

Neutral Citation No. - 2024:AHC-LKO:41391

AFR

Reserved On:-24.05.2024

Delivered On:-31.05.2024

Court No. - 20

1. Case :- WRIT - A No. - 8437 of 2023

Petitioner :- Awadhesh Kumar Pandey

Respondent :- State Of U.P. Thru. Secy. Secondary Education, Lucknow
And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey,Pt. S. Chandra

Counsel for Respondent :- C.S.C.

with

2. Case :- WRIT - A No. - 3518 of 2023

Petitioner :- Pramod Kumar Singh

Respondent :- State Of U.P. Thru. Its Secy.,Secondary Edu. Civil Sectt.
Lko. And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey,Krishna Kumar Singh

Counsel for Respondent :- C.S.C.

with

3. Case :- WRIT - A No. - 8549 of 2023

Petitioner :- Smt. Nisha Kumar

Respondent :- State Of U.P. Thru. Secy. Secondary Education, Lucknow
And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey,Krishna Kumar
Singh,Shashwat Bajpai

Counsel for Respondent :- C.S.C.

with

4. Case :- WRIT - A No. - 8560 of 2023

Petitioner :- Smt. Sangeeta Srivastava

Respondent :- State Of U.P. Thru. Secy. Secondary Education Lko And
4 Others

Counsel for Petitioner :- Manoj Kumar Pandey,Krishna Kumar
Singh,Shashwat Bajpai

Counsel for Respondent :- C.S.C.

with

5. Case :- WRIT - A No. - 8569 of 2023

Petitioner :- Smt. Archana Srivastava

Respondent :- State Of U.P. Thru. Secy. Secondary Education, Lko. And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey, Krishna Kumar Singh, Shashwat Bajpai

Counsel for Respondent :- C.S.C.

with

6. Case :- WRIT - A No. - 8586 of 2023

Petitioner :- Smt. Bhima Devi

Respondent :- State Of U.P. Thru. Secy. Secondary Education, Lucknow And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey, Krishna Kumar Singh, Shashwat Bajpai

Counsel for Respondent :- C.S.C.

with

7. Case :- WRIT - A No. - 8588 of 2023

Petitioner :- Smt. Ruby Rizvi

Respondent :- State Of U.P. Thru. Secy. Secondary Education Lko. And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey, Krishna Kumar Singh, Shashwat Bajpai

Counsel for Respondent :- C.S.C.

with

8. Case :- WRIT - A No. - 8641 of 2023

Petitioner :- Smt. Asha Rani Chaurasia

Respondent :- State Of U.P. Thru. Secy. Secondary Education Lko. And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey, Krishna Kumar Singh

Counsel for Respondent :- C.S.C.

with

9. Case :- WRIT - A No. - 8695 of 2023

Petitioner :- Rajendra Kumar Singh

Respondent :- State Of U.P. Thru. Secy. Secondary Education Lko. And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey,Krishna Kumar Singh,Ranjeet Pratap Singh,Shashwat Bajpai

Counsel for Respondent :- C.S.C.

with

10. Case :- WRIT - A No. - 8738 of 2023

Petitioner :- Tej Bahadur Singh And Another

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education Deptt. Lko. And 4 Others

Counsel for Petitioner :- Mahendra Pratap Singh,Ranjit Singh

Counsel for Respondent :- C.S.C.

with

11. Case :- WRIT - A No. - 8872 of 2023

Petitioner :- Ashok Kumar Maurya

Respondent :- State Of U.P. Thru. Prin. Secy. Secondary Education Lko. And 6 Others

Counsel for Petitioner :- Ajay Pratap Singh

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

12. Case :- WRIT - A No. - 8945 of 2023

Petitioner :- Sunil Kumar Awasthi

Respondent :- State Of U.P. Thru. Secy. Secondary Education Lko. And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey,Krishna Kumar Singh,Ranjeet Pratap Singh,Shashwat Bajpai

Counsel for Respondent :- C.S.C.

with

13. Case :- WRIT - A No. - 8946 of 2023

Petitioner :- Sanjay Srivastava

Respondent :- State Of U.P. Thru. Secy. Secondary Education Lko. And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey,Krishna Kumar Singh,Ranjeet Pratap Singh,Shashwat Bajpai

Counsel for Respondent :- C.S.C.

with

14. Case :- WRIT - A No. - 8953 of 2023

Petitioner :- Rajnish Kumar

Respondent :- State Of U.P. Secy. Secondary Edu. Lko And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey,Krishna Kumar
Singh,Ranjeet Pratap Singh,Shashwat Bajpai

Counsel for Respondent :- C.S.C.

with

15. Case :- WRIT - A No. - 8955 of 2023

Petitioner :- Syed Hussain Mohd. Rizvi

Respondent :- State Of U.P. Thru. Secy. Secondary Education, Lucknow
And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey,Gaurav Kumar
Maurya,Krishna Kumar Singh

Counsel for Respondent :- C.S.C.

with

16. Case :- WRIT - A No. - 8957 of 2023

Petitioner :- Ravi Prakash Singh

Respondent :- State Of U.P. Thru. Secy. Secondary . Education Lko.
And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey,Krishna Kumar
Singh,Ranjeet Pratap Singh,Shashwat Bajpai

Counsel for Respondent :- C.S.C.

with

17. Case :- WRIT - A No. - 8979 of 2023

Petitioner :- Navneet Kumar Srivastava

Respondent :- State Of U.P. Thru. Secy. Secondary Education Lko And
4 Others

Counsel for Petitioner :- Ranjeet Pratap Singh,Krishna Kumar
Singh,Manoj Kumar Pandey,Shashwat Bajpai

Counsel for Respondent :- C.S.C.

with

18. Case :- WRIT - A No. - 9309 of 2023

Petitioner :- Sanjay Tewari

Respondent :- State Of U.P. Thru. Secy. Secondary Education Lko. And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey,Gaurav Kumar Maurya,Krishna Kumar Singh

Counsel for Respondent :- C.S.C.

with

19. Case :- WRIT - A No. - 9310 of 2023

Petitioner :- Anil Kumar Tripathi

Respondent :- State Of U.P. Thru. Secy., Secondary Education Lko. And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey,Gaurav Kumar Maurya,Krishna Kumar Singh

Counsel for Respondent :- C.S.C.

with

20. Case :- WRIT - A No. - 9315 of 2023

Petitioner :- Sunil Kumar Misra

Respondent :- State Of U.P. Thru. Secy. Secondary Education, Lucknow And 4 Others

Counsel for Petitioner :- Manoj Kumar Pandey,Gaurav Kumar Maurya,Krishna Kumar Singh

Counsel for Respondent :- C.S.C.

with

21. Case :- WRIT - A No. - 9524 of 2023

Petitioner :- Smt. Kunj Shri Jauhri And 3 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Secondary Education, Lucknow And 4 Others

Counsel for Petitioner :- Lalit Shukla

Counsel for Respondent :- C.S.C.

with

22. Case :- WRIT - A No. - 9751 of 2023

Petitioner :- Rajendra Singh

Respondent :- State Of U.P. Thru. Secy. Secondary Education Lko And 4 Others

Counsel for Petitioner :- Harsha Yadav

Counsel for Respondent :- C.S.C.

with

23. Case :- WRIT - A No. - 9780 of 2023

Petitioner :- Satendra Kumar Srivastava

Respondent :- State Of U.P. Thru. Secy. Secondary Education Lko And 4 Others

Counsel for Petitioner :- Harsha Yadav

Counsel for Respondent :- C.S.C.

with

24. Case :- WRIT - A No. - 9831 of 2023

Petitioner :- Rajesh Singh

Respondent :- State Of U.P. Thru. Secy. Secondary Education Lko. And 4 Others

Counsel for Petitioner :- Harsha Yadav

Counsel for Respondent :- C.S.C.

with

25. Case :- WRIT - A No. - 10091 of 2023

Petitioner :- Rakesh Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education Deptt. Lko. And 4 Others

Counsel for Petitioner :- Surendra Pratap Singh,Rajendra Pratap Singh

Counsel for Respondent :- C.S.C.

with

26. Case :- WRIT - A No. - 393 of 2024

Petitioner :- Virendra Pratap Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Secondary Education, Lucknow And 8 Others

Counsel for Petitioner :- Pawan Kumar Pandey

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

27. Case :- WRIT - A No. - 396 of 2024

Petitioner :- Virendra Bahadur Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Secondary Edu. Lko And 8

Others

Counsel for Petitioner :- Pawan Kumar Pandey,Ajay Kumar

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

28. Case :- WRIT - A No. - 412 of 2024

Petitioner :- Raj Bahadur Yadav

Respondent :- State Of U.P. Thru. Prin. Secy. Secondary Education Lko.
And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey,Ajay Kumar

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

29. Case :- WRIT - A No. - 650 of 2024

Petitioner :- Smt. Neeraj Mishra

Respondent :- State Of U.P. Thru. Its Addl. Chief Secy. Secondary Edu.
Lko. And 4 Others

Counsel for Petitioner :- Brijesh Kumar Singh

Counsel for Respondent :- C.S.C.

with

30. Case :- WRIT - A No. - 2422 of 2024

Petitioner :- Randheer Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Edu.
Lko And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

31. Case :- WRIT - A No. - 2476 of 2024

Petitioner :- Ram Kumar

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary
Education Lko. And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

32. Case :- WRIT - A No. - 2842 of 2024

Petitioner :- Rakesh Pratap Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education Lko. And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey,Vittan

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

33. Case :- WRIT - A No. - 2905 of 2024

Petitioner :- Ajeet Kumar Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education Lko. And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

34. Case :- WRIT - A No. - 3290 of 2024

Petitioner :- Baijnath Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Edu. Lko And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

35. Case :- WRIT - A No. - 3298 of 2024

Petitioner :- Shailesh Kumar Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education Lko. And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey

Counsel for Respondent :- C.S.C.,Raj Kr Singh Suryvanshi,Rishabh Tripathi

with

36. Case :- WRIT - A No. - 3335 of 2024

Petitioner :- Ashutosh Mishra

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

37. Case :- WRIT - A No. - 3410 of 2024

Petitioner :- Ramesh Chandra Srivastava

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education Lko. And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey

Counsel for Respondent :- C.S.C.,Raj Kr Singh Suryvanshi

with

38. Case :- WRIT - A No. - 3417 of 2024

Petitioner :- Kunwar Anoop Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education Lko. And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey

Counsel for Respondent :- C.S.C.,Raj Kr Singh Suryvanshi

with

39. Case :- WRIT - A No. - 3419 of 2024

Petitioner :- Chakradhar Shukla

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education Lko. And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey

Counsel for Respondent :- C.S.C.,Raj Kr Singh Suryvanshi

with

40. Case :- WRIT - A No. - 3426 of 2024

Petitioner :- Bhagwat Sharan

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education U.P. Lko. And 7 Others

Counsel for Petitioner :- Shobh Nath Pandey

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

41. Case :- WRIT - A No. - 3428 of 2024

Petitioner :- Vinay Pratap Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Of Secondary Education And 7 Others

Counsel for Petitioner :- Shobh Nath Pandey

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

42. Case :- WRIT - A No. - 3433 of 2024

Petitioner :- Indra Kumar Das

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Of Secondary Education Lko. And 7 Others

Counsel for Petitioner :- Shobh Nath Pandey

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

43. Case :- WRIT - A No. - 3434 of 2024

Petitioner :- Heera Lal Yadav

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education Lko. And 7 Others

Counsel for Petitioner :- Shobh Nath Pandey

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

44. Case :- WRIT - A No. - 3435 of 2024

Petitioner :- Dev Narayan Hemkar

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education Lko. And 7 Others

Counsel for Petitioner :- Shobh Nath Pandey

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

45. Case :- WRIT - A No. - 3441 of 2024

Petitioner :- Jiyaram Verma

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Of Secondary Education Lko. And 7 Others

Counsel for Petitioner :- Shobh Nath Pandey

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

46. Case :- WRIT - A No. - 3534 of 2024

Petitioner :- Ramdhani Vishwakarma

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Edu. Lko And 7 Others

Counsel for Petitioner :- Dheeraj Awasthi,Devak Vardhan

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

47. Case :- WRIT - A No. - 3605 of 2024

Petitioner :- Krishna Gopal

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Edu. Lko And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey,Ram Narain

Counsel for Respondent :- C.S.C.,Raj Kr Singh Suryvanshi

with

48. Case :- WRIT - A No. - 3671 of 2024

Petitioner :- Awadhesh Kumar Yadav

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education Lko. And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey,Ram Narain

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

49. Case :- WRIT - A No. - 3677 of 2024

Petitioner :- Alok Tripathi

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Edu. Lko. And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey

Counsel for Respondent :- C.S.C.,Raj Kr Singh Suryvanshi

with

50. Case :- WRIT - A No. - 3683 of 2024

Petitioner :- Awadhesh Kumar Dwivedi

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education Lko. And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey,Ram Narain

Counsel for Respondent :- C.S.C.,Raj Kr Singh Suryvanshi

with

51. Case :- WRIT - A No. - 3920 of 2024

Petitioner :- Om Prakash Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education Lko. And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey,Bajrang Mishra,Ram

Narain

Counsel for Respondent :- C.S.C.,Raj Kr Singh Suryvanshi

with

52. Case :- WRIT - A No. - 3933 of 2024

Petitioner :- Radhey Shyam Verma

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Education Lko. And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey,Ram Narain,Rupesh Kumar Singh

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

with

53. Case :- WRIT - A No. - 3979 of 2024

Petitioner :- Awadhesh Pratap Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Secondary Edu. Lko And 7 Others

Counsel for Petitioner :- Pawan Kumar Pandey

Counsel for Respondent :- C.S.C.,Rishabh Tripathi

Hon'ble Shree Prakash Singh,J.

1. Heard learned counsels for the petitioners, Sri Shailendra Kumar Singh, learned Chief Standing Counsel, Sri Vivek Kumar Shukla, learned Additional Chief Standing Counsel for the State and perused the records.

2. Notices to the concerned respondents, other than the State, are hereby dispensed with.

3. The bunch of petitions have been preferred by the petitioners assailing their respective rejection orders, mainly on the ground that they were entitled to be considered and to be regularised, under the provision of Section 33-G of the UP Secondary Education Service Selection Board Act, 1982 (hereinafter referred to as 'Act, 1982') but the benefits under the aforesaid provisions have been declined to them.

4. The provision of Section 33-G of the Act 1982 is extracted as under:-

"33-G (1) Any teacher, other than the Principal or the Head Master, who-

(a) was appointed by promotion or by direct recruitment in the lecturer's grade or trained graduate grade on or after August 7, 1993 but not later than January 25, 1999 against a short term vacancy in accordance with paragraph 2 of the Uttar Pradesh Secondary Education Services Commission (Removal of Difficulties)

(Second) order, 1981 as amended from time to time, and such vacancy was subsequently converted into a substantive vacancy;

(b) was appointed by promotion or by direct recruitment on or after August 7, 1993, but not later than December 30, 2000 on adhoc basis against substantive vacancy in accordance with Section 18, in the Lecturer grade or Trained Graduate grade;

(c) possesses the qualifications prescribed under, or is exempted from such qualification in accordance with, the provisions of the Intermediate Education Act, 1921;

(d) has been continuously serving the institution from the date of such appointment up to the date of the commencement of the Uttar Pradesh Secondary Education Services Selection Board (Amendment) Act, 2016;

(e) has been found suitable for appointment in a substantive capacity by the Selection Committee referred to in clause (a) of sub-section (2) of Section 33-C in accordance with the procedure prescribed under clause (b) of the said sub-section;

Shall be given substantive appointments by the Management.

(2)(a) The names of the teachers shall be recommended for substantive appointment in order of seniority as determined from the date of their appointment;

(b) if two or more such teachers are appointed on the same date, the teacher who is elder in age shall be recommended first.

(3) Every teacher appointed in a substantive capacity under sub-section (1) shall be deemed to be on probation from the date of such substantive appointment.

(4) A teacher who is not found suitable under sub- section (1) and a teacher who is not eligible to get a substantive appointment under the said sub-section shall cease to hold the appointment on such date as the State Government may by order specify.

(5) Nothing in this section shall be contrued to entitled any teacher to substantive appointment if on the date of the commencement of the Uttar Pradesh Secondary Education Services Selection Board (Amendment Act), 2016 such vacancy had already been filed or selection for such vacancy has already been made in accordance with this Act.

(6) The services of the adhoc teachers and the teachers who have been appointed against short term vacancies shall be regularised from the date of commencement of the Uttar Pradesh Secondary Education Services Selection Board (Amendment Act), 2016.

(7) Reservation Rules shall be followed in regularization of adhoc teachers and teachers who are appointed against short term vacancies.

(8) Adhoc teachers, who have not been appointed either in accordance with the Uttar Pradesh Secondary Education Services Commission (Removal of Difficulties) Order, 1981 or in accordance with Section 18 of the Uttar Pradesh Secondary Education Services Selection Board Act, 1982 and are otherwise getting salary only on the basis of interim/Final orders of the court shall not be entitled for regularization."

5. From bare reading of the provisions of Section 33–G(a) of the Act, 1982, it is conspicuous that any teacher other than Principal or Headmaster, who was appointed by promotion or by direct recruitment in

the lecturer's grade or trained graduate grade on or after August 7, 1993 but not later than January 25, 1999 against a short term vacancy in accordance with paragraph 2 of the Uttar Pradesh Secondary Education Services Commission (Removal of Difficulties) (Second) order, 1981 as amended from time to time, and such vacancy was subsequently converted into a substantive vacancy._

Similarly, Section 33-G(b) provides that:- any Teacher other than Principal or Headmaster, who was appointed by promotion or by direct recruitment, on or after 7th August 1993, but not later than 30th December 2000, on ad-hoc basis on substantive vacancy, in accordance with Section 18, in the Lecturer Grade or Trained Graduate Grade and possess the qualification prescribed under or is exempted from such qualification in accordance with the provisions of Intermediate Education Act, 1921 (hereinafter referred to as 'Act 1921') and has been continuously serving the institution from the date of such appointment up till the date of commencement of U.P. Service Selection Board Act, 2016 and has been found suitable for appointment in a substantive capacity by the Selection Committee referred to in Clause (a) of Sub-Section (2) of Section 33-C in accordance with the procedure prescribed in the Clause (b), shall be given substantive appointment.

6. Section 33-G(8) of the Act, 1982, laid down condition, that ad-hoc Teachers who have not been appointed either in accordance with UP Secondary Education Service Commission (Removal of Difficulties) Second Order, 1981 (hereinafter referred to as 'Order, 1981'), or in accordance with Section-18 of the Act, 1982 or otherwise getting salary only on the basis of interim/final order, shall not be entitled for regularization.

The direct recruitment falls in two categories as is envisaged under Section 33-G of the Act, 1982; firstly, the concerned Teacher has been appointed on or after 7th August 1993, but not later than 25th January 1999 against a short term vacancy, in accordance with paragraph 2 of the Removal of Difficulties Order 1981 as amended from time to time, and as such, the vacancy was converted into a substantive vacancy and secondly, the concerned Teacher has been appointed on or after 7th August 1993, but not later than 30th December 2000, on ad-hoc basis against substantive vacancies, in accordance with the old Section 18 of the Act, 1982 in the Lecturers' Grade and Trained Graduate Grade.

7. The petitioners herein claims to be appointed either under the Removal of Difficulties Order, 1981 or under unamended Section 18 of the Act, 1982, and it was incumbent upon the Regional Level Committee to thoroughly examine the case of the petitioners while ensuring the

records from the Committee of Management of the Institution as well as the District Inspector of Schools concerned, prior coming to any conclusion.

8. While going through the provision of Section 33-G(e) of the Act, 1982, this Court has noted two ingredients, which is to be taken care of, by the Regional Level Committee; one, that the Teacher is suitable for appointment in a substantive capacity by the Selection Committee referred to in Clause (a)(2) of Section 33-C, in accordance with the procedure proscribed; meaning thereby, that a procedure must be prescribed, so far as, to look into the suitability of appointment.

9. Section 33-C(2)(b) is extracted hereinunder:-

“(b) The procedure of selection for substantive appointment under sub-section (1) shall be such as may be prescribed.”

10. The Legislature in its conscious wisdom, has provided the aforesaid procedure of selection for substantive appointment, which clearly indicates that some procedure is to be ‘prescribed’ for selection of substantive appointment. Time and again, the Apex Court has interpreted the word ‘prescribed’.

11. In case of **Bharat Sanchar Nigam Limited and Another Vs. BPL Mobile Cellular Limited and Others** reported in (2008) 13 SCC 597, it is held that ‘ordinarily, the word ‘prescribed’ would mean prescribed by rules, meaning thereby, that prescribed in accordance with law and not otherwise.

12. Paragraph 45 of the abovesaid judgement is referred hereinunder:-

“45. For invoking clauses 4.1 and 19.5 of the licence agreement, we may notice that the word ‘prescribed’ is not defined. It has not been defined even in the Indian Telegraph Act. It has not been defined in the licence. The said provision unlike clause 18.14 does not use the words ‘from time to time’. A contract entered into by the parties, it will bear a repetition to state, must be certain. It must conform to the provisions of the Indian Contract Act. Ordinarily, the word ‘prescribed’ would mean prescribed by Rules. Section 7(2)(ee) of the Indian Telegraph Act provides for the Rule making power for the purpose of laying down the tariff. We may not be understood to be laying down a law that in absence of any statutory rule framed under the Indian Telegraph Act, no contract can be entered into. In absence of any statutory Rule governing the field, the parties would be at liberty to enter into any contract containing such terms and conditions as regards the rate or the period stipulating such terms as the case may be. The matter might have been different if the parties had entered into an agreement with their eyes wide open that the circular letter shall form part of the contract. They might have also been held bound if they accepted the new rates or the periods either expressly or sub silentio. When on the basis of terms of the contract, different rates can be prescribed, the same must be expressly stated. When the word ‘prescribed’ is not defined, the same, in our opinion, would mean that prescribed in accordance with law and not otherwise.”

13. A full Bench of Allahabad High Court, in case of **Rajjan Lal Vs. State and another**, reported in **AIR 1961 All 139 (FB)** has also categorically held that the word prescribed in a general sense has a meaning, ‘prescribed by any law, whatsoever.’

14. Paragraph 33 of the abovenoted judgement is reproduced as under:-

“33. It will be seen that Section 48 prohibits execution after the expiry of 12 years from the date of the decree. It was contended by the decree-holders before the Full Bench that by virtue of the provisions of Section 15 of the Limitation Act, in computing the time within which they were entitled to execute the decree, the period during which the execution of the decree had been stayed should not be included. Two questions were posed 'before the Full Bench, One was whether Section 48 prescribed a period of limitation within the meaning of Section 15, Limitation Act, and the second was whether Section 15 was not confined in its operation to periods of limitation prescribed by the Act or Schedule thereof.

The Full Bench answered both the questions on the affirmative. We are not here concerned with the first question because it is not contended before us that Sub-section (4) of Section 417 does not prescribe a period of limitation. The second question which fell for consideration by the Full Bench in Durga Pal Singh's case, AIR 1939 All 403, is very similar to the one referred to this Bench for decision. Thom, C. J., who delivered the principal judgment in the case observed upon consideration of the terms of Section 48, C. P. C., and Sections 15 and 29, of the Limitation Act, that the general provisions of Section 15, Limitation Act are intended to apply to periods of limitation prescribed in the Civil Procedure Code and are not confined in their operation to periods prescribed by the Limitation Act or by Schedule 1 thereof, Iqbal Ahmad, J., who concurred in the opinion of the learned Chief Justice, after considering the relevant provisions of the Limitation Act and the Code of Civil Procedure and the course of legislation on the subject came to the conclusion that in the group of sections from 3 to 29 in Sections 3, 6 and 29, after the word "Prescribed" reference has expressly been made to the first Schedule. It was held that the omission of this qualification in the other sections was not without significance and that the word "prescribed" has been used in these sections to a general sense as meaning prescribed by any law whatsoever.”

15. It culled out that if the word ‘prescribed’ is not given any meaning or interpretation in the particular provision, the meaning of the same would be, as provided by the law. While examining the instant matter, in view of the law laid down by the Apex Court, it emerges that undisputedly, no procedure was prescribed as it is provided under Section 33-C(2)(b) of the Act, 1982, though, the same is a mandate of Section 33-G(e) for consideration, thus, the whole proceeding of considering the cases of the petitioners vitiates in the eyes of law.

16. This Court has also taken note of the fact that since, no procedure has been adopted/prescribed, as is provided under Section 33-C(2)(b) of

the Act, 1982, for considering the regularisation of the petitioners, it fails the very purpose and Scheme of the Section 33-G of the Act, 1982.

17. From perusal of all the rejection orders, there seems to be no procedure followed, and the orders have been passed in a cyclostyle manner, in almost all the rejection orders. In this view of the matter, this Court is of considered opinion that the procedure prescribed under Section 33-C(2)(b), have not been adhered to, which demolished the scheme of regularisation, inserted vide Section 33-G of the Act, 1982.

18. Coming on the issue of opportunity of hearing to the Committee of Management as well as the persons aggrieved, i.e., the petitioners, it is apparent, that the Regional Level Committee while proceeding with the consideration of regularisation of the petitioners, did not procure the records, either from the Committee of Management or from the District Inspector of Schools concerned, whereas, fact remains that the District Inspector of Schools is one of the co-opted member of the Regional Level Committee. It emerges from the rejection orders that those are passed, in almost an identical manner, which indicates that the same have been passed, in a cursory and hasty manner and lacks application of mind.

19. Further, under the Constitutional Scheme, one of the most important ingredients which is to be taken care of, is the rules of principle of natural justice. The Apex Court, time and again has held that even in administrative proceeding, the application of the rules of 'audi alteram partem', is must.

20. The Apex Court while rendering the judgement and order in case of **State Bank of India and Others Vs. Rajesh Agarwal and others** reported in (2023) 6 SCC 1, has held that Principles of Natural Justice are not mere formalities, but it constitute substantive obligations that need to be followed by decision making and adjudicating authorities. It is further held that the 'principles of natural justice, has a guarantee against arbitrary action, both in terms of procedure and substance, by judicial, quasi-judicial and administrative authorities'.

21. Paragraph 36 of the above noted judgement is quoted hereinunder:-

"36. We need to bear in mind that the principles of natural justice are not mere legal formalities. They constitute substantive obligations that need to be followed by decision-making and adjudicating authorities. The principles of natural justice act as a guarantee against arbitrary action, both in terms of procedure and substance, by judicial, quasi-judicial, and administrative authorities. Two fundamental principles of natural justice are entrenched in Indian jurisprudence: (i) nemo judex in causa sua, which means that no person should be a judge in their own cause; and (ii) audi alteram partem, which means that a person affected by administrative, judicial or

quasi-judicial action must be heard before a decision is taken. The courts generally favor interpretation of a statutory provision consistent with the principles of natural justice because it is presumed that the statutory authorities do not intend to contravene fundamental rights. Application of the said principles depends on the facts and circumstances of the case, express language and basic scheme of the statute under which the administrative power is exercised, the nature and purpose for which the power is conferred, and the final effect of the exercise of that power."

22. The Apex Court has, thus, held that the opportunity of hearing is a substantive obligation, which is based on fundamental principle of natural justice.

23. This Court has also taken note of the fact that the opportunity of personal hearing to the concerned petitioners/ affected teachers have also not been accorded so as to sub-serve the compliance of the rules of principles of natural justice. The matter, which is in hand to decide, is not on the premises that there is no regularisation rules prevailing but petitioners have been deprived of their valuable rights without ensuring the due opportunity of hearing and further prior coming to the conclusion, the records were not procured from the committee of management as well as the District Inspector of Schools concerned.

24. It is trite law that every order, administrative or judicial must stand on its own legs. The Constitutional Bench of Hon'ble Apex Court in the case of **Mohindher Singh Gill and another Vs. Chief Election Commissioner, New Delhi and others, (1978) 1 SCC 405**, has very categorically held as under:-

"8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji²:

"Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

Orders are not like old wine becoming better as they grow older."

25. Undisputedly, the petitioners have not been associated while considering their cases for regularisation, under Section 33-G of the Act, 1982, as, neither any notice is issued to the petitioner nor any record was called from the Committee of Management concerned, which, prima facie, is a violation of rules of principle of natural justice. It is also a trite

law that if any action is of civil consequence and that affects someone, the opportunity of hearing of the affected person is must.

26. The State counsel during the course of his argument has also failed to substantiate that with what manner the Regional Level Committee sought for the records from the committee of management and from the District Inspector of Schools, when, the District Inspector of Schools himself is the member of the Regional Level Committee.

27. So far as the present petitioners are concerned, their appointments were made under certain exigencies provided under Section 33-G of the Board Act, 1982 for imparting education, where the State machinery was totally failed to make appointment of teachers, which is the paramount duty of a welfare State. The petitioners were appointed in the educational institutions, which are in the remote areas of the Province and those are fulfilling the aim and object of the constitutional scheme, thereby imparting education, which is the fundamental right.

28. In fact, the State, while looking into the aforesaid Act No.7 of 1982 while inserting provision 33-G, provided that those teachers other than principal or headmaster appointed under the condition laid down in the statute, shall be given substantive appointment, but the impugned orders clearly show that Regional Level Committee without the reports of the Committee of Management and District Inspector of Schools, has passed the orders, which in fact failed the very purpose of prescribing the scheme under section 33-G of the Act 1982. The orders passed by the Regional Level Committee are in a very cursory manner and without ensuring the records from the committee of management and the District Inspector of Schools concerned, which cannot be approved of.

29. Earlier also, the matter came up for consideration before this Court in Special Appeal (Defective) No. 103 of 2023 wherein the controversy is settled while providing that it is the duty and responsibility of the State authorities to consider and adjudge the suitability of the teachers for substantive appointment under Section 33-G of the Act 1982 and their continuation in the ad hoc capacity in the institution concerned is subject to only such consideration. Further, the order passed in the aforesaid special appeal has also been affirmed in Special Leave to Appeal (C) No.13023 of 2023, vide order dated 17.7.2023. Thus, there remains no dispute so far as the consideration of the petitioners/ teachers under section 33-G of the Act 1982, is concerned.”

30. In view of the above said submissions and discussions, it is apparent that the orders impugned in all the writ petitions have been passed in a cyclostyle manner, without associating the petitioners in the

proceeding and without ensuring the records from the Committee of Management/District Inspector of Schools concern and further without following with any procedure, as it is provided under Section 33-C(2)(b) of the Act, 1982. Thus, the impugned orders on its face, are unlawful and against the settled proposition of law.

31. Consequently, the orders of rejection, assailed in the present bunch of writ petitions are hereby **quashed**.

32. The writ petitions are **allowed**, accordingly.

33. All the matters are relegated back to the Regional Level Committees concerned to pass order afresh within a period of three months, after calling the records from the committee of management as well as the District Inspectors of Schools concern and by verifying the same. It is further directed that the petitioners shall also be provided the opportunity of hearing, if so required. The scheme provided under Section 33-G of the Act, 1982 shall strictly be adhered to, keeping in view of the requirement of procedure to be adopted by the Committee so constituted.

34. In addition, it is further provided that the petitioners of the present bunch of writ petitions are entitled to continue in service and shall be paid salary without any further break, till the decision so taken by the committee concerned. The petitioners as well as the Manager of the Committee of Management shall ensure their presence and would co-operate with the Regional Level Committee, as and when required.

Order Date :- 31.5.2024

Anurag