



2026:AHC:196493

HIGH COURT OF JUDICATURE AT ALLAHABAD

CONTEMPT APPLICATION (CIVIL) No. - 4818 of 2026

Indrajeet Pandey

.....Applicant(s)

Versus

Mr. Manoj Kumar Mishra, District Inspector Of
Schools

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Gopal Ji Rai
Counsel for Opposite Party(s)	:	

Court No. - 53

HON'BLE VIKAS BUDHWAR, J.

1. This Court on 31.08.2026 proceeded to pass the following orders:-

"1. The present contempt petition has been preferred alleging non-compliance of the order dated 21.08.2025 passed in Writ A No.36704 of 2014, the order whereof is quoted hereinunder:

"1. Heard Sri Gopal Ji Rai, learned counsel for the petitioner and learned Standing Counsel for the State respondents.

2. Present writ petition has been filed for following relief:

"(A) issue a writ, order or direction in the nature of certiorari quashing the order dated 20.8.2013 passed by the District Inspector of Schools Ballia (Annexure no. 10 to the writ petition).

(B) issue a writ, order or direction in the nature of mandamus directing the District Inspector of Schools Ballia to consider the claim of petitioner as per circular dated 29.3.2011 issued by State Govt. and pay the salary along with arrears to petitioner within a period as fixed by this Hon'ble Court."

3. Petitioner was appointed in the year 1990 and his appointment was approved by respondent no.2, but surprisingly, respondent no.2 has withheld the salary of the petitioner vide order dated 3.11.1999. The said order was assailed before this Court in Writ A No. 54167 of 1999. The said writ petition was disposed of vide order dated 18.07.2005, which reads as below:

"By means of the present writ petition the petitioner has approached this Court for Issuing a writ of certiorari quashing the Impugned order dated 3.11.1999 (Annexure 12 to the writ petition) passed by the respondent No.2 and further for Issuing a writ in the nature of mandamus directing the respondents not to interfere in the Functioning of the petitioner as L.T. grade teacher.

The case of the petitioner is that on the basis of promotion of one Sri Shivnand Pandey on the post of Lecturer, a vacancy has taken place and after following the proper procedure as provided under the Act and Rules, the petitioner was given an

appointment. The appointment of the petitioner was approved by order dated 15.7.1991 by the respondent No.2. A copy of the same has been annexed as Annexure No.4 to the writ petition. Petitioner submits that salary was being paid but subsequently, the same was stopped, therefore, the petitioner has approached this Court by way, of Writ Petition No.35929 of 1994, which was disposed of vide order dated 10.11.1994 directing the District Inspector of Schools to decide the representation of the petitioner within two months Petitioner submits that on the basis of the aforesaid direction issued by this Court, the District Inspector of Schools, respondent No.2 passed an order dated 16.10.1996 by which the appointment of the petitioner has been cancelled. It has been stated in the order that the signature of the District Inspector of Schools is forged and no prior approval was taken prior to the appointment of the petitioner.

A specific averment has been made in Paras 19 and 20 of the writ petition that before issuance of the order dated 3.11.1999 no show cause notice or opportunity has been given to the petitioner. As no show cause or opportunity has been given to the petitioner, as such, in view of the well settled principle of law, the same is liable to be quashed only on the ground that the order dated 3.11.1999 is against the principle of natural justice.

A counter affidavit has been filed stating various other things but no reply to Paras 19 and 20 of the writ petition has been given in the counter affidavit filed on behalf of the respondents. it is also very surprising that after para 14 no reply has been give to paragraphs 15 to 21. After para 14, the reply of para 22 of the writ petition has been given. It clearly goes to show that the averment made by the petitioner in the writ petition that no notice or opportunity has been give prior to the order dated 3.11.1999 appears to be correct.

I have heard learned counsel for the petitioner and learned Standing Counsel and perused the record.

From the averment made in the writ petition, the same has not been controverted in the counter affidavit regarding notice and opportunity to the petitioner prior to the passing of the impugned order dated 3.11.1999. It is well settled law that if the allegations made in the writ petition are not controverted, it will be presumed that the allegations made in the writ petition are correct.

In view of the aforesaid fact, as the order dated 3.11.1999 (Annexure 12 to the writ petition) has been passed without affording an opportunity to the petitioner and the same is against the principles of natural justice, as such, the same is hereby quashed. The matter is remitted back to the respondent No.2 to pass appropriate and detailed order according to law after affording an opportunity to the petitioner and the Committee of Management. The said order be passed by the respondent No.2 preferably within a period of three months from the date of production of the certified copy of this order.

With these observations the writ petition is disposed of. There shall be no order as to costs."

4. Consequent to the same, respondents have released salary to the petitioner. But

surprisingly again, the salary was withheld in 2011 and again on 20.08.2013, the respondents have stopped payment of salary on the ground that the petitioner is working on surplus post. The said order was assailed in the present writ petition.

5. Considering the submissions and material on record, this Court has passed an order on 18.07.2014, which reads as below:

"The petitioner earlier approach this Court by means of Writ Petition No. 54167 of 1999, wherein an interim order was granted on 23rd December, 1999, that if the petitioner is working on the post of Assistant Teacher, he shall be permitted to continue to work on the said post.

The said writ petition was ultimately finally disposed of on 18.7.2005 and the District Inspector of Schools was directed to pass a fresh order after hearing the petitioner, in furtherance the District Inspector of Schools by means of order dated 5.11.2005, found that the petitioner's appointment was valid and he is entitled for payment of salary.

Accordingly, the petitioner is working and receiving salary but by means of impugned order his salary has been stopped on the ground that the subject which the petitioner is teaching is not a recognized subject.

The petitioner has made out a prima facie case.

Learned Standing Counsel appears for State functionaries. He may file counter affidavit within six weeks. Rejoinder, if any, within a week thereafter.

Issue notice to respondent no.4 returnable at an early date indicating therein that he may file counter affidavit within four weeks from the date of receipt of a notice.

Till the next date of listing the effect and operation of the impugned order 20.8.2013, passed by the District Inspector of Schools, Ballia as per it relates to the petitioner is stayed. The petitioner shall be permitted to continue as Assistant Teacher and his salary shall be paid regularly till further orders of this Court.

List the matter after expiry of the aforesaid period."

6. Consequent to the abovesaid interim orders, the petitioner was continued in service and finally, on attaining the age of superannuation, he retired on 31.03.2025. In view of the same, nothing survives with regard to prayer (a). As far as prayer (b) is concerned, learned counsel for the petitioner has brought to the notice of Court that the respondents have not paid salary to the petitioner from February, 2011 to 17.07.2014. Only respondents have released salary after the interim order granted by this Court in the present writ petition. Hence, petitioner is also entitled for salary for the said period.

7. In such circumstances, as the petitioner was continued and retired by virtue of the interim order granted by this Court on 18.07.2014, this writ petition is disposed of directing the petitioner to file claim/representation, within a period of two weeks from today before the third respondent. On filing of such claim, the third respondent may consider the same, if required by getting records from the fourth respondent and pass appropriate order, within a period of two months thereafter."

2. This Court on 28.07.2026 proceeded to pass the following orders:

"1. Let a copy of the contempt application be served upon Ms. Bhavya Tiwari, learned

Standing Counsel during the course of the day, who shall seek instructions in the matter.

2. Put up this case on 27.08.2026, as fresh."

3. Today Ms. Bhavya Tiwari has produced before this Court instructions dated 22.08.2026 of the opposite party annexing therewith the order deciding the claim on 22.08.2026 treating the period from February, 2011 to 17.07.2014, as no work, no pay.

4. Learned counsel for the applicant submits that a conjoint reading of paragraph 6 and 7 of the judgment and the order of the writ court would reveal that this Court had made the applicant entitled for the payment of salary for the said period.

5. Reliance has also been placed upon the decision of the Hon'ble Apex Court in the Commissioner, Karnataka Housing Board vs. C. Muddaiah, 2007 (7) SCC 689.

6. Though this Court was to issue notice to the opposite party, but since now Ms. Bhavya Tiwari, learned Standing Counsel has obtained instructions on behalf of the opposite party, she seeks time to file an affidavit in that regard.

7. Put up this case on 18.09.2026 as fresh."

2. Today, affidavit has been filed on behalf of the opposite party annexing therewith the order dated 22.08.2026 negating the claim of the applicant. The affidavit dated 16.09.2026 of the opposite party discloses as under:-

"7. That it is further submitted that the Principal, Jangali Baba Inter College, Gadwar District Ballia submitted in statement on 13.08.2026 in writing that "श्री इन्द्रजीत पाण्डेय सहायक अध्यापक के पद पर इस विद्यालय में कार्यरत थे जो दिनांक 31.03.2025 सेवानिवृत्त हो चुके हैं। श्री इन्द्रजीत पाण्डेय का वेतन फरवरी 2011 से 17.07.2014 तक का नहीं हुआ है। विद्यालय में वर्ष 2010 से वर्ष 2014 के बीच की उपस्थिति पंजिका उपलब्ध नहीं है। जिसके कारण श्री इन्द्रजीत पाण्डेय सहायक अध्यापक की उपस्थिति प्रमाणित नहीं होती है अतः शासनादेश दिनांक 18.04.2019 के बिन्दु-7 के अनुसार इनकी उपस्थिति एवं कार्य प्रमाणित नहीं होने की दशा में उक्त अवधि का अवशेष देय नहीं है।"

8. That further in compliance of the order passed by the Hon'ble court, the deponent after calling reports / records as well as after scrutinizing the material available on record, considered the claim of the applicant and decided the same by means of speaking and reasoned order dated 22.08.2026 with the following observation:-

निर्णय

उपरोक्त वर्णित तथ्यों के दृष्टिगत प्रकरण में सम्यक विचारोपरान्त माननीय उच्च न्यायालय इलाहाबाद में योजित याचिका संख्या - 36704 / 2014 इन्द्रजीत पाण्डेय बनाम उत्तर प्रदेश राज्य व अन्य में पारित माननीय उच्च न्यायालय के आदेश दिनांक : 21.08.2025 तथा योजित अवमानना वाद संख्या - 4818 / 2026 इन्द्रजीत पाण्डेय बनाम मनोज कुमार मिश्र जिला विद्यालय निरीक्षक बलिया में पारित माननीय उच्च न्यायालय के आदेश दिनांक 28.07.2026 के अनुपालन में याची के अवशेष अवधि में कार्य किये जाने / उपस्थिति का कोई प्रमाण / साक्ष्य उपलब्ध नहीं होने की दशा में NO WORK NO PAY का सिद्धान्त के आधार पर प्रत्यावेदन अस्वीकार / अमान्य करते हुए प्रकरण निस्तारित किया जाता है।

Copy of the order dated 22.08.2026 passed by the deponent is being filed herewith and marked as ANNEXURE NO. 1 to this affidavit."

3. Further the order dated 22.08.2026 reads as under:-

" माननीय उच्च न्यायालय इलाहाबाद में योजित याचिका संख्या- 36704 / 2014 इन्द्रजीत पाण्डेय बनाम उत्तर प्रदेश राज्य व अन्य में पारित माननीय उच्च न्यायालय के आदेश दिनांक : 21.08.2025 तथा योजित अवमानना वाद संख्या - 4818 / 2026 इन्द्रजीत पाण्डेय बनाम मनोज कुमार मिश्र जिला विद्यालय निरीक्षक बलिया में पारित माननीय उच्च न्यायालय के आदेश दिनांक 28.07.2026 के अनुपालन में प्रकरण का निस्तारण -

श्री इन्द्रजीत पाण्डेय सहायक अध्यापक जंगली बाबा इण्टर कालेज बलिया द्वारा माननीय उच्च न्यायालय इलाहाबाद में याचिका संख्या - 36704 / 2014 इन्द्रजीत पाण्डेय बनाम उत्तर प्रदेश राज्य व अन्य योजित किया गया जिसमें में पारित माननीय उच्च न्यायालय के आदेश दिनांक: 21.08.2025 का क्रियाशील अंश निम्नवत है -

6. Consequent to the abovesaid interim orders, the petitioner was continued in service and finally, on attaining the age of superannuation, he retired on 31.03.2025. In view of the same, nothing survives with regard to prayer (a). As far as prayer (b) is concerned, learned counsel for the petitioner has brought to the notice of Court that the respondents have not paid salary to the petitioner from February, 2011 to 17.07.2014. Only respondents have released salary after the interim order granted by this Court in the present writ petition. Hence, petitioner is also entitled for salary for the said period.

7. In such circumstances, as the petitioner was continued and retired by virtue of the interim order granted by this Court on 18.07.2014, this writ petition is disposed of directing the petitioner to file claim/representation, within a period of two weeks from today before the third respondent. On filing of such claim, the third respondent may consider the same, if required by getting records from the fourth respondent and pass appropriate order, within a period of two months thereafter.

माननीय उच्च न्यायालय के उक्त आदेश के अनुपालन में याची द्वारा 24 बिन्दुओं पर प्रार्थना पत्र इस कार्यालय को उपलब्ध कराया गया। अपने बिन्दुवार अभिकथन के प्रमाणन हेतु कोई साक्ष्य उपलब्ध नहीं कराया। अपने प्रत्यावेदन के साथ याची द्वारा साक्ष्य के रूप में माननीय न्यायालय के आदेश एवं पेशन पत्रावली के प्राप्ति की प्रति मात्र संलग्न किया गया।

याची के विद्यालय जंगली बाबा इण्टर कालेज गडवार बलिया के प्रधानाचार्य द्वारा प्रकरण में अपने लिखित अभिकथन दिनांक -13.08.2026 में यह उल्लेख किया है कि " श्री इन्द्रजीत पाण्डेय सहायक अध्यापक के पद इस विद्यालय में कार्यरत थे जो दिनांक 31.03.2025 सेवानिवृत्त हो चुके हैं। श्री इन्द्रजीत पाण्डेय का वेतन फरवरी 2011 से 17.07.2014 तक का नहीं हुआ है। विद्यालय में वर्ष 2010 से वर्ष 2014 के बीच की उपस्थिति पंजिका उपलब्ध नहीं है। जिसके कारण श्री इन्द्रजीत पाण्डेय सहायक अध्यापक की उपस्थिति प्रमाणित नहीं होती है अस्तु शासनादेश दिनांक 18.04.2019 के बिन्दु-7 के अनुसार इनकी उपस्थिति एवं कार्य प्रमाणित नहीं होने की दशा में उक्त अवधि का अवशेष देय नहीं है।"

समीक्षा

1- जनहित याचिका संख्या 35090 / 2015 में पारित माननीय उच्च न्यायालय के आदेश के अनुपालन में जारी शासनादेश दिनांक - 18.04.2019 में अवशेष देयकों के भुगतान हेतु निम्नवत बिन्दु निर्धारित है -

- 1- नियुक्ति के समय पद स्वीकृति एवं उपलब्ध रहा।
- 2- पद का विज्ञापन दो ऐसे समाचार पत्रों में किया गया हो, जिनका परिचालन राज्य में व्यापक स्तर पर हो।
- 3- चयन हेतु विधिवत चयन समिति का गठन किया गया हो।
- 4- चयन प्रक्रिया विधि द्वारा स्थापित प्रक्रिया के अनुसार की गयी हो।
- 5- चयन का अनुमोदन विहित अधिकारी द्वारा किया गया हो।
- 6- जिस अभ्यर्थी का चयन किया गया है वह चयन तिथि को उस पद पर चयन हेतु न्यूनतम योग्यता धारित करता हो।
- 7- अवशेष वेतन के प्रकरणों में यह सुनिश्चित किया जाय कि जिस अवधि के अवशेष वेतन की मांग की जा रही है उस अवधि में संबन्धित द्वारा कार्य किया गया है।

2- याची द्वारा अपने उक्त अवशेष अवधि में कार्य किए जाने / उपस्थिति का कोई प्रमाण / साक्ष्य उपलब्ध नहीं कराया गया और न ही संस्थाधिकारियों द्वारा ही याचीगण के उपस्थिति से संबन्धित कोई अभिलेख प्रस्तुत नहीं किया गया।

3-

माननीय उच्च न्यायालय में योजित जनहित याचिका संख्या-35090/2015 राजेश राय बनाम उत्तर प्रदेश राज्य व अन्य में माननीय न्यायालय द्वारा पारित आदेश दिनांक 19.12.2017 के क्रम में निर्गत शासनादेश संख्या-रिट -354/15-15-2019-1601 (31)/1992 दिनांक- 18.04.2021 द्वारा अवशेष भुगतान के संबंध में यह व्यवस्था विहित की गयी है कि "अवशेष वेतन के प्रकरणों में यह सुनिश्चित किया जाय कि जिस अवधि के अवशेष वेतन की मांग की जा रही है उस अवधि में संबन्धित द्वारा कार्य किया गया है।"

4- याची उक्त अवशेष अवधि में कार्य किए जाने। उपस्थिति का कोई प्रमाण / साक्ष्य उपलब्ध नहीं है अस्तु कार्य प्रमाणन नहीं होने की दशा में **NO WORK NO PAY** का सिद्धांत लागू होगा।

निर्णय

उपरोक्त वर्णित तथ्यों के दृष्टिगत प्रकरण में सम्यक विचारोपरान्त माननीय उच्च न्यायालय इलाहाबाद में योजित याचिका संख्या -36704 / 2014 इन्द्रजीत पाण्डेय बनाम उत्तर प्रदेश राज्य व अन्य में पारित माननीय उच्च न्यायालय के आदेश दिनांक : 21.08.2025 तथा योजित अवमानना वाद संख्या 4818 / 2026 इन्द्रजीत पाण्डेय बनाम मनोज कुमार मिश्र जिला विद्यालय निरीक्षक बलिया में पारित माननीय उच्च न्यायालय के आदेश दिनांक 28.07.2026 के अनुपालन में याची के अवशेष अवधि में कार्य किए जाने / उपस्थिति का कोई प्रमाण / साक्ष्य उपलब्ध नहीं होने की दशा में **NO WORK NO PAY** का सिद्धांत के आधार पर प्रत्यावेदन अस्वीकार / अमान्य करते हुए प्रकरण निस्तारित किया जाता है।

ह०अ०

(मनोज कुमार मिश्र)

जिला विद्यालय निरीक्षक

बलिया"

4. Learned counsel for the applicant submits that the principle of "no work, no pay" would not apply, particularly when the Court had made the applicant entitled to the same. "Hence, petitioner is also entitled for salary for the said period", would not apply. However, Ms. Bhavya Tiwari, learned Standing Counsel has invited attention towards para 7 of the affidavit, which reads as under:-

"7. That it is further submitted that the Principal, Jangali Baba Inter College, Gadwar District Ballia submitted in statement on 13.08.2026 in writing that "श्री इन्द्रजीत पाण्डेय सहायक अध्यापक के पद पर इस विद्यालय में कार्यरत थे जो दिनांक 31.03.2025 सेवानिवृत्त हो चुके हैं। श्री इन्द्रजीत पाण्डेय का वेतन फरवरी 2011 से 17.07.2014 तक का नहीं हुआ है। विद्यालय में वर्ष 2010 से वर्ष 2014 के बीच की उपस्थिति पंजिका उपलब्ध नहीं है। जिसके कारण श्री इन्द्रजीत पाण्डेय सहायक अध्यापक की उपस्थिति प्रमाणित नहीं होती है अस्तु शासनादेश दिनांक 18.04.2019 के बिन्दु-7 के अनुसार इनकी उपस्थिति एवं कार्य प्रमाणित नहीं होने की दशा में उक्त अवधि का अवशेष देय नहीं है।"

5. Since as per the opposite parties after summoning the records from the Principal/ Committee of Management, it was found that the applicant had not worked. Thus, dispute has arisen and it has become the bone of contention between the parties. Thus, the appropriate remedy open for the applicant is to take recourse to the proceedings under Article 226 of the Constitution of India particularly when, the Court is not required to delve into the merits of the matter.

6. Accordingly, the contempt application is **consigned to record**. Notices discharged, if any, leaving it open to the applicant to question the said order

before appropriate proceedings.

7. Any observation made in the present order is only confined to contempt and would not in any manner whatsoever prejudice the right of the applicant once he challenges the order before the writ forum.

September 18, 2026

N.S.Rathour

(Vikas Budhwar,J.)