

2025:AHC:65784
Reserved on : 25.04.2025
Delivered on : 29.04.2025

Court No. - 6

Case :- WRIT - A No. - 66862 of 2015

Petitioner :- Gopal Narain Shukla

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Sunil Kumar

Counsel for Respondent :- Arun Kumar, Balwant Singh, C.S.C.

Hon'ble Saurabh Shyam Shamshery, J.

1. Heard Sri Sunil Kumar, learned counsel for petitioner and Sri Rajeshwar Tripathi, learned C.S.C. for State.
2. In the present case, petitioner was offered appointment under Dying-in-Harness Rules on 10.07.2002 as an Untrained Assistant Teacher with a specific observation that a degree of B.P.Ed. 1998 from Amravati University, Maharashtra was not recognized in State of U.P. and on basis of such communication, he was appointed as an Untrained Assistant Teacher by an appointment letter dated 02.09.2003 and he joined on the said post on 03.09.2003 and was paid salary for Untrained Assistant Teacher.
3. The petitioner remains silent and has accepted his appointment as Untrained Teacher for almost 12 years and thereafter he filed a Writ Petition before this Court bearing No. 24368 of 2015 and prayed that he may be paid pay scale of a Trained Teacher since 03.09.2003 and Selection Grade since 03.09.2003 i.e. after 10 years. The said writ petition was disposed of by an order dated 01.05.2015 to consider the claim of petitioner.

4. In pursuance of above referred order, by impugned order dated 22.09.2015, claim of petitioner was rejected on ground that B.P.Ed. Degree from Amravati University, Maharashtra was not recognized by State of U.P. as well as a submission of arbitrariness was also rejected so much as that some persons who have been wrongly given benefit of trained teacher on basis of such certificate, notice were issued to their Committee of Management. Otherwise also, it is well settled that there is no negative equality.

5. Learned counsel for petitioner submits that aforesaid B.P.Ed. Degree from Amravati University, Maharashtra is recognized and he refers a communication dated 26.11.1965 issued by Ministry of Education, Government of India, however, the said letter does not indicate that it was adopted by Government of Uttar Pradesh also, therefore, on basis of such communication, no benefit could be granted to petitioner.

6. Learned counsel appearing on behalf of State has supported the impugned order.

7. In view of above submission, the Court takes note that there are at least three judgments which are against the claim of petitioner that B.P.Ed degree is not recognized as a qualification for an Assistant Teacher for primary classes. Firstly, a judgment passed by Full Bench in **Amal Kishore Singh Vs. State of U.P. Thru Secretary & 4 Others, 2018:AHC:207913-FB**, Secondly, a judgment passed by Division Bench at Lucknow in **Rakesh Kumar Vs. State of U.P. Thru Secy. Secondary Edu Lko & Ors, 2024:AHC-LKO:1129-DB**. For reference, following

paragraph of judgment passed by Division Bench is reproduced hereinafter :-

“(21) Since much emphasis has been laid by the appellant-petitioner that the B.P.Ed., qualification is equivalent to B.Ed., and in support of this, he has relied upon paragraphs 45, 46 and 47 of judgment of Full Bench in Amal Kishore Singh (supra), it is necessary to have a look into the aforesaid paragraphs which are reproduced hereunder for ready reference:-

“45. We now proceed to examine the stand of the State Government in respect of the controversy in hand. In this regard we would allude to an affidavit filed by Principal Secretary, Secondary Education, U.P. Lucknow dated 18th May, 2017 wherein the State Government has also accepted the position that B.P.Ed. qualification is equivalent to other teaching qualifications enumerated in Paragraph 2 of Appendix-A and it reads thus:-

"8. That in Appendix in reference of Regulation-1 Chapter-II of U.P. Intermediate Education Act, does not refer specifically the B.P.Ed. Course. After the Regulation 2001 came into force. It has been adopted by the State as equivalent to 'trained' for which a necessary amendment is required to be incorporated I the Schedule. As a principal, the B.P.Ed. Degree is treated to be equivalent to a 'trained' as referred in para-2 of Appendix-A.

9. That in view of the above, the B.P.Ed. Course is equivalent to that of B.Ed., L.T., B.T./C.T. It is further clarified that the necessary amendment is to be incorporated in the schedule."

46. In view of the foregoing discussion and having regard to the stand of the State Government on the issue, we are unable to subscribe to the view taken by Division Bench in Vindhyachal Yadav that B.P.Ed. could not be equated with other teaching qualifications prescribed under Appendix-A of Regulation 1 of Chapter-II of the regulations framed under the U.P. Intermediate Education Act, 1921 and accordingly, we overrule the same as well as all other judgements of this Court taking a contrary view.

47. We, thus, answer question (i) in affirmative and question (iii) by holding that Vindhyachal Yadav does not lay down the correct law. However, question (ii) has to be answered, subject to certain riders. A B.P.Ed. degree being a post graduate training qualification, would entitle a person to hold post of Headmaster of a recognised High School but not that of Principal of an Intermediate college. The reason is that under Regulations, 2001 as well as under Minimum Qualification Regulations, 2014 framed by NCTE, B.P.Ed. is recognised as eligibility qualification for teaching Classes IX - X (Secondary/ High School) but not for

Classes XI - XII (Senior Secondary/ Intermediate). For teaching Intermediate classes, the person should possess M.P.Ed. degree of at least two years duration from any National Council for Teacher Education recognised institution. These regulations do not prescribe any separate qualification for Head of institution and thus the qualification prescribed for a teacher of Intermediate classes (Senior-Secondary) would also apply to Head of such an institution. We have already held above that the qualifications prescribed by NCTE would be binding on the State, therefore, the qualifications prescribed by Minimum Qualification Regulations, 2014 have to be read alongwith Appendix-A and thus, a teacher possessing B.P.Ed. degree, would not be eligible to hold post of Principal of an Intermediate College.”

(22) A perusal of the aforesaid paragraphs indicates that a teacher possessing B.P.Ed., degree is eligible to be appointed as Headmaster of a High School, but not as Principal of an Intermediate College.

(23) Admittedly, the appellant-petitioner is having the qualification of B.P.Ed., and has applied for Assistant Teacher in Primary School and as per verdict of the Full Bench of this Court, as mentioned above, it is not applicable in the case of the appellant-petitioner.

(24) Relying upon the judgment of Full Bench of Amal Kishore Singh (supra), the order passed by the District Inspector of Schools, wherein it has been observed that the B.P.Ed., degree is not recognized for Primary Schools, is perfect. Consequently, no interference is required in the impugned order passed by the learned Single Judge wherein it has been observed that the petitioner lacks essential qualification as prescribed under the Statute for appointment as Assistant teacher in the attached school of the Institution inasmuch as B.P.Ed. Degree is not an alternate qualification prescribed for B.T.C. etc., he cannot claim to be qualified.”

8. In the aforesaid circumstances, since position of law is being settled by Full Bench of this Court and followed by Single Bench and Division Bench of this Court that B.P.Ed. is no a qualification i.e. requisite training for appointment of primary teachers and counsel for petitioner has not shown any contrary position of law.

9. There is another factor which also goes against petitioner that at the time of appointment, he has accepted his appointment as untrained teacher without any objection, when he was aware that his degree of B.P.Ed. from Amravati

University, Maharashtra was not recognized in State of U.P. and after service of about a decade, he raised his claim that said degree be accepted.

10. The claim of petitioner is also barred by doctrine of estoppel, since his claim was not based on basis of any subsequent development. Accordingly, writ petition is **dismissed**.

Order Date :- 29.04.2025

P. Pandey