



2025:AHC:181091

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 16225 of 2018

Sanjay Kumar Tripathi And Another

.....Petitioner(s)

Versus

State Of U.P. And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Anil Kumar Tripathi, Ashok Kumar Pandey, Jitendra Pratap Singh, Krishna Kant Tiwari
Counsel for Respondent(s)	: C.S.C., Shyam Lal

Court No. - 33

HON'BLE DONADI RAMESH, J.

1. Heard Sri Ashok Kumar Pandey, learned counsel for the petitioners, learned Standing Counsel for the State respondents and Sri Shyam Lal, learned counsel for respondent no.6.

2. Present writ petition has been filed questioning the order dated 23.12.2017 passed by respondent no.5-District Inspector of Schools, Mathura and also the order dated 08.05.2018 passed by respondent no.2-Director, Secondary Education, Lucknow. Further prayer has been made to pay arrears of salary from the date of appointment to the present day of working with entire consequential service benefits to the petitioners.

3. In fact, in the earlier litigation, petitioners were also amongst them. Special Appeal No. 306 of 2012 and bunch were disposed of vide order dated 26.07.2017, with following directions:

"The questions involved in this bunch of special appeals/writ petitions and the questions that were raised, considered and answered by this Court vide judgment and order dated 17 December 2015 in Writ Petition No. 655 (S/S) of 2014 are similar. The concluding paragraph of the judgment reads thus:

"For these reasons, we have come to the conclusion that the view of the learned Single Judge in Sanjay Singh's case (supra) cannot be upheld as laying down the correct position in law. The view of the learned Single Judge shall stand, accordingly, overruled. The judgment in Pradeep Kumar (supra) is upheld subject to the principles which, we have enunciated in this judgment.

The second issue which has been referred for decision before the Division Bench is the scope of Section 16-E (11) when read in the context of Sections 16, 22, 32 and 33-E of the Act of 1982. We have already dealt with the interpretation of these provisions in the course of the judgment.

The reference to the Division Bench shall stand answered in the aforesaid terms. The

record of these proceedings shall now be remitted back to the learned Single Judge, according to roster, for disposal in the light of the questions answered."

It is not in dispute that these special appeals/writ petitions are squarely covered by the said judgment, which is also under challenge before the Supreme Court in Civil Appeal No. 8300 of 2016 (arising out of Special Leave Petition No. 15272 of 2016). The Supreme Court, on 22 August 2016, while entertaining the SLP, granted leave and also stay of operation of the impugned judgment [dated 17 December 2015 in Writ Petition No. 655(S/S) of 2014] until further orders. In this view of the matter, yesterday, we made certain suggestions to learned counsel for the parties and asked them to consider the same and take instructions in the light thereof. Today, all counsel for the parties have agreed for disposal of this bunch of special appeals and writ petitions by the following order:

(1) The appeals/petitions also stand disposed of in terms of the judgment dated 17 December 2015 passed in Writ Petition No. 655 (S/S) of 2014, subject to outcome of Civil Appeal No. 8300 of 2016 pending before the Supreme Court and/or modification of interim order dated 22 August 2016, if any. In other words, if Civil Appeal No. 8300 of 2016 is allowed, counsel for the respondents submit that they shall give all benefits to the appellants/petitioners also in pursuance of the judgment of the Supreme Court, unless there is any other legal impediment and if any aspect is not covered by the judgment of the Division Bench dated 17 December 2015. Subject to above, parties have agreed for allowing the interim orders passed in special appeals/writ petitions protecting the interests of the appellants/petitioners, to remain operative till disposal of Civil Appeal No. 8300 of 2016 pending before the Supreme Court.

(2) In view of the above, it is needless to mention that the respondents shall allow the appellants/petitioners to continue to work on the posts, if they are working till today, and shall extend all benefits of interim orders, if any, till disposal of the appeal in the Supreme Court, unless there is any other legal impediment and if any aspect is not covered by the judgment of the Division Bench dated 17 December 2015.

(3) It is open to the respondents to take appropriate decision/action after disposal of the appeal in the Supreme Court subject to the order/judgment passed therein."

4. Subsequently, the petitioners have filed supplementary affidavit on 24.08.2025. In that affidavit, petitioners have placed the order passed by the Apex Court in Civil Appeal No. 8300 of 2016 (Sanjay Singh & Ors. Vs. State of U.P. & Ors.). The said civil appeal was disposed of with following directions:

"9. In view of the petitioners/appellants in their own case having made the ground on the basis of Section 16-E(sub-section 11) of the Intermediate Education Act, 1971 that where teachers have been working for period against substantive vacancies temporarily, there is a provision to give benefits to them, we consider appropriate that the benefits of past service would be rendered only to such of the persons who have been appointed temporarily in accordance with the provisions of this Section. We expect the State to be fair in this matter in recognizing the various nature of vacancies which may have arisen.

10. We have also considered the prayer made in IA No.48618 of 2020 in SLP(Civil)Nos.19561-19562 of 2019. We have heard learned counsel for the parties on this aspect and have taken cognizance of the fact that there may be teachers/lecturers who are working and not paid for almost two years. The second concern is that till this examination process is completed, a prayer is made on behalf of the petitioners/appellants and the applicants that they should be permitted to continue.

11. On having examined the issue, we feel it will be appropriate to direct that the teachers/lecturers who are employed at present the TGTs and lecturers would

continue to be so employed till the aforesaid process is completed and to the extent the financial benefits are given by the State Government to the institutions, against appointments made in compliance with Section 16-E (subsection 11) of the Act, the same will also be given to provide succour to the TGT/lecturers.

12. We end with the hope that we will never be faced with the aforesaid situation again and the State Government and the Commission will also make every endeavour to ensure that the order is complied in its true intent and spirit and specially the aspect of holding examinations for the future taking into consideration all current and future vacancies reported as per rules is followed in times to come. We need not emphasize that education in a very important role performed by a State apart from the area of medical assistance to citizens and thus it is necessary that the full benefit is extended to the students which can only take place if the full strength of teachers is available at the requisite time. This in turn requires compliance with the aforesaid directions for the future.

13. Since there is always hope, we hope for a better future.

14. The aforesaid exercise by the Commission in consultation with the State Government should be completed well in time to ensure that at least in the session commencing in July, 2021 all teachers up to date are in place.

15. All the appeals and special leave petitions are disposed of in terms aforesaid.

16. All pending applications also stand disposed of."

5. In view of the said circumstances, as the petitioners' continuation is subject to disposal of the appeal, now the Apex Court has considered and disposed of the appeal in favour of the petitioners, hence, the writ petition is disposed of directing the respondents to consider the case of the petitioners for arrears of salary and release of all consequential monetary benefits and pass appropriate orders, within a period of two months from the date of receipt of certified copy of this order.

6. Writ petition is, accordingly, disposed of.

October 10, 2025

Noman

(Donadi Ramesh,J.)