

ITEM NO.110

COURT NO.6

SECTION III-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 7235/2012

SANTOSH KUMAR SINGH & ANR.

Appellant(s)

VERSUS

JOINT DIRECTOR OF EDUCATION & ORS.

Respondent(s)

Date : 20-02-2025 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s) : Mr. S.R. Singh, Sr. Adv.
Mr. Sushant Kumar Yadav, Adv.
Mr. Prateek Yadav, Adv.
Mr. Gaurav Lomes, Adv.
Mr. Prithvi Yadav, Adv.
Mr. Mangal Prasad, Adv.
Mr. Anurag Singh, Adv.

For Respondent(s) : Mr. Samar Vijay Singh, AOR
Ms. Sabarni Som, Adv.
Mr. Aman Dev Sharma, Adv.
Mr. Fateh Singh, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. Having heard learned counsel for the parties, it is seen that Awadhesh Singh filed Civil Miscellaneous Writ Petition No. 41371 of 1999 to quash the order of the Joint Director (Education) dated 28.08.1999 treating him as Clerk and pay his salary with arrears. The Civil Miscellaneous Writ Petition No. 3854 of 2000 was filed by him to quash the order dated 26.11.1999

passed by Regional Deputy Director of Education, sanctioning salaries to the appellants herein. The said two writ petitions came to be allowed by the learned Single Judge on 02.07.2007 with the following observations: -

"From the perusal of record it is disclosed that the respondents have not denied the appointment letter dated 20.6.1976 issued to the petitioner, hence the contention of learned counsel for the respondents that the petitioner was never appointed in the institution as Class IV employee or even as Class III employee is disbelieved. Sri Ram Nayan Singh is being paid salary for the post of Clerk by the D.I.O.S. from 10.9.1992 while the school was upgraded to high school in the year 1981-82 and the post of clerk in high school was also admittedly created in the year 1981 by order dated 29.8.1981 passed by the Deputy Director of Education. The appointment of respondent nos. 4 and 5 in connected Writ Petition No. 3854 of 2000 was irregular and could have been made as they were blood relatives of the Manager.

It appears that a number of illegal appointments were made by the Management and the petitioner has been deprived of his service in accommodate the candidates of the Manager.

As regards Writ Petition No. 3854 of 2000 appointment of respondent No. 4 as Clerk was not approved by the competent authority i.e. D.I.O.S. under U.P. Act No. 24 of 1971.

Thus, in my opinion there is force in the arguments of learned counsel for the petitioner. In this view of the matter the writ petitioner deserved to succeed and is liable to be allowed.

For the reasons stated above, the writ

petitions are allowed. The impugned order dated 8.2.1982 and 28.8.1999 in Writ Petition No. 3854 of 2000 are quashed. No order as to costs."

2. The record indicate that one Ram Nayan Singh challenged the said order passed in Writ Petition No. 41371 of 1999 by filing Special Appeal No. 1265 of 2007. The said appeal was allowed vide order dated 27.09.2007 remitting the matter back to the learned Single Judge to decide the same afresh. Learned Single Judge vide order dated 29.01.2010 remanded the matter back to the Deputy Director of Education to re-examine the case.

3. The appellants had also challenged the common order dated 02.07.2007 in respect of Writ Petition No. 3874 of 2000 by filing Special Appeal No. 1048 of 2007 which is decided by the impugned judgment dated 26.11.2010 dismissing the special appeal. Being aggrieved, the present appeal has been filed.

4. In view of the foregoing facts, the following clarifications are required:

(i) Special Appeal No. 1265 of 2007 was allowed vide order dated 27.09.2007. The said order has not been placed on record by which the learned Single Judge was directed to decide the writ petition afresh. **Hence, same be placed on record.**

(ii) As per the averments made in the writ petition learned Single Judge remitted the matter to the Deputy Director of Education. However, the order passed by the Deputy Director of Education is not on record. **Hence, same be filed.**

5. List the appeal for hearing after four weeks.

6. In the meantime, the above documents shall be placed for perusal.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(NAND KISHOR)
COURT MASTER