



**AFR**

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**WRIT - A No. - 8187 of 2006**

Dinesh Kumar

.....Petitioner(s)

Versus

State of U.P. Thru Secy. Revenue and 4 Ors.

.....Respondent(s)

---

|                           |                |
|---------------------------|----------------|
| Counsel for Petitioner(s) | : Ajay Sharma, |
| Counsel for Respondent(s) | : C.S.C.,      |

---

**Reserved**

**Court No.34**

**HON'BLE GARIMA PRASHAD, J.**

1. Heard Sri Ajay Sharma, learned counsel for the petitioner and Sri Pankaj Srivastava, learned Additional Chief Standing Counsel for the State.
2. The petitioner seeks quashing of the order passed by the District Magistrate, Rae Bareli, rejecting his claim for regular appointment as Collection Amin. The petitioner also seeks a direction for appointment from the date on which persons junior to him were appointed, with consequential benefits.
3. The petitioner was engaged as a Seasonal Collection Amin at Tehsil Dalmau, District Rae Bareli, on 25.01.1993. He worked during seven fasals between 25.01.1993 and 30.09.1997. His engagement was seasonal and came to an end on 30.09.1997.

4. The petitioner had earlier filed Writ Petition No. 391 (S/S) of 2006. By order dated 18.01.2006, the District Magistrate, Rae Bareilly, was directed to consider his representation dated 31.12.2005 and pass a reasoned order in accordance with the applicable rules and government orders. In compliance with that direction, the District Magistrate examined the petitioner's claim and rejected it by the order dated 15.07.2006. The order records that, although the petitioner's name appeared at serial number 73 of the seniority list of 2005, his recovery was below 70% in every fasal in which he worked. He was, therefore, held ineligible for regular appointment.

5. Learned counsel for the petitioner submits that the petitioner worked satisfactorily for seven fasals and made recovery exceeding 75% in each fasal. It is submitted that his name stood at serial number 81 of the seniority list, while Anil Kumar, Mukut Bihari and Rajendra Prasad, who were placed below him, were appointed as regular Collection Amins in December 2005. According to the petitioner, the denial of the same benefit is arbitrary and violates Articles 14 and 21 of the Constitution of India.

6. Learned counsel for the petitioner relies upon ***Awadesh Kumar Pandey v. State of U.P. and others***, 2006 (24) LCD 201. It is submitted that a Seasonal Collection Amin who has completed four fasals with recovery above 70% is entitled to consideration for regular appointment and cannot be excluded while his juniors are appointed.

7. Learned Standing Counsel supported the impugned order. He submitted that the petitioner's place in a seniority list did not by itself make him eligible. The governing rules first required satisfactory work, defined by reference to recovery of at least 70% of the prescribed

standard during the last four fasals. Seniority became relevant only among Seasonal Collection Amins who satisfied that condition. The respondents further stated that, contrary to the petitioner's claim, the persons named by him were not similarly placed because they had achieved the required recovery of 70% and were appointed on that basis, whereas the petitioner did not achieve recovery of 70%.

8. The question which arises is whether the petitioner satisfied the statutory condition of satisfactory work and, if not, whether seniority or the appointment of persons junior to him nevertheless entitled him to regular appointment.

9. Recruitment to the post of Collection Amin is governed by the U.P. Collection Amins Service Rules, 1974, as amended by the U.P. Collection Amins (Fifth Amendment) Service Rules, 1992. Rule 5 reserves 35% of the vacancies for selection from Seasonal Collection Amins who have worked satisfactorily for at least four fasals and are within the prescribed age limit. The Explanation treats work as satisfactory when there is at least 70% recovery of the prescribed standard during the last four fasals, together with good conduct throughout. Rule 17-A requires the Collector first to identify the Seasonal Collection Amins eligible under Rule 5 and then to select the required number from among them on the basis of seniority or length of service, subject to satisfactory work.

10. The relevant portion of Rule 5, reads as follows:

*“Provided further that 35% vacancies shall be filled by selection*

*from amongst such Seasonal Collection Amins---*

*(a) who have worked satisfactory for at least four fasals ;*

*(b) whose age on the first day of July of the year in which selection is made does not exceed 45 years;*

*[...]*

*Explanation:- Satisfactory work shall mean at least seventy per cent realization as per prescribed standard during the last four fasals including the good conduct throughout.”*

11. In addition, Rule 17-A provides:

*“17-A. Procedure for Selection From Seasonal Collection Amins:.*

*The collector shall prepare a list of Seasonal Collection Amins who are eligible for selection under the first proviso of sub-rule (1) of rule 5 and select from amongst them, the required number of candidates on the basis of seniority or the length of their service on the post of Seasonal Collection Amins in the district subject to the satisfactory work.”*

12. The Rules make satisfactory work a condition of eligibility. Seniority governs preference among eligible candidates; it cannot remove the condition which makes a candidate eligible in the first place. A person whose recovery does not meet the prescribed standard cannot claim regular appointment merely because his name appears above another person in a list of Seasonal Collection Amins.

13. The respondents have set out the demand, actual recovery and recovery percentage for each fasal in their affidavit. Those figures are set out below:

| Fasal       | Demand (Rs.) | Recovery (Rs.) | Recovery (%) |
|-------------|--------------|----------------|--------------|
| Ravi 1400   | 1,34,000     | 61,705         | 46.05        |
| Kharif 1402 | 2,34,000     | 87,769         | 38.36        |

|             |          |          |       |
|-------------|----------|----------|-------|
| Ravi 1402   | 2,54,000 | 1,10,714 | 43.59 |
| Kharif 1403 | 2,62,000 | 87,177   | 33.27 |
| Ravi 1403   | 2,64,000 | 89,967   | 34.08 |
| Kharif 1404 | 1,72,000 | 1,15,029 | 66.87 |
| Ravi 1404   | 96,000   | 53,575   | 55.81 |

14. These figures do not support the petitioner's assertion that his recovery exceeded 75% in every fasal. On the contrary, he did not achieve 70% recovery in any of the seven fasals. In the last four fasals, his recovery was 33.27%, 34.08%, 66.87% and 55.81%. Even if those four fasals are considered cumulatively, the demand was Rs.7,94,000 and the recovery was Rs.3,45,748, which is about 43.54%. The assertion in the Writ Petition is not supported by a fasal-wise statement of demand and recovery whereas the respondents have disclosed the figures on which the decision was taken.

15. The petitioner also relies upon a seniority list showing his name at serial number 81, above the persons whom he claims were later appointed as regular Collection Amins. The respondents allege that the list is forged. They rely on the information furnished by the concerned office and the then Tehsildar's statement, recorded in the order dated 13.12.2006, that the list had neither been issued from nor formed part of the official record. This Court need not decide that dispute. Even if accepted, the list only shows the petitioner's place in seniority; it does not establish recovery of 70% or more during the relevant fasals.

16. The reliance upon *Awadesh Kumar Pandey v. State of U.P. and others* does not assist the petitioner. In that case, the petitioner produced a certificate issued by the Tehsildar showing recovery of 72%, 74%, 86% and 76% in the relevant fasals. The certificate remained

unchallenged, while the respondents' plea of 54% recovery was unsupported by any document. The Court had accordingly accepted the authenticated figures and had held that the condition under Rule 5 was satisfied.

17. The present case rests on a different record. Here, the respondents have furnished the demand, the amount recovered and the resulting percentage for every fasal. The highest recovery shown is 66.87%. The document relied upon by the petitioner is itself disputed and, in any event, does not contain fasal-wise recovery figures establishing the statutory minimum. *Awadesh Kumar Pandey (supra)* therefore supports the requirement of proof of 70% recovery; it does not dispense with that requirement.

18. The orders relied upon by the petitioner in Writ Petition No. 4487 of 1999 and Writ Petition No. 1502 (S/S) of 2003 cannot be read as granting regular appointment without satisfaction of Rule 5. The former directed consideration under the Rules. The latter is the decision in *Awadesh Kumar Pandey (supra)*, which turned on an uncontroverted official certificate showing recovery above 70%. Neither decision gives a right to a candidate whose recovery falls below the prescribed standard.

19. The appointment of persons junior to the petitioner does not, by itself, establish unequal treatment. Article 14 requires equal treatment of persons who are similarly situated. The petitioner has not placed material showing that any of the persons named by him was appointed despite failing to meet the recovery requirement. More importantly, no direction can be issued requiring the State to appoint a person who does not satisfy a statutory condition of eligibility. Seniority could have assisted the

petitioner only if he had first entered the class of eligible Seasonal Collection Amins.

20. Article 21 does not create a right to appointment to a public post contrary to the applicable recruitment rules. The petitioner's seasonal engagement ended by its own terms in 1997. The rejection of his claim for regular appointment, after applying the prescribed eligibility standard, cannot be treated as an arbitrary deprivation of livelihood.

21. The earlier order dated 18.01.2006 required the District Magistrate to consider the petitioner's representation and pass a reasoned order. The District Magistrate obtained the relevant report, considered the petitioner's place in the seniority list and his fasal-wise recovery, and rejected the claim because his recovery was below 70%. The order considered the requirement under Rule 5 and was supported by the figures on record. No error of law or failure of consideration is shown.

22. For these reasons, the petitioner was not eligible for selection under Rule 5. His seniority did not confer a right to regular appointment, and the decision in *Awadesh Kumar Pandey* (supra) does not apply to the materially different facts of this case.

23. The Writ Petition is, accordingly, dismissed. The order dated 15.07.2006 passed by the District Magistrate, Rae Bareli, is upheld. There shall be no order as to costs.

24. Any pending application also stands disposed of.

**(Garima Prashad,J.)**

**October 12, 2026**

Kuldeep