



2026:AHC-LKO:2662-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL No. - 151 of 2014

State Of U.P.Throu Secy.Secondary Edu.Govt.Of
U.P.Lko.And Ors.

.....Appellant(s)

Versus

Amar Singh Yadav

.....Respondent(s)

Counsel for Appellant(s) : C.S.C.

Counsel for Respondent(s) : Ramesh Pandey, Ankit Pande, Anubhav
Awasthi, Manoj Kumar Mishra

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. Heard.

2. This appeal was filed in the year 2014, challenging an order dated 16.07.2023 passed in Writ Petition No.1284 (S/S) of 2012. The impugned order reads as under:

" Heard learned counsel for the petitioner and learned Standing Counsel.

Submission of learned counsel for the petitioner is that earlier the petitioner was being paid salary against some other post, which was filled up in due course of time by regularly selected candidate. The salary was being paid to the petitioner since 2006. Thereafter the salary of the petitioner has been stopped for want of post.

Learned Standing Counsel states that the matter in regard to sanction of post is pending consideration with the State Government. The petitioner is the only Assistant Teacher (Mathematics) in the college.

Learned counsel for the petitioner submits that the matter in regard to sanction of post is pending with the State Government since 2009 and salary of the petitioner has been withheld for want of post, but in respect of other teacher, namely, Sri Ramesh Singh, post has been sanctioned and salary is being paid.

In view of the aforesaid fact, opposite parties are directed to make payment of salary to the petitioner against the vacant of post of Assistant Teacher, LT Grade till the State Government takes a decision in regard to sanction of post or any regularly selected candidate is recommended. The State

Government will take a decision in regard to sanction of post within a period of three months from the date of receipt of a certified copy of this order."

3. The writ petition is still pending, however, the record having been tagged with the appeal it has not been taken up. On reading of the impugned order itself it comes out that it is an interim order. Further, the issue regarding sanction of post was said to be pending with the State Government since 2009. As on date it is not known what decision was taken in this regard. There was no stay in this appeal. It is also not clear as to whether the impugned interim order has been complied or not.

4. It is informed by Shri Manish Mishra, learned Standing Counsel, that the decision was taken on 30.06.2011, declining the request for sanction of post, therefore, salary is not payable in absence of sanctioned post and this order dated 30.06.2011 is under challenge in the writ petition but without referring to it the interim order has been passed.

5 In these circumstances, considering the lapse of 12 years in absence of any stay order in this appeal as the writ petition is still pending, we **dispose of** this appeal with observation/direction that if salary is being paid to the respondent-petitioner and he is still in service and there is no other legal impediment then he shall continue to be paid salary, subject to final result of the writ petition out of which this appeal arises.

6. Writ Petition No.1284 (S/S) of 2012 shall be listed on 10.02.2026 amongst first 10 cases of the board. We request the learned Single Judge to kindly take up the matter, if possible, out of turn and decide it. On the next date fixed before the writ-Court, the State counsel shall also inform the writ-Court as to whether the post in question has been sanctioned or not. All pleas are open for consideration before the writ-Court.

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(Abdresh Kumar Chaudhary,J.) (Rajan Roy,J.)

January 13, 2026
MVS/-