraud.

18. Qua the issue of eligibility of Ad-Hoc Service for CAS Benefits (Issue no. 1), the Apex Court unequivocally held that service rendered in an ad-hoc or temporary capacity prior to regular appointment cannot be counted towards the eight-year service requirement for eligibility under the CAS. The Hon'ble Supreme Court emphasized that the CAS is a policy framework, and its interpretation falls within the purview of the employer, subject to state government directives. Judicial intervention is warranted only if the policy's application is patently perverse or arbitrary. The High Court's decision to include ad-hoc service in the computation for CAS eligibility was thus deemed unjustified.

19. Qua the issue of recovery of CAS Benefits Granted Contrary to policy, or the benefits already disbursed under the CAS, the Apex Court held that such recoveries would be inequitable, especially given the lapse of time and the absence of any misrepresentation or fraud by the recipients. Consequently, while the petitioners are not entitled to CAS benefits based on their ad-hoc service, any payments already made shall not be recovered.

20. The relevant extract from **Rajasthan Agricultural University, Bikaner (supra)** is reproduced herein below:

""20. We find that such a view is justified only to the extent of granting the respondents pay-scales/ revised pay-scales as per the UGC recommendations. However, the CAS was distinct to a general increase or revision in pay-scales. The CAS was intended for a specific purpose i.e., to encourage the teaching staff by offering a higher pay-scale, subject to various conditions. This distinction unfortunately has been lost sight of by the learned Single Judge, which, in our considered opinion, was a vital factor to be considered. Whenever a Scheme/Policy is brought into force, ceteris paribus, the Court could not and would not import something which is not present therein and which may not be proper to be interfered with, especially when it relates to financial matters where primacy is required to be granted to the pay-master as to what scale was to be granted to the category of staff concerned. By its very nature, such exercise would fall under the realm of policy-formulation. In the present case, the CAS itself envisaged that it was meant for persons who were directly recruited as Assistant Professors. **The CAS specifically provided that every Lecturer was to be placed in a senior scale of Rs.3000-5000 if he/she had completed 8 years of service after regular appointment.**

27. **We may however clarify that to direct for any recovery of monies which may have already been disbursed to the Respondents No.1 to 54 would amount to inequity at this late stage. Hence, the same shall not be recovered, but all the pay and emoluments for the purposes of retiral/service conditions and for post-retiral benefits shall be reckoned notionally without granting any benefit under the CAS.** Assuming that the respondents are otherwise entitled to any benefit under any other Scheme/Policy, it is directed that the State Government or the appellant will not deprive the respondents thereof by virtue of the instant judgment alone.

29. Onto the Civil Appeal arising from SLP (C) No.30963/2018, which traces its genesis to the order dated 04.05.2018, passed by the Division Bench. This was tagged with SLP (C) No.22813/2011 by order dated 30.11.2018 of this Court. In this case, respondents No.1 to 9, before their regular appointment as Assistant Professors in the University, served on an ad-hoc basis in other educational institutions and also in the University. These respondents preferred a writ petition with a prayer to reckon their services rendered in such ad-hoc capacity while determining their eligibility for the grant of senior pay-scale under the CAS. The relief claimed was granted by the learned Single Judge and

*affirmed by the Division Bench relying on the judgment in State of Rajasthan v Milap Chand Jain, (2013) 14 SCC 562. This Court, while disposing of Milap Chand Jain (supra), relied on its earlier judgment dated 10.03.2011 in Civil Appeal No.469/2007 entitled State of Rajasthan v Dr Suresh Chand Agrawal, which was dismissed in limine, leaving the question of law open. Review Petitions (Civil) No.2124-2125/2011 filed in Dr Suresh Chand Agrawal (supra) were also dismissed by this Court on 14.09.2011. In Milap Chand Jain (supra), the State of Rajasthan had moved this Court in respect of the same impugned order therein, against which appeals stood previously dismissed by this Court.*

**30. Notably, the State Government vide its Letter dated 20.09.1994, had specifically clarified that the period of ad-hoc service rendered by the respondents/Assistant Professors shall not be counted for giving benefit of senior pay-scale under the CAS. We have already elaborated supra<sup>10</sup> that the CAS is essentially a policy, and as such, claiming that the clauses therein be interpreted in a particular manner.** Such an interpretative exercise would have to be left, in the domain of the appellant, subject to the State Government's directives unless patently perverse or arbitrary. The High Court, hence, was not justified in counting of the ad-hoc service rendered by the respondents for reckoning the period of computation as required for applying the CAS.

*31. However, it is directed that there shall not be any recoveries made from the respondents. The respondents shall be entitled to the notional benefit of the pay and emoluments for purposes of calculating their retiral/service conditions and for post-retiral benefits, but without grant of any benefit under the CAS. It is clarified that if the respondents are entitled to benefits under CAS after reckoning eight years of service from the date(s) of their regular appointment or to benefits under any other Scheme/Policy, the State Government or the appellant shall not deny such an advantage to them by virtue of this judgment alone."*

*(Emphasis supplied)*

21. The Hon'ble Supreme Court, while distinguishing the judgments rendered in **Milap Chand Jain & Anr. (Supra)** and **Dr. Suresh Chand Agrawal (supra)**, has unequivocally held that the Career Advancement Scheme (CAS) was instituted with the

specific objective of integrating the teaching faculty by providing higher pay scales, contingent upon the fulfillment of certain stipulated conditions. The CAS is distinct from general pay scale revisions and was introduced as a policy measure with significant financial implications. The policy explicitly employs the phrase "after regular appointment," thereby underscoring that only service rendered subsequent to a regular appointment is to be considered for CAS benefits. The relevant provision i.e. Rule 2 (i) of the Rules of 1973 is reproduced herein below:

*"(i) "Substantive Appointment" means an appointment made under the provisions of these rules to a substantive vacancy after due selection by any of the method of recruitment prescribed tender these rules and includes an appointment on probation or as a probationer followed by confirmation on the completion of the probationary period.*

*G.S.R. 67- AMENDMENT*

*For the existing clause to rule mentioned in column 3 against each of the service rules mentioned in column 2, the following shall be substituted, namely:- "service" of "Experience" wherever prescribed in these rules as a condition for promotion from one service to another or within the service from category to another or to senior posts ,in the case of a person holding a lower post eligible for promotion to higher post shall include the period for which the person has continuously worked on such lower post after regular selection in accordance with rules promulgated under proviso to article 309 of the constitution of India."*

22. This Court observes that, in the case of **Rajasthan Agricultural University, Bikaner (supra)**, the Apex Court has categorically held that the CAS does not confer a vested right upon employees but operates as a policy framework. Eligibility under the CAS is governed by specific terms and conditions, including the duration of service post-regular appointment. The interpretation

and implementation of the CAS fall within the domain of the State Government, and any deviation from the prescribed norms cannot be justified unless it is shown to be arbitrary or perverse.

23. This Court further notes that counting ad-hoc or temporary service rendered by the petitioners towards eligibility for CAS benefits is unjustified unless such consideration aligns with specific orders issued by the State Government from time to time, such as those dated 01.05.1989, 18.01.1991, and 19.05.2001. In the absence of such directives, inclusion of ad-hoc service for CAS eligibility contravenes the established policy framework.

**CONCLUSION:**

24. Having the aforementioned observations being made this Court is of the view that service rendered in an ad-hoc or temporary capacity, prior to regular appointment cannot be counted towards the eight-year service requirement for eligibility under the CAS, as the CAS policy explicitly stipulates that only service after regular appointment is to be considered; that the interpretation of policy frameworks like the CAS falls within the purview of the employer, subject to state government directives and judicial intervention is warranted only if the policy's application is patently perverse or arbitrary; and that the Apex Court's decision in **Rajasthan Agricultural University, Bikaner (supra)**, underscores the importance of adhering to established policy frameworks and the limited scope of judicial intervention in administrative policy matters.

25. In light of the foregoing observations and discussions, the present writ petitions are hereby disposed of. However, the

Court clarified that if the petitioners become eligible for CAS benefits after completing eight years of regular service, or qualify under any other scheme or policy, such benefits should not be denied solely based on this judgment.

26. Nonetheless, the petitioners are at liberty to submit individual representations to the Principal Secretary, Higher Education, the Commissioner, College Education, or any other competent authority within a period of thirty days from the date of passing of this judgment. Such representations should elucidate their cases within the ambit of various State Government orders and in consonance with the judgment rendered in **Rajasthan Agricultural University, Bikaner (Supra)**.

27. Should the petitioners submit representations within the stipulated timeframe, the competent authority is directed to adjudicate upon each representation on its own merits, considering all relevant aspects, including the State Government's orders and the judgments in **Milap Chand Jain & Anr. (Supra)** and **Dr. Suresh Chand Agrawal**, within a period of sixty days from the date of receipt of such representations.

28. Consequently, the present batch of petitions is disposed of. Stay application and/or pending application(s), if any, also stand disposed of.

29. A copy of this order be separately placed in each connected file.

(SAMEER JAIN),J