



2025:AHC:175346

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 7600 of 2019

Desh Deepak Upadhyay

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Ashok Khare, Sr. Advocate, Siddharth Khare
Counsel for Respondent(s)	: C.S.C., Vinod Kumar Pandey

Court No. - 38

HON'BLE DONADI RAMESH, J.

1. Heard Shri Ashok Khare, learned Senior Counsel for the petitioner and Shri Vinod Kumar Pandey, learned counsel for the respondent no.5 and learned Standing Counsel for the State-respondents.

In Re: Civil Misc. Amendment Application No.10 of 2021

2. Learned counsel for the petitioner submits that he does not want to press the amendment application.

3. Accordingly, the amendment application is dismissed as not pressed.

Order on Writ Petition

4. The present writ petition is filed aggrieved by the order passed by the Director of Education, Secondary, U.P. dated 19.03.2019 and with a consequential relief to respondents to sanction and disburse all arrears of salary to the petitioner which he is entitled.

5. The petitioner was appointed on 10.11.2000 by the fifth-respondent Institution as Adhyapak Adhunik and consequently he joined on 13.11.2000 since then he is discharging his duties and imparting education to the students.

6. Though, at the time of appointment the Institution was not admitted into grant-in-aid and subsequently by Government Order dated 12.08.2010 the Institution was admitted into grant-in-aid with effect from 01.07.2010. Based on the above orders one post of Principal and four Assistant Teachers

including the petitioner was included for payment of salaries.

7. While the things stood thus, based on the complaint made by third-party the Director of Education has asked the District Inspector of Schools to conduct an inquiry and submit the report, accordingly, the District Inspector of Schools has conducted an inquiry and submitted its report on 22.09.2017. According to the said report the District Inspector of Schools clearly submitted that the petitioner is having requisite qualifications and he is eligible for payment of the salary. While the things stood thus, the petitioner has made a request to consider his case based on the Government Order dated 01.01.2016 wherein the Government has dealt with issue of qualifications and held that though, at the time of appointment the teachers are not having qualification but at the time of admitting the Institution into grant-in-aid they are entitled for the payment of salary. On the same analogy petitioner has also made a request saying that though the petitioner is qualified and possesses masters degree in Military Science but he also acquired masters degree in Sociology in 2014. Hence, the petitioner made a request based on the Government Order dated 01.01.2016.

8. In fact the District Inspector of Schools has conducted an inquiry and submitted a report recommending the case of the petitioner for grant of salary as he is fully qualified and eligible. The petitioner also submitted a request stating that as per the Government Order dated 01.01.2016 the petitioner case may also be considered as he has acquired one more masters degree in 2014. Despite the same the Director of Education has rejected the case of the petitioner stating that the Government Order dated 01.01.2016 is not applicable to the petitioner and accordingly he held that at the time of appointment, the petitioner is not having the requisite qualifications i.e. masters degree in the concerned subject and rejected the claim. Aggrieved by the same the present writ petition is filed.

9. Based on the above contentions learned Senior counsel Shri Ashok Khare, appearing on behalf of the petitioner has submitted that directly the Government Order dated 01.01.2016 may not be applicable to the present case of the petitioner but in the Government Order dated 01.01.2016 the Government has categorically considered issues and relaxed certain conditions in favour of the teachers and held that the teachers those who are not having sufficient qualifications at the time of appointment but subsequently if the teachers has acquired the qualifications at the time of

admitting the Institution into grant-in-aid, their case may be considered for grant-in-aid.

10. In the instant case as the petitioner was appointed in the year 2000 by the fifth-respondent and admittedly the petitioner is also having masters degree in Military Science which is also equivalent and eligible for the post of Assistant Teachers. Apart from the above the petitioner has also acquired the masters degree in Sociology in 2014 hence, the petitioner is fully qualified and eligible for appointment also for financial approval.

11. Learned Senior Counsel has further submitted that though, the petitioner was appointed on 10.11.2000 and he has continued and as such his appointment was approved by the respondent vide order dated 23.06.2011 which is still existing and the respondents have not cancelled the such approval. In the said circumstances, the respondents ought not to have rejected the case of the petitioner for granting financial approval, accordingly requested to set aside the impugned order with a prayer to grant all arrears of salary at least from the date of acquiring qualifications i.e. 05.11.2014.

12. In reply to the above said contentions, learned counsel appearing on behalf of the respondents has submitted that the petitioner is not having qualifications which are required and though the petitioner has acquired qualifications in 2014 but as on the date of admitting the Institution into grant-in-aid the petitioner is not fully qualified, hence he is not entitled for any relief, in fact the Government Order dated 01.01.2016 is also not applicable to the petitioner, as the petitioner is not having the qualifications at the time of admitting the Institution into grant-in-aid.

13. Considering the submissions and on perusal of the record has submitted by the learned Senior Counsel, though the Government Order dated 01.01.2016 squarely may not be applicable to the case, but the intention of the Government in relaxing certain conditions in favour of the teachers has to be taken into consideration. In the instant case, as the petitioner was appointed in 2000 and he has continued and even now he is continuing and in fact as contended by learned Senior Counsel the approval granted in favour of the petitioner on 23.06.2011 is still intact. In the said circumstances, the respondent ought not to have rejected the claim of the petitioner, once the Institution is admitted into grant-in-aid as the petitioner

is also one among the four teachers those who are admitted into grant-in-aid, the respondents ought to have released the salaries to the petitioner.

14. Based on the above observations, the present writ petition is **allowed** by setting aside the impugned order dated 19.03.2019, directing the respondents to consider the length of service pass appropriate orders based on the qualifications which are existing as on date at least from from the date of acquiring the qualifications, within a period of two months from the date of a receipt of a copy of this order.

September 26, 2025
AdityaG

(Donadi Ramesh,J.)