



2026:AHC:6326

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 17942 of 2025

Siyaram Nagar And 21 Others

.....Petitioner(s)

Versus

State Of Uttar Pradesh And 11 Others

.....Respondent(s)

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

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Ashok Khare, learned Senior Counsel assisted by Sri Siddharth Khare, learned counsel for the writ petitioner and Sri R.S. Umrao, learned Standing Counsel for the State.

2. Sri R.S. Umrao, learned Standing Counsel has made a statement at Bar that he is well equipped with the instructions and he is in a position to argue the matter and he does not propose to file any counter affidavit. According to him, instructions are self sufficient and the writ petition be decided on the basis of the documents available on record.

3. With the consent of the parties, the writ petition is being decided at the fresh stage.

4. The case of the writ petitioner is that selection proceedings were were undertaken for making selections and appointment on the post of Collection Peon (Class-IV post), pursuant to an advertisement published in two newspapers; one being Dainik Jagran and one being Dainik Manyawar on 13.08.1987. A selection committee was constituted, which conducted the selections between 02.09.1997 to 09.09.1997 and thereafter, on 18.09.1997, a select list was published. An order came to be passed on 24.09.1997 cancelling the entire selection, which was subject matter of challenge in Writ Petition No.36622 of 1997, Ravindra Kumar vs. State of U.P. wherein the following orders were passed:-

"Present writ petition has been filed by the petitioners who are 11 in number questioning the validity of the decision dated 24.09.207 passed by the District Magistrate, Jaunpur cancelling the selection proceedings and further for issuance of writ in the nature of mandamus commanding the respondents to grant appointment to

the petitioners as laxzg pijklh on the basis of select list published on 18.09.1997 and also for quashing of the Government Order dated 11.09.1997.

Brief background of the case as disclosed in the writ petition is that selection proceedings were initiated by the District Magistrate, Jaunpur for making appointment against existing vacancy of laxzg pijklh Class IV post (Collection Peon) in the Revenue Establishment under him. Petitioners further claim that vacancy in question has been advertised and names has been called for from Employment Exchange and thereafter Additional District Magistrate (F & R) was authorized to conduct the selection proceedings. Petitioners claim that selection committee was constituted and based on interview which started w.e.f. 02.09.1997 to 09.09.1997 selection proceedings were done and select list was published on 18.09.1997. Petitioners have contended that on the basis of aforesaid select list appointment letter was issued and thereafter it transpires that on 11.09.1997 Government order has been issued restraining appointment against existing vacancy in the Revenue Department. Said Government Order was received by Fax in the Collectorate, Janupur on 22.09.1997 and thereafter order impugned has been passed on 24.09.1997 cancelling the entire selection. At this juncture present writ petition has been filed.

Counter affidavit has been filed by Surya Narain Yadav, Sub-Divisional Magistrate, Sadar, and it has been contended that therein that no appointment letter has been issued to so called selected candidates but as the complaint has been received at the level of District Magistrate, entire selection proceedings were cancelled. It has also been stated that State Government has issued Government Order dated 11.09.1997 stopping fresh selection proceedings.

Rejoinder affidavit has been filed and therein averments mentioned in the counter affidavit has been disputed and that of writ petition has been reiterated.

After pleadings mentioned above have been exchanged present writ petition has been taken up final hearing and disposal with the consent of the parties.

Sri Siddharth Khare, Advocate, contended with vehemence that in the present case selection proceedings have been cancelled on mere surmises and conjuncture without there being any material in support of the same and without undertaking any inquiry whatsoever as such order which has been passed is most arbitrary, unreasonable and unjustifiable order and same is liable to be quashed by this Court.

Sri A.K. Uppadhyay, learned Standing counsel on the other hand contended that appointment letter has not been issued in favour of the petitioners and State Government has taken policy decision not to make selection and appointment, and selection made is perse vitiated, as such no credibility can be attached to said selection proceedings, as such writ petition in question deserves to be dismissed by this Court.

After respective arguments have been advanced factual position which is emerging in the present case is that selection proceedings were undertaken for making selection and appointment on post of Collection Peon laxzg pijklh (Class IV posts) and for the said purposes Additional District Magistrate (F & R) was authorized to carry out process of selection. Selection proceedings has been claimed to have been held by the

duly constituted selection committee in between 02.09.1997 to 09.09.1997 and thereafter on 18.09.1997 select list has been published. In between undisputed position is that there has been order on behalf of State Government on 11.09.1997 restraining further selection and appointment in Revenue Department which has been received at Collectorate, Jaunpur on 20.09.1997 and thereafter order dated 24.09.1997 has been passed cancelling the selection proceedings. Order impugned proceeds to mention that selection proceedings have been stayed by the State Government and further District Magistrate proceeds to mention that in respect of present selection complaint have been received on account of which selection is vitiated and as such he feels that entire selection be carried out denovo. Original record in question has been produced. Reasons reflected from the record for cancelling selection is that there were protest in news paper against the selection which has been largely published, that there has been malpractice in the selection proceedings as such said selection is being cancelled. In case there has been protest and finger has been raised qua fairness of selection proceedings, then District Magistrate has got full authority to make inquiry in the matter in respect of genuinity of the complaint which were coming forward and thereafter formed his opinion based on the same. In the present case entire opinion has been formed by the District Magistrate only on the premises that complaints have been received as such proceedings are vitiated and as per rule of fair play entire selection proceedings be undertaken denovo. Selection proceedings are not be cancelled lightly. In case there were complaints then qua the same inquiry ought to have been made instead of placing reliance on newspaper report and report ought to have submitted. In the present case before forming said opinion proper homework has not been done by the authority concerned and before this Court it has been suggested that entire selection proceedings is out come of manipulation, inasmuch as 400 candidates have been examined on each particular date which is impossible and qua which no record is available. In the impugned order no such reason has been given, it is for the authority concerned to see in objective manner and take decision on the material available on record as to whether malpractice has been there in the said selection proceedings and element of fairness is lacking and missing. In the present case requisite exercise has not been done and on mere complaint being received on the basis of newspaper report without taking any exercise cancelling the said selection proceedings, is unsustainable and cannot be subscribed.

As far as authority of State Government to impose ban is concerned, State Government issued Government Order imposing ban on the appointment same is within the purview of the authority of State Government and in the present case admittedly before this ban order could reach in the Collectorate, Jaunpur selection proceedings are alleged to have been undertaken.

It has been specifically contended that said ban has been lifted which fact has not been disputed in the counter affidavit.

In these circumstances order dated 24.09.1997 is hereby quashed and set aside. Matter is sent back to the Secretary, Revenue Department, State of U.P., Lucknow, to

satisfy himself as to whether selection proceedings have been carried out in accordance with law or not and are fair and transparent selection proceeding and in case finding is returned that selection proceedings have been carried out in accordance with law and are fair selection proceedings then it should also be factually verified as to whether vacancies in question for which selection had been taken are still in existence, and in case said vacancies are in existence then follow up action be taken. State Government is free to take decision for filling up said post and vacancies.

Consequently, for the reasons stated above present writ petition is allowed and disposed of."

5. Post passing of the order dated 03.12.2007 in Civil Misc. Writ Petition No. 36622 of 1997, Ravindra Kumar vs. State of U.P, an order came to be passed on 15.05.2008 by the State Government directing the District Magistrate to proceed to grant appointment to the selected candidates, i.e. writ petitioners. In pursuance of the order dated 15.05.2008, the District Magistrate, Jaunpur issued an order dated 21.05.2008 whereby 46 persons including the writ petitioners were directed to be appointed. The Deputy District Magistrate Machchalishahar issued a consequential order dated 22.08.2008 granting appointment to 29 Collection Peons. As per the writ petitioners, the writ petitioner nos. 1 to 5 are working in Tehsil-Machchalishahar, writ petitioner nos.6 to 10 in Tehsil- Shahganj, petitioner nos. 11 to 14 in Tehsil-Keratakat, petitioner nos. 15 to 16 in Tehsil Madiyagoon and petitioner nos. 17 to 22 in Tehsil Sadar of Jaunpur. On 31.03.2025, an order came to be passed by a committee comprising of Sub-Divisional Officer, Sadar, Madiyagoon, Machchalishahar, Badlapur, Shahganj and Kerakat pursuant of the Government Order dated 28.06.2024 and 11.07.2024 pertaining to asking for the options with respect to payment of pension under Old Pension Scheme / New Pension Scheme, which came into effect pursuant to a Government Order dated 28.03.2005, as applicable for New Pension Scheme from 01.04.2005. The writ petitioners claim to have opted for Old Pension Scheme and since it was not considered, they preferred Writ-A No. 7578 of 2025, which came to be disposed of requiring the respondents to consider the claim of the writ petitioners and the said writ petition was disposed of on 28.05.2025 requiring the writ petitioners to prefer a fresh representation which was to be decided by a reasoned and speaking order after affording opportunity of hearing to the affected parties. Thereafter, now the impugned order has been passed by the District Magistrate, Jaunpur on 04.08.2025 rejecting the claim of the writ petitioners

for being accorded benefits under the Old Pension Scheme. 6. Questioning the said order present writ petition has been preferred.

6. This Court entertained the writ petition on 05.12.2025 while passing the following orders:-

"1. Contention of learned Senior Counsel for the petitioners is that though the petitioners had participated in the selection process which was conducted in the year 1997, however, owing to the cancellation of the selection, a writ petition came to be preferred by writ petitioner being Civil Misc. Writ Petition No.36622 of 1997 which came to be allowed on 03.12.2007 pursuant thereto the writ petitioner has been accorded appointment on 21.08.2008. However, in view of Government Order dated 28.06.2024 and 17.07.2024, the petitioners were entitled to be governed under the Old Pension Scheme and not under the New Pension Scheme, particularly when their selection stood crystalized prior to the enforcement of new pension rules.

2. Sri P.K. Srivastava, learned Additional Chief Standing Counsel to obtain instructions/file affidavit.

3. Put up as fresh on 19.12.2025."

7. Since a statement has been made by learned Standing Counsel that the writ petition be decided on the basis of the documents available on record, thus the Court is proceeding with the matter.

8. Learned Senior Counsel for the writ petitioners has sought to argue that the order impugned cannot be sustained for the simple reason that once the selection proceeding stood conducted in the year 1997 by way of an advertisement dated 13.08.1997 for selection and appointment on the post of Collection Peon and the select list came to be published on 18.09.1997 and the cancellation of the said selection on 24.09.1997 was subject matter of challenge in a writ petition preferred by the writ petitioners themselves being Writ Petition no. 36622 of 1997, Ravindra Kumar vs. State of U.P. which was decided on 03.12.1997 while setting aside the order cancelling the selection and thereafter a Government Order came to be issued for according appointment to the writ petitioners on 15.05.2008 consequential orders came to be passed by District Magistrate on 21.08.2008 and the Deputy District Magistrate, Machchalishahar on 22.08.2008 and the writ petitioners assumed the charge, thus merely because they were accorded appointment post-enforcement of the New Pension Scheme would not take away the rights to be considered for Old Pension Scheme since the selections were of the year 1997 prior to enforcement of New Pension Scheme pursuant to the

Government Order dated 28.03.2005, as made applicable on 01.04.2005. Submission is that the order impugned proceeds on misconception of facts and law, inasmuch as according to the respondents, it is not a case that the selection was not in accordance with law as there was violation of rules. In the opinion of the Court, the objection so sought to be raised are bereft of any merit, particularly when once the order cancelling the selection was set aside in writ petitioner preferred by the writ petitioner and the said order became final and inter se binding, then the appointment order though issued post enforcement of New Pension Scheme is to be relate back to the selection held in the year 1997. Relevant extract of the Government Order dated 28.06.2004 is quoted herein below:-

"4. इस संबंध में न्यायालयों के निर्णयों केन्द्र सरकार के उपरोक्त कार्यालय ज्ञाप दिनांक 03.03.2023 और विभिन्न अभ्यावेदनों/संदर्भों के आलोक में राज्य सरकार द्वारा सम्यक विचारोपरान्त यह निर्णय लिया गया है कि उत्तर प्रदेश सरकार के कर्मिकों एवं परिषदीय विद्यालयों/शासन से सहायता प्राप्त शिक्षण संस्थाओं/राज्य सरकार द्वारा अनुदानित स्वायत्तशासी संस्थाओं, जिनमें राज्य कर्मचारियों की पेंशन योजना की भांति पेंशन योजना लागू रही है और जिनका वित्त पोषण राज्य सरकार की समेकित निधि से किया जाता है, के ऐसे सभी कर्मिकों को उस पद या रिक्ति के सापेक्ष नियुक्त किया गया है, जिसे भर्ती/नियुक्ति के लिए राष्ट्रीय पेंशन प्रणाली की अधिसूचना की तारीख अर्थात् दिनांक 28.03.2005 के पूर्व विज्ञापित/अधिसूचित किया गया था और दिनांक 01.04.2005 को अथवा उसके पश्चात सेवा में कार्यभार ग्रहण करने पर राष्ट्रीय पेंशन प्रणाली के अन्तर्गत कवर किया गया है. "उत्तर प्रदेश रिटायरमेंट बेनिफिट्स रूल्स, 1961" के अधीन कवर किए जाने के लिए एक बार विकल्प दिया जाए।"

9. Even otherwise, the grounds which have been made the basis to negate the claim of the writ petitioner for grant of pension under Old Pension Scheme is meritless, particularly when once the order cancelling the selection came to be set aside and the respondents thereafter accorded appointment to the writ petitioners treating the selection of the year 1997 to be valid, then in the circumstances, there cannot be a classification while though treating the appointment to be legal for appointment under New Pension Scheme while divesting it for consideration under Old Pension Scheme. Thus the impugned orders cannot be sustained and is liable to be set aside.

10. At this stage, Sri R.S. Umrao, learned Standing Counsel submits that the order impugned be set aside and the matter be remitted back to the authority to pass a fresh order.

11. Accordingly, the writ petition is being decided in the following terms:-

(a) The order dated 04.08.2025 passed by the District Magistrate Jaunpur is

set aside.

(b) Matter stands remitted back to the authority to pass a fresh order in the light of the observations made hereinabove.

(c) The District Magistrate, Jaunpur, third respondent, shall pass a fresh order strictly in accordance with law examining the entire issue bearing in mind the date of their appointment, within a period of two months.

12. With the aforesaid observations, the writ petition stands **disposed of**.

January 9, 2026

N.S.Rathour

(Vikas Budhwar,J.)