



2026:AHC:54089

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - A No. - 3598 of 2026**

Ajit Kumar

.....Petitioner(s)

Versus

State Of U.P. And 5 Others

.....Respondent(s)

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Counsel for Petitioner(s) : Arjun Prasad Yadav

Counsel for Respondent(s) : C.S.C., Jatin Kumar Mishra, Rohan Gupta

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**Court No. - 32**

**HON'BLE SAURABH SHYAM SHAMSHERY, J.**

1. Heard Sri Rajesh Yadav, Advocate holding brief of Sri Arjun Prasad Yadav, learned counsel for petitioner and Sri G.K. Singh, learned Senior Advocate assisted by Sri H.P. Sahi, Advocate for Respondent-6.

2. It is not under much dispute that Respondent-6 is senior to petitioner and appointed initially as Assistant Teacher (Sociology), whereas petitioner being junior was initially appointed as Assistant Teacher (Physics). In the year 2016 a process for promotion from the post of Assistant Teacher to Lecturer was considered and petitioner was granted promotion. Claim of Respondent-6 was not considered probably on ground that he has acquired essential qualification for purpose of promotion on post of Lecturer during his service period and he has not completed experience of five years thereafter.

3. In aforesaid circumstances, Respondent-6 has made a claim for promotion and filed a writ petition wherein though promotion order of petitioner was not under challenge, still this Court vide order dated 23.05.2018 has directed concerned respondent to consider claim of Respondent-6.

4. Thereafter Regional Level Committee has considered case of Respondent-6 as well as questioned promotion of petitioner also and after hearing parties on 02.03.2019 claim of Respondent-6 was accepted and he was recommended for promotion whereas order of promotion of petitioner was cancelled.

5. Aggrieved by aforesaid order petitioner filed a writ petition in the year 2019 which remained pending for about six years probably on ground that an issue about experience for purpose of promotion, whether would be considered from date of initial appointment or from date of acquiring qualification, was pending consideration before a Full Bench of this Court.

6. Later on Full Bench has passed judgment dated 25.05.2023 in Siddharth Shanker Mishra vs. State of U.P. and others, 2023(6) ADJ 308 whereby issue referred was answered in following manner:

“47. In that view of the matter and for the deliberations and discussions held hereinabove, we hold that the law laid down by this Court in the case of Smt. Usha Goel (supra) as followed in Shail Kumari (supra) holding that a teacher to be eligible for promotion must have five years teaching experience with qualification for the promoted post does not lay down good law.

48. We endorse the view taken by learned Single Judge in Ram Prakash Sharma's case (supra) and hold that the words 'as such' used in Rule 14 of the Rules of 1998 refers to the post on which promotion is to be made i.e. L.T. Grade or lecturers grade and the qualification prescribed for it and does not require teaching experience of five years with qualification for the promotional post.”

7. The aforesaid judgment of Full Bench was placed before Coordinate Bench and writ petition so filed by petitioner was disposed of vide order dated 23.09.2025 by following observations and directions:

“13. Considering the entire issue as the factual aspects were not in dispute, though the petitioner was promoted in 2016 based on the qualifications and service record but the fact remains that has been observed by the Full Bench of this Court in the above referred matter. The issue was clarified with regard to the length of service has to be taken from the date of appointment not from the date of acquiring qualification. In the said circumstances, based on the order passed by this Court, the impugned order is set aside, once again remanding the matter to the second-respondent to consider the entire issue based on the records, if required by calling records from the fifth-respondent and after issuing notice to both the petitioner as well as the sixth-respondent and pass appropriate orders within a period of two months from the date of a receipt of a copy of this order. It is needless to mention that in view of the interim order the petitioner is continuing in service as Lecturer Physics which shall be remain continued till the disposal of the issue by the second-respondent.”

8. In compliance of aforesaid direction, matter was again considered by Regional Level Committee and following the answer to reference by Full Bench, it finds that Respondent-6 herein was qualified for promotion and since he was senior to petitioner also, therefore, an order was passed for consideration of his promotion and according to learned Senior Advocate appearing for Respondent-6, subsequently he has been considered and promoted also on post of Lecturer (Sociology).

9. Learned counsel for petitioner submits that petitioner is aggrieved since his claim was rejected outrightly without appreciating that he was promoted way back in the year 2016 as well as that at that stage there were two posts vacant to be filled under promotion quota.

10. So far as strength is concerned, it is not under much dispute that in College concerned in Lecturer cadre nine posts are sanctioned, out of which five are to be filled in by promotion and four to be filled in by direct recruitment.

11. It is also specifically noted in para 17 of impugned order under heading of 'Samiksha' that at relevant time two posts for direct recruitment and two posts for promotion quota were vacant. For reference para 17 of impugned order is reproduced hereinafter:

“(17) विद्यालय में प्रवक्ता संवर्ग में 09 पद स्वीकृत है, जिसके सापेक्ष 04 सीधी भर्ती एवं 05 पदोन्नति के बनते हैं। वर्ष 2016 में संस्थाधिकारियों द्वारा पदोन्नति हेतु प्रेषित पत्रजातों के अनुसार तत्समय 02 सीधी भर्ती एवं 03 पदोन्नति कोटे के अन्तर्गत कुल 05 प्रवक्ता कार्यरत थे। इस प्रकार तत्समय 02 सीधी भर्ती एवं 02 पदोन्नति के पद रिक्त थे।”

12. Learned counsel for petitioner by referring aforesaid para 17 of impugned order submits that in case there were two posts for promotion, even Respondent-6 is promoted, still petitioner's case can be considered from the date he was earlier promoted.

13. Learned Senior Advocate appearing for Respondent-6 fairly submits that he has no objection if claim of petitioner is considered but so far as promotion of Respondent-6 is considered, it may not be disturbed.

14. The Court finds that aforesaid position, as referred in para 17 of impugned order under heading 'Samiksha', is not disputed and there is no contrary position placed either in impugned order or before this Court.

15. In view of above, impugned order dated 09.01.2026 is modified to the extent that direction passed with regard to promotion of Respondent-6 shall remain untouched. However, matter is referred to Regional Level Committee to verify, whether second post under promotion quota is still available and if there is no legal impediment, claim of petitioner be considered and it may be considered from earlier date of promotion also since except seniority, it is not disputed that petitioner was qualified on earlier date of promotion.

16. The writ petition is accordingly disposed of with aforesaid modification in impugned order.

**(Saurabh Shyam Shamschery,J.)**

**March 17, 2026**

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