



2026:AHC:60304-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL No. - 327 of 2026

Prem Singh

.....Appellant(s)

Versus

State Of Up And 4 Others

.....Respondent(s)

Counsel for Appellant(s)	: Mushir Khan, Samarath Singh, Sr. Advocate
Counsel for Respondent(s)	: C.S.C., Saurabh Singh

Court No. - 3

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE SWARUPAMA CHATURVEDI, J.

1. Heard Sri V.K. Singh learned Senior Counsel assisted by Sri Samarath Singh learned counsel for the original petitioner-appellant, Sri Ankit Gaur learned Standing Counsel for the State and Sri Saurabh Singh learned counsel for the Committee of Management.

2. Present intra-court appeal arises from the order of the learned single judge dated 18.02.2026 in Prem Singh Vs. State of U.P. And 4 Others, 2026:AHC:36704. Thereby the learned single judge has remitted the matter to the regularisation committee, this time to consider the claim of the original petitioner-appellant in terms of Section 33-G of the U.P. Secondary Education Service Selection Boards Act, 1982 (hereinafter referred to as 'the Act').

3. Submission is that the petitioner has suffered two earlier remands upon orders passed in two earlier writ petitions filed by the original petitioner-appellant. By the last order dated 21.07.2025 in Prem Singh Vs. State of U.P. Through Secretary Education And Others, 2025:AHC:117996 (hereinafter referred to as the 'second writ petition'), the writ Court had remitted the matter to the regularisation committee with the following observation:

"6. Learned Senior Counsel for the petitioner has submitted that as in earlier litigation the Division Bench has categorically held that the objections/ grounds raised while disapproving is held as illegal. In the said circumstances, the authorities ought not to have raised and rejected the regularization on very same grounds. Learned Senior Counsel further

submitted that the authorities are not entitled to sit over the order passed by this Court and cannot take any contrary view without filing any appeal against the orders. Once the findings are given by this Court, the authorities ought not to take any other view. Hence, the impugned order dated 17.03.2012 is set aside remanding back the matter to the authorities.

7. After notice the respondents have filed their counter affidavits and reiterated the very same view.

8. Considering the submissions and also on perusal of the orders passed by the Division Bench dated 22.09.1993, in fact this Court intend to take the proceedings under Article 215 of the Constitution of India, but in view of the fact that the order were passed by the authority on 17.03.2012 might have been retired.

9. In view of the said circumstances, this Court is restrained to take such action and only setting aside the order passed by the authorities on 17.03.2012, remanding the matter to take appropriate action under 33(C) within a period of one month from the date of a receipt of a copy of this order.

10. In view of the observations made in Special Appeal No.211 of 1993 dated 22.09.1993, the present writ petition is also disposed of. "

4. Instead of giving effect to that order, the order dated 18.10.2025 came to be passed to circumvent the clear implication of the order passed by this Court in the second writ petition. Thus, presently vide order dated 18.10.2025 (impugned in the writ petition giving rise to this intra-court appeal), the regularisation committee has now reasoned that there was no requisition made before issuance of appointment letter dated 01.07.1992. Further, no proof existed of charge being made over to the original petitioner-appellant and his performing duties at the institution Girdhari Inter College, Sirsaganj, Firozabad.

5. Learned Standing Counsel would object that the original petitioner-appellant was first paid salary from 30 November 1993. Therefore, it has to be assumed that the original petitioner-appellant did not satisfy the mandatory pre-condition imposed under Section 33-C of the Act regarding cut-off date between 14.05.1991 to 06.08.1993.

6. At present, the third writ petition filed by the original petitioner-appellant has been disposed of with the following directions:

"10. In aforesaid circumstances, there are various legal lacunae that all relevant documents were not placed on record before concerned respondents, therefore, Court finds that there was no illegality in the impugned order so far as merit is concerned, however, Court further

takes note of a fact that undisputedly, petitioner has worked on the post concerned since 1993 and has got salary also, therefore, his case for regularization can still be considered in terms of amended provisions wherein cut-off date is of the year 1999. It may be a case that petitioner's appointment was never approved but it is not disputed that he was paid salary and is working for last many years i.e. more than three decades.

*11. In above background, Court also takes note of a judgment in the case of **Vinod Kumar Srivastava vs. State of U.P. and 3 others, 2024:AHC:159359** passed by coordinate Bench of this Court, wherein after taking note of earlier judgments on the issue has passed specific directions that claim of teachers who are working for a very long period may be considered for regularization strictly in accordance with law subject to date of consideration, therefore, claim of petitioner can still be considered and cannot be rejected only on a ground that his appointment was not approved when admittedly he was paid salary for a very long period.*

12. Accordingly, impugned order is set aside and matter is remitted back to concerned respondents to pass a fresh order. "

7. In that context, learned Senior Counsel for the original petitioner-appellant would submit that a new case has been culled out at this stage inasmuch as the original petitioner-appellant has now been required to set up a claim under Section 33G of the Act. That is not his case. As to the order of remand, it has been submitted, twice matter had been remitted to the regularisation committee and twice erroneous orders have been passed. Therefore, the writ Court ought to have issued a positive mandamus to regularise the original petitioner-appellant in service.

8. Having heard learned counsel for parties and having perused the record, we find merit in the first submission advanced by learned Senior Counsel for the original petitioner-appellant. No Court may compel a litigant to raise a particular claim contrary to the facts pleaded by the litigant himself. Here, the original petitioner-appellant has consistently claimed regularisation under Section 33C of the Act. That claim has been rejected by the statutory authorities. In proceedings of judicial review, the writ Court may not have itself set up a new case contrary to the pleadings made. To that extent an error on principle has clearly crept in the order of the learned single judge.

9. As to the direction issued by the learned single judge remitting the matter to the regularisation committee, we do note that in the order dated 18.10.2025 passed by the regularisation committee, mainly it has been reasoned that no requisition may have been sent after the substantive

vacancy arose and before issuance of appointment letter to the original petitioner-appellant on 01.09.1992. Further, it has been reasoned that there is no evidence of charge being made over to the original petitioner-appellant and of the original petitioner-appellant having worked on the post of Assistant Teacher at the institution Girdhari Inter College, Sirsaganj, Firozabad.

10. In that context, we may only record that though such observation exists in the order dated 18.10.2025, that finding is not based on any cogent material. Only a doubt or suspicion has been expressed that in absence of documentary evidence, it appears that the petitioner may not have worked since 01.07.0992 and there may not have been issued any requisition. On that learned Senior Counsel has strenuously urged that the substantive vacancy arose in the year 1980. Therefore, it is difficult to assume that no requisition would have been made inamsuch as for the purpose of issuing a requisition not only the Committee of Managemnet but failing that the DIOS himself is required to issue necessary requisition with respect to substantive vacancy that may arise in any year. For reason of long duration of twelve years since vacancy arose till the petitioner was appointed on 01.07.1992, the presumption in law may remain otherwise, specially in view of provisions of Section 114 of the Indian Evidence Act, 1872.

11. In view of the above, we do find that at present the order dated 18.10.2025 may have been passed on a suspicion but not on the strength of any cogent material or evidence. We are equally mindful that repeated remands made by the Courts serve no purpose. Once direction is issued by the writ Court, it should be carried out in letter and spirit. The power that arises to the authority to whom the matter is remanded is not to negate a claim but to adjudicate a genuine dispute. To that extent, we find that the order dated 18.10.2025 may not satisfy the test of law.

12. For the reason noted above, the order of the writ Court dated 18.02.2026 is set aside. Also, the order dated 18.10.2025 passed by the regularisation committee is set aside. Limited remand is made to the regularisation committee to record specific finding on the strength of documentary evidence alone on the following aspects:

(i). Whether any substantive vacancy came into existence in 1980 or before 01.07.1992.

(ii). If such substantive vacancy had arisen, whether any requisition was made either by Committee of Management of its own or by the DIOS before 01.07.1992. If substantive vacancy had arisen but no requisition may have been made, it may be assumed for the limited consideration to be offered in the present case, that such requisition had been made.

(iii). Whether the petitioner had joined service pursuant to the order dated 01.07.1992 and had performed duties. Such fact finding may be recorded only on the strength of material and evidence that may be produced by the Committee of Management with respect to payment of salaries to all teachers during that period. If the Committee of Management fails to produce material pertaining to payment of salaries (of all teachers), a presumption may arise in favour of the original petitioner-appellant that he had joined.

13. Such exercise may necessarily be completed within a period of one month from today and appropriate reasoned order may be passed on the strength of limited aspects noted above.

14. Special Appeal is accordingly **disposed of**.

(Swarupama Chaturvedi,J.) (Saumitra Dayal Singh,J.)

March 24, 2026

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