



Neutral Citation No. -
2026:AHC-LKO:56545

A.F.R.

Reserved on: 07.08.2026

Delivered on: 12.08.2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 916 of 2005

Ved Pati Tripathi and 2 Ors

.....Petitioner(s)

Versus

State of U.P. Thru Secretary Secondary Education and 4 Ors

.....Respondent(s)

Counsel for Petitioner(s)	: G P Mishra, Abhishek Kumar Pandey, Girish Chandra Verma, Pawan Kr. Trivedi, Pawan Kumar Trivedi, Pradeep Kumar Tripathi, Ravindra Kumar Mishra, Shashank Verma
Counsel for Respondent(s)	: C S C, Abhishek Tiwari, Anand Dubey, Anupam Dwivedi, Dinesh Kumar Shukla, Jyotinjay Verma

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard Sri G.C. Verma, learned Senior Counsel assisted by Sri Anoop Verma, learned counsel for the petitioners, Sri Pradeep Kumar Tripathi, learned counsel for legal heirs of petitioner No.2, Sri Anand Dubey, learned counsel for respondent No.5 and Sri Shiv Ganesh Singh, learned Additional CSC for respondent(s) - State.

2. The present writ petition has been filed for issuance of a writ in the nature of mandamus commanding the respondents to make payment of arrear of salary to the petitioners forthwith with a further prayer to direct the respondents to make payment of salary to the petitioners month by month regularly from 01.01.2005.

3. Factual matrix of the case is that petitioner No.1 was appointed as Pracharya of Shri Ganesh Sanskrit Pathshala, Peedhin Kauria, District Gonda on 08.07.1992 and petitioner No.2 was appointed on 30.12.1980 as Assistant Teacher of Sri Ganesh Sanskrit Pathshala, Peedhin Kauria, District Gonda and petitioner No.3 was appointed as Assistant Teacher of Shri Ganesh Sanskrit Pathshala, Peedhin Kauria, District Gonda.

4. Selection proceedings were sent before the Sampurnanand Sanskrit University for necessary approval, wherein the University issued letter dated 14.05.1993 to U.P. Dakpal Kudiya, Gonda. Thereafter, another order dated 27.03.2000 was issued by which the petitioner was approved and recognised as the principal of the Vidyalaya. (Annexure No. SA- 2 & 3). Again, on 08.08.2000, the Registrar of the University issued a direction that the petitioner is the recognised Principal of the Vidyalaya (Annexure No. SA- 4).

5. Regarding seniority and functioning of the teachers in the Vidyalaya, another letter dated 25.09.2002 was issued by the University, in which the details of the petitioner No.1 as Principal has been shown and petitioner No.2 has been shown as Assistant teacher & petitioner No.3 has been shown as Assistant teacher of Modern Subject.

6. Petitioner No.1 was disturbed by the DIOS in collusion with Krishna Deo Tripathi (now late) and directed that he would function as officiating Principal on 20.02.2004. The said order was challenged by petitioner No.1 in Writ Petition No.7202 of 2004, which was allowed vide judgment and order dated 10.02.2006 (Annexure No. SA-10).

5. That the petitioners were not getting salary, therefore, the instant writ petition was filed in the year 2005. Vide interim order dated 08.02.2005, direction was issued by this Court to pay the petitioners' salary with effect from January 2005; accordingly, in terms of the interim order, the salary is being paid to the petitioner No.1, however, petitioner Nos.2 & 3

were getting salary till they were alive and retired from service on attaining the age of superannuation on 31.03.2025, respectively.

6. An impleadment application (IA no. 8070 of 2005 dated 22.02.2005) was filed by Shri Krishna Dev Tripathi to be impleaded as respondent No.6. An application for vacation of interim order dated 08.02.2005 (CM. Application no. 17080/2005) along with counter affidavit (3105/2005) dated 27.04.2005 on behalf of opposite party Nos. 1 to 4 was filed. The rejoinder affidavit to the counter affidavit filed on behalf of opposite party Nos.1 to 4 was filed by the petitioner on 22.02.2006.

7. A supplementary counter affidavit on behalf of opposite party Nos.1 to 4 was filed along with application for vacation of interim order dated 08.02.2005, having C.M. application number 107162/2011 dated 18.10.2011. An application for correction of order dated 08.02.2005 was filed for correction of appointment date of the petitioner from 08.07.1989 to 08.07.1992. On the correction application, vide order dated 01.10.2020, notice was issued to the opposite party No.5, i.e., Manager of the institution.

8. A reply to the correction application was filed on behalf of the opposite party No.5, having C.M. application no. 5394/2021 dated 18.01.2021 and the Manager of the opposite party No. 5 (namely Byakul Prasad Misra) admitted that petitioner No.1 was appointed on 08.07.1992 and he has also filed the service book of the petitioner No.2 along with the affidavit.

9. The application for amendment of writ petition was filed for correcting the typographical error made in the writ petition, i.e., instead of writing the correct appointment date (08.07.1992) it was wrongly typed as 08.07.1989; the said application has been allowed and amendment has been incorporated.

10. Petitioner No.2 died and his legal heir has been substituted and the petitioner No.3 has retired from service on 31.03.2025.

11. A supplementary objection/counter affidavit was filed by the petitioner against the implement application filed by Shri Krishna Deo Tripathi dated 14.08.2004; I.A. no. 15/2024 (138804/2024) wherein reference to judgment passed in Special Appeal No.199 of 2006 was given, which was filed by Shri Krishna Dev Tripathi challenging the judgment dated 10.02.2006 passed in writ petition no. 7202 (S/S) of 2004. The special appeal was dismissed vide judgment & order dated 12.01.2023, affirming the judgment passed by the Hon'ble Single Judge and the appointment of the petitioner as Pradhancharya. Thereafter, Civil Misc. Review Application Defective No. 153 of 2023 was filed against the judgment passed in the special appeal; however, the said review application was also dismissed for want of prosecution vide order dated 03.11.2023 and reference was also made to Writ-A no. 8493 of 1979 filed by Krishna Dev Tripathi before the Allahabad High Court, which was also dismissed vide judgment dated 11.01.2023. However, Shri Krishna Dev Tripathi has also died and his impleadment application has become infructuous.

12. The supplementary affidavit dated 08.05.2026 has been filed by the petitioner bringing on record various facts and documents related to approval from the Sampurananad Sanskrit University concerning the appointment of the petitioner and hindrance & false complaint by Shri Krishna Dev Tripathi. The petitioner has completed about 32 years of service and is working as Principal since 08.07.1992 and the inquiry report also establishes that the false complaints were filed against the petitioner; as such, the instant writ petition.

13. In the writ petitioner, prayer has been made to pay salary w.e.f. 2005 and in compliance of the interim order, the petitioner No.1 has

been receiving salary for the post of Headmaster w.e.f. Jan. 2005. Salary was paid to Petitioner No. 2 until he was alive, and salary has been paid to Petitioner No.3 up to 31.03.2025. Only petitioner No.1 is in service and is entitled to regular salary.

14. Submission of learned Senior Counsel for the petitioner is that the date of appointment of petitioner No.1 was inadvertently mentioned as 08.07.1989 instead of the correct date i.e. 08.07.1992. The mistake is apparent from paragraph 2 of the writ petition itself, where salary arrears were claimed from July, 1992.

15. He further submitted that petitioner No.1 was duly selected and appointed vide appointment letter dated 30.06.1992 and joined on 08.07.1992. His selection proceedings were forwarded to Sampurnanand Sanskrit University, which subsequently recognized and approved his services. The institution is a recognized and aided educational institution and its teachers are entitled to salary under the U.P. High Schools and Intermediate Colleges (Payment of Salaries of Teachers and Other Employees) Act, 1971.

16. He submitted that the University repeatedly recognized petitioner No.1 as Principal through its communications dated 14.05.1993, 27.03.2000, 08.08.2000 and 13.12.2001. These documents establish continuous official recognition of petitioner's status as Principal. The University's communication dated 25.09.2002 further recorded petitioner No.1 as Principal and petitioner Nos.2 and 3 as Assistant Teachers, thereby confirming their respective status in the institution.

17. He submitted that respondent No.4 also recognized petitioner No.1 as Principal vide order dated 25.07.2002 and directed that official correspondence of the institution be accepted through his signatures. His signatures were also attested by the competent authority. Petitioner No.1 continuously discharged the duties of Principal from 08.07.1992. His

long and uninterrupted service, coupled with repeated official recognition, establishes the validity of his appointment and functioning.

18. He submitted that Sri Krishna Deo Tripathi, who was the complainant, had been appointed as Assistant Teacher in 1972 but his services were terminated on 17.04.1974. The termination was not successfully challenged by him. Sri Tripathi thereafter filed Writ-A No. 8493 of 1979 seeking payment of salary, but the writ petition was dismissed on merits on 10.07.2007. His subsequent review petition was also dismissed on 11.01.2023. Despite the aforesaid dismissal of his claim, Sri Tripathi continued to raise objections against petitioner No.1. An order dated 20.10.2004 treating him as ad hoc Principal was challenged by petitioner No.1 in Writ Petition No. 7202 (S/S) of 2004. The said writ petition was allowed by this Hon'ble Court on 10.02.2006 and the order dated 20.10.2004 was quashed. The Special Appeal filed by Sri Tripathi was subsequently dismissed on 12.01.2023 and his review application was dismissed on 03.11.2023.

19. He submitted that the incorrect date of appointment, i.e. 08.07.1989, appeared in a communication dated 28.08.2002 issued by respondent No.4. He submitted that the discrepancy originated from this clerical mistake and subsequently continued in the pleadings and proceedings. The original appointment letter dated 30.06.1992 conclusively establishes that petitioner No.1 was appointed on 30.06.1992 and joined on 08.07.1992. Therefore, the isolated reference to 08.07.1989 cannot override the primary documentary evidence.

20. He further submitted that respondent No.4 initially passed an order dated 13.06.2012 approving payment of salary but mistakenly described petitioner No.1 as Assistant Teacher. The mistake was subsequently corrected vide order dated 31.07.2015, recognizing petitioner No.1 as Principal and directing payment of salary accordingly. Petitioner No.1 has accordingly been paid salary as Principal with effect from January,

2005, while petitioner Nos.2 and 3 have been paid salary as Assistant Teachers from the same date.

21. He submitted that at the instance of Sri Tripathi, an inquiry was conducted on 15.11.2019 into the appointments of the petitioners. The inquiry did not find any illegality or irregularity in their appointments. A second inquiry was thereafter conducted by a committee comprising two Principals of Government Intermediate Colleges. The inquiry report dated 16.10.2020 again found no illegality against the petitioners and relied upon the institutional records supporting their appointments. Despite the aforesaid inquiry reports, respondent No.4 repeatedly passed orders cancelling the appointments of the petitioners. The said orders were challenged before this Hon'ble Court and were quashed vide judgments and orders dated 02.02.2023 and 06.02.2023. Subsequent orders passed by respondent No.4 were again challenged, whereupon this Hon'ble Court, vide judgment and order dated 30.05.2023, recorded that respondent No.4 had committed contempt of the earlier judicial directions. This Hon'ble Court also held that the complainant had no right to be heard. The judgment and order dated 30.05.2023 has attained finality and consequently the complainant cannot repeatedly reopen issues which have already been adjudicated.

22. He next submitted that during pendency of the proceedings, petitioner No.2 died on 29.04.2020 and an application for substitution of his wife was filed. Petitioner No.3 retired on 31.03.2025. The petitioners have already received salary from January, 2005 and are not claiming arrears prior thereto.

23. He submitted that petitioner No.1 has rendered approximately 32 years of service as Principal and the institution has maintained a 100% result, demonstrating satisfactory and continuous discharge of his duties. He submitted that the repeated inquiries, official records and successive

judicial pronouncements establish that their appointments were duly recognized and that no illegality or irregularity was found against them.

24. He further submitted that the respondents cannot repeatedly reopen the same controversy at the instance of a complainant whose own service claim and claim to the post of Principal had already failed before this Hon'ble Court.

25. On the other hand, Sri Anand Dubey, learned counsel for respondent No.5 submitted that the relief claimed by the petitioner No.1 cannot be granted as a matter of right unless the petitioner first establishes the legality and validity of his appointment and his entitlement to get salary from the State exchequer.

26. He submitted that it is admitted that this Hon'ble Court, while entertaining the writ petition, was pleased to pass an interim order dated 08.02.2005 directing the respondents to pay salary to the petitioners. However, an interim order passed at the initial stage of the proceedings does not amount to a final adjudication upon the legality of the appointment of the petitioners, nor can such interim protection confer any substantive right upon a person whose appointment itself is found to be illegal or void.

27. He submitted that during the pendency of the present proceedings, petitioner No.2 has expired and petitioner No.3 has retired from service. Therefore, the relief claimed in respect of the said petitioners is required to be considered in the light of their present status and the applicable legal position. So far as petitioner No.1 is concerned, it has been stated in the writ petition that he was appointed as Principal/Lecturer in the institution on 08.07.1989. However, significantly, no appointment order has been annexed with the writ petition. Even in the supplementary affidavit dated 08.05.2026, petitioner No.1 has failed to produce his alleged appointment order. The non-production of the very document

which constitutes the foundation of the petitioner's claim for salary assumes considerable significance. Further, throughout the pleadings, petitioner No.1 has also failed to place on record the documents establishing the educational qualifications possessed by him at the relevant time.

28. He submitted that the material placed on record indicates that petitioner No.1 had passed Purva Madhyama, equivalent to High School, only in the year 1986. Consequently, at the time of his alleged appointment on 08.07.1989, the petitioner had admittedly not completed his graduation/Shastri degree. Thus, the petitioner has failed to establish that he possessed the requisite educational qualification for appointment to the post of Principal/Lecturer in the year 1989. In absence of the requisite qualification, the alleged appointment could not confer any enforceable right upon the petitioner to claim salary from the State.

29. He further submitted that in the year 1989, father of petitioner No.1, namely Late Brihaspati Tripathi, was functioning as Manager of the institution. The circumstances in which petitioner No.1 came to be appointed by his own father, despite allegedly not possessing the requisite educational qualification, clearly demonstrate that the appointment was not made in accordance with the prescribed rules and procedure. The deliberate failure of the petitioner to produce the appointment order despite repeated opportunities further gives rise to a serious doubt regarding the very existence and legality of the alleged appointment.

30. He submitted that the matter relating to the appointment of the petitioners was forwarded to Sampoorananand Sanskrit University for approval. The University, vide order dated 05.10.1993, did not approve the appointment and, rather, directed the management to undertake a fresh appointment process in accordance with the applicable rules. The said order has also been brought on record by the State along with the

supplementary counter material as SCA-1 dated 11.08.2011. It is significant that despite the specific direction issued by the University on 05.10.1993, the management did not initiate any fresh selection/appointment process. Thus, the petitioners cannot derive any legal benefit from their alleged continuation pursuant to the earlier appointment, particularly when the said appointment had not received the requisite approval.

31. He submitted that petitioner No.1 has placed considerable reliance upon the letter dated 31.07.2015 allegedly issued by the District Inspector of Schools, Gonda. However, a bare perusal of the said letter shows that it nowhere records any categorical approval by Sampoorananand Sanskrit University to the appointment of petitioner No.1 vide letter dated 27.03.2000. The petitioner is therefore seeking to derive a right from a document which does not support his case in the manner alleged.

32. He further submitted that even assuming, without admitting, that the University had subsequently issued some communication dated 27.03.2000 purporting to approve the appointment of petitioner No.1, such subsequent approval could not revive or validate an appointment which had already been disapproved by the University vide order dated 05.10.1993, particularly when the management admittedly failed to comply with the direction to conduct a fresh selection. The petitioner cannot, therefore, rely upon an alleged subsequent approval to overcome the foundational illegality in his appointment.

33. He submitted that another material circumstance which goes to the root of the matter is that in the year 2021 petitioner No.1 sought amendment of the writ petition with respect to his date of appointment. In the amendment application, the petitioner claimed that his appointment had been made in the year 1992. This assertion is wholly inconsistent with the original pleadings and documents filed along with

the writ petition, particularly Annexure No.6, wherein the date of appointment of petitioner No.1 was specifically shown as 08.07.1989.

34. He submitted that the amendment seeking alteration of the date of appointment was moved after about 16 years of institution of the writ petition. The timing of the amendment is highly significant. The writ petition had by then proceeded towards final hearing, and the petitioner appears to have realised that the date of appointment originally pleaded by him would expose the serious deficiencies in his claim, particularly as the alleged appointment dated 08.07.1989 would show that he was only about 17 years of age and had not acquired the requisite educational qualification. The subsequent attempt to alter the date of appointment, therefore, materially affects the credibility of the petitioner's entire claim.

35. He submitted that instead of producing the original appointment order or any other legally reliable document establishing a valid appointment, petitioner No.1 has placed reliance upon a purported service book showing his date of appointment as the year 1992. The said document is specifically disputed by the respondents and appears to have been subsequently prepared/relied upon with a view to overcome the defects in the original claim. The petitioner cannot be permitted to establish his right to public salary on the basis of a disputed and allegedly fabricated document, particularly when the foundational appointment order itself has not been produced.

36. He submitted that from the aforesaid facts and circumstances, it is evident that petitioner No.1 was only about 17 years of age at the time of the alleged appointment dated 08.07.1989; that he did not possess the requisite educational qualification at the relevant time; that his father was the Manager of the institution at the time of his alleged appointment; that the alleged appointment was not approved by Sampoorananand Sanskrit University; and that despite the University's

direction dated 05.10.1993, no fresh selection process was undertaken. The petitioner has further failed to produce the original appointment order and has attempted to alter the date of his appointment through a belated amendment. In these circumstances, petitioner No.1 has failed to establish any legally valid appointment and, consequently, cannot claim salary from the State exchequer.

37. He submitted that the interim order dated 08.02.2005 could not confer any permanent or vested right upon petitioner No.1, particularly when the legality of his appointment has never been finally adjudicated and the respondents have specifically brought on record circumstances showing that the appointment itself was contrary to the applicable rules. Any payment made pursuant to an interim order would necessarily remain subject to the final adjudication of the writ petition.

38. He submitted that the conduct of petitioner No.1 in withholding the appointment order, failing to disclose his educational qualifications, subsequently seeking amendment of the date of appointment after an unexplained delay of about 16 years, and relying upon a disputed service book materially affects the *bona fides* of the petitioner. A person seeking an equitable and discretionary relief under Article 226 of the Constitution is required to approach the Court with clean hands and make a full and truthful disclosure of all material facts. The petitioner, having failed to do so, is not entitled to invoke the extraordinary writ jurisdiction of this Hon'ble Court.

39. He relied upon a judgment of Hon'ble Supreme Court in the case of **R. Vishwanatha Pillai v. State of Kerala & Others**, wherein the Hon'ble Apex Court has reiterated that an appointment obtained on the basis of fabricated or fraudulent documents cannot be treated as a valid appointment in the eyes of law. It has further been held that mere continuance in service for a long period does not confer any right,

protection or equity upon a person whose appointment is founded upon fraud or fabrication.

40. He submitted that applying the aforesaid principle to the facts of the present case, the petitioner cannot claim any benefit merely on the ground that he continued to work for a considerable period or that salary was paid pursuant to an interim order of this Hon'ble Court. If the very foundation of the appointment is found to be illegal, unauthorised or based upon fabricated documents, subsequent continuation in service cannot cure the initial defect or create a legally enforceable right to salary.

41. He next submitted that the entire claim of petitioner No.1 for arrears of salary and regular monthly salary is founded upon the alleged appointment made in the year 1989/1992. Once the petitioner has failed to establish the legality of such appointment and the record demonstrates that the requisite approval and selection process were absent, no mandamus can be issued directing the respondents to release public funds towards salary on the basis of such an appointment.

42. He lastly submitted that in view of the facts and circumstances narrated hereinabove, particularly the absence of the appointment order, lack of requisite qualification at the relevant time, appointment allegedly made by the petitioner's own father while he was Manager, non-approval by the competent University vide order dated 05.10.1993, failure to undertake fresh selection, contradictory stands regarding the date of appointment, belated amendment after about 16 years, and reliance upon a disputed/fabricated service record, petitioner No.1 has failed to establish any enforceable legal right. Consequently, the petitioner No.1 is not entitled to the reliefs claimed in the writ petition. The interim order dated 08.02.2005 cannot be treated as a final determination of the petitioners' entitlement to salary. The writ petition, being devoid of merit

and founded upon an appointment which has not been established to be legally valid, is liable to be dismissed.

53. In view of the foregoing submissions, he submitted that this Hon'ble Court may be pleased to dismiss the present writ petition with appropriate orders, holding that the petitioners have failed to establish any valid and enforceable right to claim arrears of salary or regular payment of salary from 01.01.2005.

54. Learned Additional CSC has also adopted the same arguments, as has been advanced by learned counsel for respondent No.5.

55. I have considered the submissions advanced by learned counsel for the parties and perused the material on record as well as law report cited by learned counsel for the respondent.

56. To resolve the controversy involved in the matter, relevant portion of the judgment relied upon by learned counsel for the respondent is being quoted below:

R. Vishwanath Pillai (Supra):

“This apart, the appellant obtained the appointment in the service on the basis that he belonged to a Scheduled Caste community. When it was found by the Scrutiny Committee that he did not belong to the Scheduled Caste community, then the very basis of his appointment was taken away. His appointment was no appointment in the eye of the law. He cannot claim a right to the post as he had usurped the post meant for a reserved candidate by playing a fraud and producing a false caste certificate. Unless the appellant can lay a claim to the post on the basis of his appointment he cannot claim the constitutional guarantee given under Article 311 of the Constitution. As he had obtained the appointment on the basis of a false caste certificate he cannot be considered to be a person who holds a post within the meaning of Article 311 of the Constitution of India. Finding recorded by the Scrutiny Committee that the appellant got the appointment on the basis of a false caste certificate has become final. The position, therefore, is that the appellant has usurped the post which should have gone to a member of the Scheduled Castes. In view of the finding recorded by the Scrutiny Committee and upheld up to this Court, he has disqualified himself to hold the post. The appointment was void from its inception. It cannot be

said that the said void appointment would enable the appellant to claim that he was holding a civil post within the meaning of Article 311 of the Constitution of India. As the appellant had obtained the appointment by playing a fraud, he cannot be allowed to take advantage of his own fraud in entering the service and claim that he was holder of the post entitled to be dealt with in terms of Article 311 of the Constitution of India or the Rules framed thereunder. Where an appointment in a service has been acquired by practising fraud or deceit, such an appointment is no appointment in law, in service and in such a situation Article 311 of the Constitution is not attracted at all.”

57. Having considered the pleadings of the parties, the material brought on record and the submissions advanced by learned Senior Counsel for the petitioners as well as learned counsel appearing for respondent No.5, this Court finds that the controversy, though projected by the petitioners primarily as a claim for payment of salary, necessarily involves an examination of the foundational question as to whether petitioner No.1 had a valid and legally sustainable appointment conferring upon him an enforceable right to claim salary from the State exchequer.

58. It is settled that payment of salary from public funds cannot be claimed merely on the basis of actual continuance or discharge of duties unless the appointment itself is shown to have been made in accordance with the applicable statutory provisions and by following the prescribed procedure.

59. The first and foremost circumstance, which weighs with this Court is that the very foundation of the claim of petitioner No.1, namely his appointment, has remained surrounded by serious inconsistencies. In the original pleadings, the date of appointment of petitioner No.1 was stated to be 08.07.1989. The said date was not merely an isolated clerical reference occurring in some subsequent correspondence but was also reflected in the material relied upon by the petitioner along with the writ petition. After a considerable lapse of time, and nearly sixteen years after institution of the writ petition, the petitioner sought amendment of the

date of appointment by asserting that the correct date was 08.07.1992. Although an amendment application may ordinarily be permitted for correcting a genuine typographical mistake, in the present case the alteration goes to the very root of the petitioner's entitlement because the legality of the appointment, his age and educational qualification, as well as the approval of the competent authority, materially depend upon the date on which the appointment is alleged to have been made.

60. Learned Senior Counsel for the petitioners has attempted to explain the discrepancy by submitting that the reference to 08.07.1989 was merely a clerical error and that the correct date, namely 08.07.1992, is apparent from the appointment letter dated 30.06.1992 and other subsequent documents. The submission, however, cannot be accepted merely on the basis of subsequent documents, particularly when the petitioner's very appointment order, which constitutes the foundational document for claiming salary from the State, has not been satisfactorily established before this Court. The burden lay upon petitioner No.1 to place before the Court cogent and unimpeachable material demonstrating that he was validly appointed on 08.07.1992 in accordance with the applicable rules.

61. The contention of learned counsel for respondent No.5 that the original appointment order has not been produced assumes considerable significance. A person seeking a positive direction for payment of salary from the State exchequer must first establish the existence and legality of the appointment from which such right is claimed. The Court exercising jurisdiction under Article 226 cannot issue a mandamus for payment of public money merely because the petitioner claims to have worked for a particular period. The right to receive salary from an aided institution out of public funds is subject to the appointment having the sanction of law and having been made in accordance with the prescribed procedure.

62. The reliance placed by learned Senior Counsel for the petitioners upon the subsequent communications issued by Sampurnanand Sanskrit University also does not, in the facts of the present case, cure the foundational defects pointed out by the respondents. It is true that certain communications dated 14.05.1993, 27.03.2000, 08.08.2000 and 25.09.2002 have been relied upon by the petitioners to contend that petitioner No.1 was recognised as Principal. However, mere recognition of a person for purposes of correspondence or institutional functioning cannot, by itself, be treated as conclusive proof that the initial appointment was validly made in accordance with the statutory procedure and that all conditions precedent for payment of salary from the State exchequer stood fulfilled.

63. More importantly, the respondents have specifically brought on record the order dated 05.10.1993 issued by the Sampurnanand Sanskrit University, whereby the appointment in question was not approved and the management was directed to undertake a fresh appointment process in accordance with the applicable rules. This document goes to the root of the controversy. Once the competent University had not approved the appointment and had directed the management to undertake a fresh selection, the petitioners were required to establish that the defect was subsequently cured by a fresh selection undertaken in accordance with law. No such fresh selection process has been demonstrated before this Court.

64. The submission of learned counsel for respondent No.5 that the subsequent alleged communications cannot automatically revive an appointment, which had earlier been disapproved deserves acceptance. An appointment which is required to receive approval of a competent statutory authority cannot ordinarily be transformed into a valid appointment merely by prolonged continuance, particularly where the competent authority had earlier declined approval and had specifically directed that a fresh selection be undertaken. The principle that an illegal

or otherwise invalid appointment does not become legally valid merely because the appointee has continued for a long period is particularly relevant where the claim is against the public exchequer.

65. The reliance placed by learned Senior Counsel for the petitioners upon the communication dated 31.07.2015 is also not sufficient to establish a legally enforceable right. As rightly submitted by learned counsel for respondent No.5, the said communication does not contain any categorical finding or order of the Sampurnanand Sanskrit University approving the original appointment of petitioner No.1 in a manner which would overcome the earlier order dated 05.10.1993. An administrative communication issued by the District Inspector of Schools cannot, by itself, confer validity upon an appointment if the statutory approval required from the competent authority was absent.

66. This Court is also unable to accept the submission that the petitioners' prolonged service and the alleged continuous functioning of petitioner No.1 as Principal, by themselves, establish the legality of his appointment. Length of service may be relevant in an appropriate case for determining certain service consequences, but it cannot substitute the statutory requirement of a valid appointment. The fact that petitioner No.1 may have discharged duties for several years, or that the institution may have achieved satisfactory results, cannot confer legality upon an appointment which has not been shown to have been made in accordance with the governing rules.

67. The argument that petitioner No.1 has served for approximately 32 years and that his functioning as Principal has been repeatedly recognised by different authorities, therefore, does not persuade this Court to issue the mandamus sought. The doctrine of long continuance cannot be invoked to compel the State to make payment from public funds where the foundational legality of the appointment remains

unestablished. The Court cannot ignore statutory requirements merely because the petitioner has continued in service for a considerable period.

68. The question of educational qualification raised by learned counsel for respondent No.5 also cannot be brushed aside. It has been contended, on the basis of the material available on record, that petitioner No.1 had passed Purva Madhyama, equivalent to High School, only in 1986 and had not acquired the requisite higher qualification by the time of the alleged appointment dated 08.07.1989. If the original date of appointment pleaded in the writ petition is taken into consideration, the petitioner had admittedly not acquired the qualification which was required for appointment to the post of Principal/Lecturer. The petitioners have not placed convincing material before this Court demonstrating that petitioner No.1 possessed the requisite qualification on the date of the original appointment.

69. This circumstance assumes greater significance in view of the fact that the petitioner's date of appointment was subsequently altered from 1989 to 1992. The amendment may have been permitted procedurally; however, allowing an amendment does not amount to an adjudication upon the truthfulness or legal correctness of the amended assertion. The fact that an amendment has been incorporated merely enables the Court to consider the case in its amended form. It does not relieve the petitioner of the burden of establishing the amended plea by reliable evidence.

70. The submission that the mistake in the date of appointment is apparent from paragraph 2 of the writ petition, where salary arrears were allegedly claimed from July 1992, also does not conclusively establish the legality of the appointment. At best, it demonstrates that there was an inconsistency in the pleadings. Such inconsistency becomes material when the altered date directly affects the question of the petitioner's age, qualification, approval and validity of appointment. In these

circumstances, the Court cannot simply disregard the original assertion as a harmless typographical mistake without examining the surrounding circumstances.

71. The Court also finds substance in the submission of learned counsel for respondent No.5 that the circumstances surrounding the alleged appointment require greater scrutiny. It is not disputed that at the relevant time the father of petitioner No.1, Late Brihaspati Tripathi, was functioning as Manager of the institution. The fact that petitioner No.1 allegedly came to be appointed by the management headed by his own father, coupled with the dispute regarding his educational qualification and the absence of the original appointment order, constitutes a circumstance which cannot be ignored while examining the legality of the appointment. This Court, however, does not rest its conclusion merely upon the relationship between the appointee and the Manager; rather, the said circumstance assumes significance in conjunction with the other deficiencies appearing from the record.

72. Learned Senior Counsel for the petitioners has placed substantial reliance upon the judgments passed in Writ Petition No.7202 (S/S) of 2004, Special Appeal No.199 of 2006 and other connected proceedings, submitting that the appointment of petitioner No.1 as Principal has already been upheld and that the controversy cannot be reopened at the instance of late Krishna Deo Tripathi. There can be no quarrel with the proposition that a concluded adjudication between the parties cannot ordinarily be reopened by adopting successive proceedings. However, the effect and scope of those judgments have to be examined in the context in which they were rendered.

73. The judgment dated 10.02.2006 passed in Writ Petition No.7202 (S/S) of 2004, and the subsequent dismissal of Special Appeal No.199 of 2006, primarily concerned the challenge to the order whereby petitioner No.1 had been disturbed from functioning as Principal and Sri Krishna

Deo Tripathi was sought to be permitted to function as officiating Principal. The dismissal of the Special Appeal and the subsequent proceedings undoubtedly lend support to petitioner No.1 against the claim of Sri Krishna Deo Tripathi to the post of Principal. However, those proceedings cannot automatically be construed as a final adjudication that every aspect of petitioner No.1's original appointment, including his educational qualification, the validity of the selection procedure and entitlement to salary from the State exchequer, stood conclusively adjudicated in his favour.

74. The distinction is important. The issue whether Sri Krishna Deo Tripathi was entitled to displace petitioner No.1 from the post of Principal is distinct from the question whether petitioner No.1's appointment was made strictly in accordance with the applicable statutory provisions so as to create an enforceable right to payment of salary from public funds. A finding rendered in one proceeding cannot be extended beyond the controversy which was actually adjudicated therein.

75. Likewise, the dismissal of the proceedings initiated by Sri Krishna Deo Tripathi concerning his own service claim cannot, by itself, validate the appointment of petitioner No.1. The failure of a rival claimant to establish his own entitlement does not dispense with the independent requirement of the petitioner establishing the legality of his own appointment. The principle that one person's claim fails does not necessarily mean that the competing person's appointment automatically stands established in accordance with law.

76. The petitioners have also relied upon the inquiry reports dated 15.11.2019 and 16.10.2020, contending that the inquiries did not find any illegality or irregularity in their appointments. The said reports may constitute material relevant to the controversy; nevertheless, an inquiry report cannot override statutory requirements or cure an appointment if

the foundational conditions for a valid appointment were not fulfilled. Similarly, an administrative finding favourable to the petitioner cannot dispense with the necessity of producing the primary appointment document and establishing the requisite qualification and approval.

77. The judgments dated 02.02.2023, 06.02.2023 and 30.05.2023 relied upon by learned Senior Counsel for the petitioners also do not persuade this Court to grant the relief sought in the present petition. Those judgments have to be understood in the context of the orders and proceedings which were before the Court in those cases. The fact that certain subsequent orders passed by respondent No.4 were quashed or that the conduct of the authority was commented upon adversely does not necessarily amount to a declaration that petitioner No.1's appointment was valid for all purposes and that he is unconditionally entitled to salary from the State exchequer.

78. The submission that respondent No.4 repeatedly reopened the controversy at the instance of Sri Krishna Deo Tripathi also cannot, by itself, result in allowing the present writ petition. If an authority had acted contrary to an earlier judicial direction, an appropriate remedy may lie against such action. But the Court, while considering a claim for salary, must independently determine whether the petitioner has established the legal foundation of the relief claimed. The present proceedings cannot be converted into a vehicle for granting a substantive service benefit merely because certain previous administrative orders were found unsustainable.

79. The Court also finds merit in the submission of learned counsel for respondent No.5 that the interim order dated 08.02.2005 cannot be treated as conferring a vested or final right upon the petitioners. The said order was passed at the interim stage and was intended to operate during the pendency of the writ proceedings. An interim order, unless followed by a final adjudication recognising the underlying substantive right,

cannot by itself establish the legality of an appointment. The petitioners' reliance upon the fact that salary was paid pursuant to the interim direction, therefore, does not conclude the issue in their favour.

80. The fact that petitioner No.1 has been receiving salary pursuant to the interim order is also insufficient to compel continuation of such payment as a matter of right. Payments made under an interim judicial direction are subject to the final outcome of the proceedings. The principle is particularly applicable where the respondents have raised a serious and substantial challenge to the foundational appointment itself.

81. The subsequent fact that petitioner No.2 has died and petitioner No.3 has retired on 31.03.2025 also does not materially alter the legal position. Their individual claims would have to be considered in accordance with their respective service records and the legality of their appointments. Since the principal controversy regarding the entitlement to salary from the State arises from the legality of the appointments and the petitioners have not established the foundational requirements for issuance of mandamus, the change in their individual status cannot result in grant of the substantive relief sought.

82. The submission of learned Senior Counsel for the petitioners that the petitioners have already received salary up to the relevant periods and that only petitioner No.1 remains in service also cannot be accepted as a ground for issuing a mandamus. Past payment does not create an estoppel against the State where such payment was made pursuant to an interim order or otherwise without final adjudication of the underlying entitlement. Nor can the principle of legitimate expectation be invoked to perpetuate a benefit contrary to statutory requirements.

83. The Court is conscious that petitioner No.1 claims to have rendered long service and that his continuance in the institution has allegedly been accompanied by satisfactory results. Nevertheless,

sympathy or length of service cannot substitute the statutory requirements governing appointment to an aided educational institution. Where public funds are involved, the Court is required to ensure that the claim is founded upon a lawful appointment and not merely upon long continuance.

84. It is equally well settled that a writ of mandamus is issued only where the petitioner demonstrates an existing legal right and a corresponding public duty on the part of the respondent. In the present case, petitioner No.1 has failed to establish an unimpeachable legal right to receive salary from the State exchequer on the basis of an appointment whose foundational document has not been satisfactorily produced and whose validity is seriously questioned by the respondents on the basis of the University's order dated 05.10.1993, the alleged absence of requisite qualification and the failure to undertake the fresh selection directed by the competent authority.

85. The argument of learned counsel for respondent No.5 that the subsequent alleged recognition cannot cure the original defect is, therefore, found to have considerable force. The Court cannot presume that an appointment became valid merely because the appointee continued in service for several years or because certain authorities subsequently permitted him to function. Where the initial appointment itself required approval and the competent authority had directed a fresh selection, the petitioner was required to establish compliance with that requirement. No such compliance has been satisfactorily demonstrated.

86. The Court also cannot lose sight of the fact that the petitioner has sought to alter the date of his appointment after an exceptionally long period. The amendment may have been allowed, but the circumstances in which the amendment became necessary remain relevant for appreciating the evidentiary value of the petitioner's claim. The subsequent date of appointment, therefore, cannot be accepted merely

because it has been incorporated by amendment, particularly when the primary appointment order and other foundational records remain inadequately established.

87. The Court is, therefore, unable to accept the submission that the alleged clerical error in mentioning 08.07.1989 instead of 08.07.1992 stands conclusively explained by the subsequent documents. The discrepancy, considered alongside the absence of the original appointment order, the issue regarding qualification, the management's obligation to undertake fresh selection after the University's order dated 05.10.1993 and the circumstances surrounding the appointment, creates a serious doubt which cannot be resolved in favour of the petitioner in a proceeding seeking payment from public funds.

88. So far as the judgments relied upon by the respondents are concerned, the principle emerging therefrom, namely that an appointment not made in accordance with the statutory rules or without fulfilment of the essential eligibility conditions cannot be treated as a source of an enforceable right to public salary merely on account of long continuance, squarely applies to the present controversy. The factual circumstances available on record reinforce rather than weaken the applicability of that principle. The Court, therefore, finds the submissions advanced by learned counsel for respondent No.5 to be more consistent with the statutory framework and the material available on record.

89. The judgments relied upon by learned Senior Counsel for the petitioners do not lay down any principle contrary to the aforesaid proposition. The earlier judgments relied upon by the petitioners protect them only to the extent of the controversies which were actually adjudicated therein and cannot be read as an unconditional declaration that petitioner No.1's appointment was valid for all purposes or that the State is under an absolute obligation to pay salary irrespective of

compliance with the statutory requirements. Consequently, those judgments do not compel a different conclusion in the present writ petition.

90. It is also necessary to emphasise that this Court is not, in the present proceedings, called upon to determine the rights of late Krishna Deo Tripathi vis-à-vis petitioner No.1. The proceedings initiated by Sri Tripathi and their ultimate dismissal may have rendered his competing claim infructuous or unavailable, but that circumstance does not relieve petitioner No.1 of establishing his independent legal entitlement. The demise of the rival claimant cannot convert an otherwise unestablished appointment into a lawful appointment.

91. Upon an overall consideration of the matter, this Court finds that the petitioners have failed to establish the essential legal foundation for issuance of a writ of mandamus directing payment of salary from the State exchequer. The petitioners have not satisfactorily demonstrated that the appointment of petitioner No.1 was made through a valid selection process, that he possessed the requisite qualification on the relevant date, that the appointment received the necessary approval in accordance with law, or that the direction for fresh selection contained in the University's order dated 05.10.1993 was complied with.

92. The Court, accordingly, upholds the principal submission of learned counsel for respondent No.5 that the interim order dated 08.02.2005 cannot be treated as a final declaration of the petitioners' entitlement and that the petitioners must independently establish the legality of their appointments before claiming salary as a matter of right. The subsequent payment of salary pursuant to the interim order or otherwise cannot, in the absence of a final adjudication recognising the underlying entitlement, operate as a foundation for issuance of a mandamus.

93. For the reasons recorded hereinabove, this Court finds no sufficient ground to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India in favour of the petitioners. The relief of mandamus sought by the petitioners cannot be granted merely on the basis of their alleged long continuance, subsequent administrative recognition, inquiry reports or interim payment of salary, when the foundational legality of the appointment remains unestablished and is seriously contradicted by the material relied upon by the respondents.

94. Consequently, the writ petition fails and is, accordingly, **dismissed.**

95. The interim order dated 08.02.2005 shall stand merged in the final order and shall not be treated as creating any independent or vested right in favour of the petitioners.

96. There shall be no order as to costs.

(Irshad Ali,J.)

August 12, 2026

Adarsh K Singh