

ITEM NO. 1

COURT NO.4

SECTION XI  
A/N MATTER

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Contempt Petition (c) No.372/2002 in C.A.No.962/1999

SHAMIM KHANAM

Petitioner (s)

VERSUS

K.B. PANDEY & ANR.

Respondent (s)

( With Appln(s). for exemption from filing O.T. and Office Report )

With

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J  
CONMT.PET.(Civil)No.395/2002 in CA  
968/99,CONMT.PET.(Civil)No.396/2002 in CA 968/99,  
CONMT.PET.(Civil)No.415-416/2002 in CA  
961-962/99,CONMT.PET.(Civil)No.417/2002 in CA 968/99,  
CONMT.PET.(Civil)No.428-429/2002 in CA 963-964/99  
CONMT.PET.(Civil)No.430/2002 in CA 963/99, CONTMT. PET.  
NO.427/2002 in CA 972/99,CONMT.PET.(Civil)No.434/2002 in CA  
968/99, CONMT.PET.(Civil)No.446-447/2002 in CA  
970-971/99,CONTMT. PET.437/99 in CA 975/2002,  
CONMT.PET.(Civil)No.448-449/2002 in CA  
961-962/99,CONMT.PET.(Civil)No.454/2002 in CA 968/99,  
CONMT.PET.(Civil)No.462/2002 in CA  
963/99,CONMT.PET.(Civil)No.464/2002 in CA 963/99,  
CONMT.PET.(Civil)No.465/2002 in CA  
974/99,CONMT.PET.(Civil)No.466/2002 in CA 974/99,  
CONMT.PET.(Civil)No.467/2002 in CA  
974/99,CONMT.PET.(Civil)No.468/2002 in CA 974/99,  
CONMT.PET.(Civil)No.494/2002 in CONTMT PET (c) D.13998/2002,  
Conmt.Pet.(c)495/2002 in CA 969/99, Conmt.Pet.(c)  
496-497/2002 in CA 961-962/99, Conmt.Petn.(c) 498-499/2002  
in CA 961-962/99, Conmt.Pet.(c) 503/2002 in CA 969/99,  
Conmt.Pet. 515/2002,Conmt.Pet.(c) 507/2002 in CA 963/99, IA  
Nos.32-39 in CA 963-966/99, IAs 18-19, IAs 28-37 & 41 in CA  
961-962/99, IAs 22-23 in CA 961/99,Conmt Petn.(c) 537/2002  
in CA 972/99.

Date : 28/11/2002 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For the Petitioner (s)

Mr.Shiv Sagar Tiwari,Adv.,  
Ms.Sandhya Goswami,Adv.,  
Mr.H.C. Kharbanda,Adv.,  
Mr.M.P.S. Tomar,Adv.

Mr.T.N. Singh,Adv.,  
Mr.V.K. Singh,Adv.,  
Mr.T.N.Saxena,Adv.

Dr.Rajeev Dhawan,Sr.Adv.,  
Mr.Raj Kumar Gupta, Adv.  
Mr. Sheo Kumar Gupta, Adv.  
Mr.A.N. Bardiyar,Adv.

Mr.Raj Kumar Gupta,Adv.,  
Mr.S.K. Gupta,Adv.,  
Mr.A.N. Bardiyar,Adv.

Mr.Rakesh Dwivedi,Sr.Adv.,  
Mr.Pradeep Misra,Adv.

Mr.Dinesh Dwivedi,Sr.Adv.,  
Mr.P.N. Gupta,Adv.  
Ms.Manita Verma,Adv.

Mr.Kishore Kumar Patel,Adv.,  
Mr. S.M. Garg,Adv.

Mr.Manoj K. Mishra,Adv.,  
Mr.Sanjay Visen,Adv.,  
Mr.N.S. Bisht,Adv.

Mr.P.K. Jain,Adv.

For the Respondent (s)  
for UPPSC:

Mr.R.N. Trivedi, ASG  
Mr.Shail Kumar Dwivedi,Adv.  
Ms.Shweta Garg,Adv.

for State of U.P:

Mr.K.N. Ralwal, SG  
Mr.Ajay Agrawal,Adv.  
Ms.Alka Agrawal,Adv.

Ms. Mukti Chaudhry,K.Sharda Devi,Advs.

UPON hearing counsel, the Court made the following  
O R D E R

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J  
.SP2

Contempt petitions and I.As. are disposed of in terms of the directions contained in the signed order. Contempt notice is discharged. Compliance report be submitted to this Court in the second week of January 2003.

.SP1

(Vijay Kumar Sharma)  
Court Master

(Janki Bhatia)  
Court Master

Signed order is placed on the file.

.PA  
.PL54

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION (C) NO. 372/2002@@  
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

IN

CIVIL APPEAL NO.962/1999 @@  
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

Versus

K.B. PANDEY & ANR.

Respondents

WITH@@  
CCCC

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J

CONMT.PET.(Civil)No.395/2002 in CA  
968/99,CONMT.PET.(Civil)No.396/2002 in CA 968/99,  
CONMT.PET.(Civil)No.415-416/2002 in CA  
961-962/99,CONMT.PET.(Civil)No.417/2002 in CA 968/99,  
CONMT.PET.(Civil)No.428-429/2002 in CA 963-964/99  
CONMT.PET.(Civil)No.430/2002 in CA 963/99, CONTMT. PET.  
NO.427/2002 in CA 972/99,CONMT.PET.(Civil)No.434/2002 in CA  
968/99, CONMT.PET.(Civil)No.446-447/2002 in CA  
970-971/99,CONTMT. PET.437/99 in CA 975/2002,  
CONMT.PET.(Civil)No.448-449/2002 in CA  
961-962/99,CONMT.PET.(Civil)No.454/2002 in CA 968/99,  
CONMT.PET.(Civil)No.462/2002 in CA  
963/99,CONMT.PET.(Civil)No.464/2002 in CA 963/99,  
CONMT.PET.(Civil)No.465/2002 in CA  
974/99,CONMT.PET.(Civil)No.466/2002 in CA 974/99,  
CONMT.PET.(Civil)No.467/2002 in CA  
974/99,CONMT.PET.(Civil)No.468/2002 in CA 974/99,  
CONMT.PET.(Civil)No.494/2002 in CONTMT PET (c) D.13998/2002,  
Conmt.Pet.(c)495/2002 in CA 969/99, Conmt.Pet.(c)  
496-497/2002 in CA 961-962/99, Conmt.Petn.(c) 498-499/2002  
in CA 961-962/99, Conmt.Pet.(c) 503/2002 in CA 969/99,  
Conmt.Pet. 515/2002,Conmt.Pet.(c) 507/2002 in CA 963/99, IA  
Nos.32-39 in CA 963-966/99,IAs 18-19,IAs 28-37 & 41 in CA  
961-962/99, IAs 22-23 in CA 961/99 Conmt Petn.(c) 537/2002  
in CA 972/99.

O R D E R@@  
CCCCCCCC

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J

.SP2

Heard the learned counsel for the parties  
exahustively.

:-2:-

Unfortunately, we are required to pass repeated  
orders where advertisement for appointment of Principals of  
Government Colleges in the State of U.P. was published in  
1996-1997.

Before the High Court, with regard to teaching  
experience, the U.P. Public Service Commission (for short  
'the Commission') pointed out thus:-

.....L.....I.....T.....T.....T.....T.....J.....

.SP1

"...(a) On the basis of  
preliminary examination the petitioners  
were declared successful for main  
examination for the said post. The  
petitioners also submitted application for  
the main examination and they were  
permitted to appear in main examination  
provisionally. The petitioners qualified  
in main examination and they were  
interviewed provisionally. Since most of  
the candidates had not submitted expereince  
certificate before interview and certain

candidates had submitted experience certificates without complete information hence it was not possible for the commission to decide the eligibility regarding experience of all candidates so at the time of interview commission prepared an experience proforma and that proforma was required from all candidates to be finished within 60 days in order to obtain full and correct information from the proper competent authority so that false and fictitious candidates may be avoided from getting selection. Against 216 posts of Principal of government Inter College 417 candidates were called for interview. 410 appeared in interview out of which 384 candidates submitted their experience certificates in prescribed proforma. Rest candidates has not

: -3:-

submitted certificates. The commission checked thoroughly all experience certificates and found following types of candidates:-....."

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....T.....J  
.SP2

From the aforesaid paragraph it appears that the Commission interviewed 384 candidates on the basis of experience certificates produced before them. Thereafter, on various grounds some candidates were excluded. That exclusion was challenged before the High Court. High Court modified the said exclusion by a reasoned order which was challenged before this Court.

When the matter came up for hearing before this Court, repeated interim orders were passed directing the Commission and the State Government to have proper merit list on the basis of the relevant rules. Final order was passed on 20.2.2002. Thereafter, candidates who are aggrieved have preferred these contempt petitions.

After hearing both the parties, instead of initiating contempt proceedings, we direct the Commission and the State Government to make appointments on the following basis:-

.SP1

1. All candidates who were called for interview and whose names are on the merit list shall be appointed in order of merit if they

(a) possess requisite educational qualification and;

(b) have 3 years teaching experience working as a full time teachers and paid regularly monthly salary not less than Rs.1400/-.

: -4:-

2. Part time teachers would be excluded from consideration. However, it is made clear that there cannot be a class of exclusion of teachers who are working in self-financed institutions. Any exclusion of a candidate on the basis that he or she is a part time teacher must be made only in individual cases after proper verification.

3. Prima facie the certificate provided by the candidate which is duly certified by the designated authority shall be taken as final unless there are reasons for not doing so. However, before rejecting such certificate, a reasoned order in writing shall be passed after giving proper opportunity of hearing to the candidate concerned.

4. Appointment however would be made against available posts either in general category or reserved category as the case may be subject to verification of reserved category candidates.

5. Candidates who have already been appointed on the basis of the merit list prepared in 1996-1997 will not be disturbed or displaced.

.SP2

Candidates entitled under this order will be appointed against the existing vacancies. With regard to candidate, namely, Maheshwar Singh, Contempt Petition No.437/2002 is filed. In the merit list his serial No. is 353 and he has obtained 737 marks. It has been pointed out that the Commission has recommended the appointment of one Narendra Singh Rana who was at serial No.392 in merit list and who has obtained only 700 marks. It is also submitted that Maheshwar Singh is working in a college recognised by CBSE and has been found eligible. Therefore his case also shall be considered for being appointed along with general category candidates.

: -5: -

Contempt notice issued in the matters discharged. The contempt petitions and the I.As are disposed of accordingly.

Compliance report to be submitted to this Court in the second week of January 2003.

We hope that the Commission would implement the aforesaid order with all sincerity and honesty.

.SP1

.....J  
(M.B. Shah)

.....J  
(D.M. Dharmadhikari)

New Delhi,  
November 28, 2002