



2026:AHC:24337

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 1557 of 2026

Ashish Kumar Srivastava

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Dr. Rajesh Kumar Srivastav
Counsel for Respondent(s)	:	Ashish Mishra, C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Dr. Rajesh Kumar Srivastav, learned counsel for the petitioner and Sri Rahul Malviya, learned Standing Counsel, who appears for State-respondents as well as Shri Ashish Mishra, counsel for the High Court/District Judgeship.

2. The writ petitioner has earlier approached this Court while filing Writ-A No. 10650 of 2014 (Dinesh Sharma and another v. State Of U.P. And 3 Others) which came to be decided on 30.10.2025, in which the following orders were passed:

"1. Heard Sri Dr. Rajesh Kumar Srivastav, learned counsel for the petitioner and learned Standing Counsel, who appears for State-respondents, Shri Ashish Mishra, counsel for respondent nos. 2 and 3 as well as Shri Imran Sayeed holding brief of Shri Tarun Agrawal, counsel for fourth respondent.

2. The counsel for the rival parties have made a joint statement that they do not propose to file any further affidavits, thus, with the consent of the parties, the writ petition is being decided at the fresh stage.

3. The case of the writ petitioner is that an advertisement came to be published in the Month of December, 2002 for making recruitment on the Class-III post. Post conduction of selections, a merit list came to be published of 19 candidates in July, 2003 out of 19 candidates, 10 candidates of general category, 5 candidates of OBC and 04 candidates for SC category. It is claimed that out of 4 SC candidates, only two candidates joins and two selected candidates Anuj Kumar Ram and Abhinandan Kumar did not join, hence two SC candidates next in merit list, Shri Anil Pratap and Shri Ashok Kumar Bhartiya were appointed on the vacant post. It is also the case of the writ petitioners is that they were at serial no. 17 and 15 in the merit list of the general category, however, they were not accorded appointment as only 10 candidates

in general category were given appointment in accordance with the merit list. The grievance of the writ petitioner is that the fourth respondent, Sri Anjani Kumar Srivastava who was at serial no. 19 in the merit list and he belonged to General Category was accorded appointment on the post of clerk. The writ petitioner being aggrieved against the non-selection, preferred the present writ petition, wherein the following relief has been sought:

"i) issue a writ or direction in the nature of Mandamus commanding to the respondents authorities to ensure the selection of the petitioners in pursuant to select list from which the respondent No.4 was accommodated by the authorities of Civil Court;

ii) issue a writ or direction in the nature of Mandamus commanding to the respondents authorities to consider the claim of the petitioners as well as considered claim of the respondent No.4, in the interest of justice;

iii) issue any other suitable writ order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case;

iv) award the cost of the Petition in favour of the Petitioners."

4. Post issuance of the notice, response was filed by the District Judgeship as well as counsel for respondent no. 4 and thereafter an amendment application came to be preferred which was allowed, wherein seeking following amendment:

"i) to issue a writ, order and direction in the nature of the certiorari and to be quashed the impugned appointment order dated 29.10.2013 passed & issued by the office of the respondent No.3 on dated 26.11. 2013 (District Judge, Chandauli), to this writ petition, otherwise the petitioners shall suffer irreparable loss and injury.

(ii) to issued a writ, order or direction in the nature of the mandamus and commanding to the respondent No.3 (District Judge, Chandauli) to issue the appointment letters in favour of the petitioners and to consider the notional promotion, salary and to give the seniority and other benefits as other colleagues are benefitted to till date given by the office of the respondent No.3, to this writ petition, otherwise the petitioners shall suffer irreparable loss and injury."

5. Learned counsel for the writ petitioner has submitted that the selection and appointment of the fourth respondent cannot be sustained in the eyes of law, particularly, wherein in the merit list, he was in a lower position vis-a-vis the writ petitioner, thus, the first priority ought to have been accorded to the writ petitioner in view of the merit which he enjoined. Further submission is that in order to pave away to the fourth respondent, he was accommodated on the post of clerk and accorded appointment on 01.08.2003 in the Fast Track Court and thereafter by virtue of the order dated 29.10.2013, he has been adjusted on the regular side. Submission is that

directly what could not have been done directly, has been done indirectly and thus the claim of the writ petitioner has been side tracked and just in order to extend benefits to a person who is lower in the merit list, the entire exercise has been undertaken. Further submission is that there are various post lying vacant against which the writ petitioner can also be accommodated.

6. Shri Ashish Mishra, counsel for respondent nos. 2 and 3 as well as Shri Imran Sayeed holding brief of Shri Tarun Agrawal, counsel for fourth respondent has sought to argue that none of the contentions so sought to be raised by the writ petitioner has any leg to stand for the simple reason that the appointment of the fourth respondent had not been made in pursuance of the select list of July, 2003 pursuant to the advertisement of the year 2002 for regular appointment. However, an advertisement came to be published for the appointment of class-III employee of Fast Track Court and the fourth respondent was selected and thereafter accorded appointment on 01.08.2003 and pursuant to the litigation which traveled upto the Supreme Court with the object to accommodate the respondent no. 4 and to absorb him, he was accorded accommodations on the regular side on 29.10.2013. He submits that first of all the writ petitioner has no legal right to insist that the appointment of the fourth respondent be set aside, particularly, on the premise that he was ranking in lower in the rank list vis-a-vis the writ petitioner.

7. I have heard learned counsel for the parties and gone through the records carefully.

8. Facts are not in issue. It is not in issue that an advertisement came to be published in December, 2002 for recruitment of Clerk in District Judgeship, Chandauli and the merit list came to be published in July, 2003 and in the merit list there were 19 candidates out of which 10 candidates were earmarked for general category, five for OBC and four for SC category. It is also not in dispute that the writ petitioner ranks at serial no. 17 and 15 in the merit list of the general category. An advertisement also came to be published in the year 2003 for the recruitment of the Class-III employee in Fast Track Court. Pursuant whereto the fourth respondent has been selected and appointment order was issued on 01.08.2003 and by virtue of the order dated 29.10.2013, the fourth respondent adjusted pursuant to the abolition of the post of employee of Fast Track Court on regular side.

9. Importantly, the writ petition came to be presented on 05.02.2014 and the stand taken was that the fourth respondent was being selected and appointed on the basis of the merit list of the year July, 2003 of the advertisement, 2002. However, when a stand was taken by respondents in their respective counter affidavits that the selection and the appointment of the fourth respondent was based upon the advertisement published in the year 2003 appointment of clerk on Fast Track Court then on 11.12.2023 after a period of more than 20 years from the date of appointment of the fourth respondent and 9 years from the date of the filing of the writ petition and amendment application

came to be filed questioning the selection and the appointment of the fourth respondent on the post of clerk in the Fast Track Court of the concerned District Judgeship.

10. In my opinion, this Court is not required to delve into the legality and validity of the appointment of the fourth respondent at this stage, particularly when much water has flown as now pursuant to the order dated 29.10.2013, the fourth respondent has been adjusted in regular District Judgeship from Fast Track Court. It was always open for the writ petitioner to stake his claim while alleging that he has also participated and he was discriminated and not meted legally in the selection for Fast Track Court. However, the same is not forthcoming. Moreover, the life of the select list is only one year and it is not a perennial reservoir in that regard. Thus, at this stage, this Court is not required to interfere with the selections which have attained finality.

11. Accordingly, no ground is made out to interfere, the writ petition stands rejected.

12. At this stage, learned counsel for the writ petitioner submits that there are various posts lying vacant against which the writ petitioner can be accommodated. In the opinion of the Court, once any selection process is initiated and the writ petitioner possesses eligibility and suitability and comes within the four corners of law then this Court has no reason to disbelieve that his candidatures will be considered."

3. An intra court appeal came to be preferred being Special Appeal Defective No. 1121 of 2025 (Ashish Kumar Srivastava v. State Of Up And 3 Others) came to be decided on 21.01.2026 in which the following orders were passed:

"1. At the outset, Dr. Rajesh Kumar Srivastav learned counsel for original petitioner-appellant states that the appellant may be permitted to withdraw this intra-court appeal with liberty to challenge the subsequent order dated 04.12.2025.

2. Sri Ashish Mishra learned counsel for High Court and the learned Standing Counsel have no objection.

3. Accordingly, present appeal is dismissed as withdrawn with liberty as prayed."

4. Prayer made in the present writ petition is for quashing of the order dated 04.12.2025 passed by the District Judgeship wherein the claim of the writ petitioner for joining and appointment as Class-III post has been negated.

5. In the opinion of the Court, once the challenge raised to the appointment of the private respondents in Writ-A No. 10650 of 2014 (Dinesh Sharma and another v. State Of U.P. And 3 Others) was negated and in view of the

liberty accorded to the writ petitioner to apply in the fresh selection, process to be conducted, the relief for grant of appointment on Class-III post is not liable to be accepted, particularly, when the principles of Article 14 and 16 of the Constitution of India do play a role in that regard.

6. The order dated 04.12.2025 cannot be said to be suffering from any legality, accordingly, the writ petition stands **dismissed**.

February 4, 2026
Ashu

(Vikas Budhwar,J.)