



2026:AHC-LKO:24932

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**WRIT - A No. - 8349 of 2011**

Smt. Kavita Chaturvedi D/O D.K.Chaturvedi And  
Another

.....Petitioner(s)

Versus

State Of U.P. Through Secy. Revenue Lko. And  
Ors.

.....Respondent(s)

---

Counsel for Petitioner(s) : Devendra Mohan Shukla, Manish  
Jauhari  
Counsel for Respondent(s) : C.S.C.

---

**Court No. - 4**

**HON'BLE IRSHAD ALI, J.**

1. Heard Sri Asit Kumar Chaturvedi, learned Senior Counsel assisted by Sri Ashwani Kumar Singh, learned counsel for the petitioners and Sri Rajiv Srivastava, learned Additional CSC for the respondent - State.
2. By means of present writ petition, the petitioners are challenging the order dated 20.12.2000 passed by respondent No.4 contained as annexure-4 to the writ petition with a further prayer to issue writ of mandamus commanding the respondents to reconsider the claim of the petitioners to be promoted on the post of Lower Division Assistant w.e.f. 20.12.2000 in the light of Government Order dated 06.09.1988.
3. Factual matrix of the case is that in the year 1983 service rules namely U.P. Board of Revenue Ministerial Service Rules, 1983 were framed for governing service conditions of the employees working in Revenue Board. The said rules do not mention about the post of Telephone Operators in the department, therefore, benefit extended under the rules to the other posts in the department were denied to the Telephone Operators.
4. The post of Telephone Operators in the department was initially not sanctioned but in the year 1986 when the PBS exchange was installed in the Board of Revenue, three posts of Telephone Operators were sanctioned by the State Government vide order dated 29.01.1986.

5. As the post of Telephone Operator in the department was sanctioned in the year 1986 and by the time, the service rules applicable in the department were already framed, the petitioners believes that the post of Telephone Operators was not mentioned in the service rules because the creation of the post of Telephone Operators in the department was post dated. After creation of post of Telephone Operators, the appointment of three female candidates namely, Vijay Laxmi, Mala Bharti and Salma Bano were made by the respondents on 13.01.1987.

6. On 06.09.1988, State Government introduced a rotation policy which was communicated to the then Secretary, Board of Revenue for adopting the same by which it was provided that since there was no rules for promotion of Telephone Operators in the Civil Secretariat, the posts of Lower Division Assistants which were running vacant in the Secretariat and against which no selection had been made by the Public Service Commission, might be filled up by promoting the Telephone Operators according to their seniority.

7. The Government Order dated the 06.09.1988 was adopted by the then Secretary of Board of Revenue and accordingly the benefit of the said Government Order was extended to the Telephone Operators working at that time in the department. The first promotion of a Telephone Operator namely Km. Vijay Laxmi was made on the post of Lower Division Assistant on the 16.06.1990 on a vacancy occurred due to promotion of Mohd. Aslam on the post of a Reference Clerk. On the same line when another vacancies on the post of Lower Division Assistant occurred, the other two Telephone Operators were also promoted on the post of Lower Division Assistant by the opposite parties on 05.01.1994.

8. Since the post of Telephone Operators in the department became vacant due to promotion of Telephone Operators working therein, the petitioners and one other candidate namely Smt. Anjum Bano were selected and appointed on the aforesaid vacant posts of Telephone Operators. A dispute regarding parity between the employees working in Revenue Board and the Civil Secretariat had been resolved earlier also by way of the orders passed by this Hon'ble Court and implementation of the recommendations of Samta Samiti. However, the said resolutions were

related to granting parity in pay scale of the employees working in both the departments but the reasons of granting such parity emanates from an undisputed fact that the State Government does not treat the employees working in Board of Revenue, Lokayukta Office, High court and State Law Office, different from the employees working in the Civil Secretariat.

9. In the department of the petitioners, there are 22 posts of LDA lying vacant for more than five years and no selection has been made by the Public Service Commission on the said posts in spite of the requisition sent by the Board to the Commission. On 31.05.1990 the proposal was sent by the department to the State Government for making a provision for promotion of Telephone Operators on the post of Lower Division Assistant but till date no decision has been taken by the State Government on this issue.

10. It was in the year 2010 when the petitioners sought the information regarding the decision taken over their on 21.09.2010 promotion, the department informed them that the request of the petitioners to promote them on the post of Lower Division Assistant was already rejected by means of the impugned order. Immediately after receiving the information by means of letter dated 21.09.2010, the petitioners again applied under Right to Information Act demanding the copy of the impugned order. In response to the application moved by the petitioners under Right to Information Act, the department provided copy of the impugned order to the petitioners on 26.04.2011. Hence, the present writ petition has been preferred challenging the same.

11. Submission of learned Senior Counsel for the petitioners is that once three persons, namely, Vijay Laxmi, Mala Bharti and Salma Bano have been granted promotion on the post of Lower Division Assistant, denial for grant of benefits to the petitioners to grant promotion is discriminatory in nature and violative of Constitution of India.

12. He further submitted that this Court in the case of **U.P. Board of Revenue Ministerial Officials Association, Lucknow - Allahabad Vs. State of U.P. and Others dated 06.04.1988** annexed as Annexure-9 to

the writ petition, granted benefit as admissible to U.P. Civil Secretariat and the said judgment was affirmed by Hon'ble Supreme Court in **Civil Writ to Appeal No.1107 of 1988** in the case of **State of U.P. and others Vs. U.P. Board of Revenue Ministerial Officials Association, Lucknow - Allahabad**, therefore, his submission is that once it has been held that all the allowances are admissible to the employees of Board of Revenue, discrimination cannot be carved out in granting promotion in the Board of Revenue.

13. His next submission is that the petitioners are entitled for grant of promotion on the post of Lower Division Assistant as well as Revenue Officer and are entitled for payment of all allowances and arrears as admissible to the post. Due to non grant of promotion and other benefits, the petitioners are suffering a lot and the action of the respondents is discriminatory and not tenable in the eyes of law.

14. On the other hand, learned Additional CSC invited attention of this Court on the contents of counter affidavit, wherein there is no explanation about grant of promotion to three persons, namely, Vijay Laxmi, Mala Bharti and Salma Bano. He submitted that there is no provision in the rules in regard to grant of promotion to Telephone Operators on the post of Lower Division Assistant in Board of Revenue.

15. He next submitted that in case the Government Order issued for grant of promotion on the post of Lower Division Assistant is contrary to the provisions contained under statutory rules, the Government Order is liable to be ignored. He invited attention of this Court to paragraph 4 of the counter affidavit and submitted that in view of Rule 4, the provisions regarding appointments in temporary and officiating capacity, if any contained in rules relating to Public Services made by the Governor in exercise of the powers under the proviso of Article 309 of the Constitution prior to commencement of these Rules are hereby rescinded and on the said basis his submission is that on the basis of Government Order issued, the promotion cannot be made and the impugned orders does not suffer from any infirmity or illegality and is just and valid.

16. I have considered the submissions advanced by learned counsel for

the parties and perused the material on record.

17. The controversy involved in the present writ petition centers around the entitlement of the petitioners, working as Telephone Operators, to be considered for promotion to the post of Lower Division Assistant in terms of Government Order dated 06.09.1988.

18. It is not disputed that the U.P. Board of Revenue Ministerial Service Rules, 1983 do not contain any provision for the post of Telephone Operator. However, the reason for such omission is apparent, inasmuch as the said post was created subsequently in the year 1986. Thus, non-inclusion of the post in the Rules cannot be construed to deny promotional avenues altogether.

19. The State Government, in order to remove stagnation and provide promotional opportunities to Telephone Operators, issued Government Order dated 06.09.1988, permitting their promotion to the post of Lower Division Assistant against vacant posts where no recruitment had been made through the Public Service Commission.

20. The record clearly indicates that the said Government Order was adopted by the Board of Revenue and implemented in its true spirit. In pursuance thereof, three similarly situated employees, namely, Vijay Laxmi, Mala Bharti and Salma Bano, were promoted to the post of Lower Division Assistant in the years 1990 and 1994.

21. Once the benefit of the aforesaid Government Order has been extended to similarly situated employees, denial of the same benefit to the petitioners, without any rational basis, amounts to hostile discrimination and is violative of Article 14 of the Constitution of India.

22. The plea taken by the respondents that there is no provision in the statutory rules for such promotion is not tenable in the facts of the present case. The Government Order dated 06.09.1988 was issued precisely to fill the gap in the Rules and has already been acted upon by the respondents themselves.

23. It is a settled principle of law that the State cannot approbate and

reprobate. Having granted promotion to certain employees under the same policy, the respondents cannot deny similar treatment to the petitioners without assigning any justifiable reason.

24. The respondents have failed to explain as to why the petitioners have been treated differently from their predecessors, despite availability of vacant posts and absence of recruitment through the Public Service Commission. Such action is clearly arbitrary and unsustainable.

25. In view of the aforesaid, this Court is of the considered opinion that the impugned order dated 20.12.2000 cannot be sustained in the eyes of law and is liable to be quashed.

26. Accordingly, the writ petition succeeds and is **allowed**.

27. The impugned order dated 20.12.2000 passed by respondent No.4 is hereby quashed.

28. A writ of mandamus is issued directing the respondents to consider the case of the petitioners for promotion to the post of Lower Division Assistant in terms of Government Order dated 06.09.1988, in accordance with law.

29. The aforesaid exercise shall be completed within a period of six months from the date of production of a certified copy of this order.

30. It is further directed that in case the petitioners are found entitled, they shall be granted all consequential benefits, including notional seniority and arrears, as admissible under law.

**(Irshad Ali,J.)**

**April 9, 2026**

Adarsh K Singh