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**(2006) 01 AHC CK 0107**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 18019 of 1988

Brijendra Singh Verma

APPELLANT

Vs

District Inspector of Schools & Ors.

RESPONDENT

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**Date of Decision :** 03-01-2006

**Acts Referred:**

**Citation :** (2006) 01 AHC CK 0107

**Hon'ble Judges :** Sabhajeet Yadav, J

**Final Decision :** Allowed

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## **Judgement**

Sabhajeet Yadav, J.—Heard learned Counsel for the petitioner and Sri Anoop Misra, holding brief of Sri Rakesh Bahadur for respondent No. 2 and the learned Standing Counsel on behalf of other respondents.

2. The petitioner has challenged the order dated 1911989 passed by the Regional Higher Education Officer, U.P., Lucknow and order dated 961989 passed by him. By the aforesaid orders initially the petitioner's appointment was disapproved on the ground that while making the selection and appointment the statute of University has not been observed and no one has been appointed amongst the quota reserved for schedule caste while mentioning 4 names including the names of the petitioner at serial No. 2. It appears that thereafter, materials were placed by the Principal of the Institution showing that the petitioner's appointment was made on Class IV post after asking the name from Employment Exchange while making selection on the post in question, the sufficient observance of advertisement of vacancy has been made by asking the name of candidates from Employment Exchange. In supplementary affidavit a list of candidates asked from Employment Exchange has been filed wherein the name of petitioner has been placed at serial No. 22, therefore, it cannot be said that selection of the petitioner was made in violation of provisions of statute in question. Besides this, it is also submitted by the learned Counsel for the petitioner that the quota of reservation belonging to the scheduled caste has already been fulfilled, therefore, the petitioner's appointment cannot be disapproved on the aforesaid

ground also.

3. The learned Counsel appearing for the respondents could not point out anything so as to justify orders impugned in the writ petition referred above through the aforesaid supplementary affidavit/amendment application filed by the petitioner. In view of these facts and circumstances of the case I am of the considered opinion that the approval of the petitioner's appointment could not be refused on nonexistent ground that the provisions of statute has not been observed while making selection and appointment of the petitioner as indicated earlier. Since the petitioner has been appointed against the vacancy on Class 4 post and his name has already been recommended and communicated by the Employment Exchange therefore no fault can be found in the selection and appointment of the petitioner on the aforesaid post. Thus the impugned order so far as it relates to the petitioner is hereby quashed. The respondent are directed to treat the petitioner in continuous service on Class 4 post in the institution namely K.K. Degree College, Etawah.

4. Counsel for the petitioner stated that the respondent are paying the current salary regularly month to month in compliance of interim order dated 181991 passed by this Court, but so far as the arrears of salary is concerned the respondent are directed to make payment of 50 per cent of his regular salary since 221987 till the date of interim order dated 181991 provided he has worked in the aforesaid period. This fact has to be examined and verified by the authorities of Education Department from the relevant record of the institution i.e. Staff Attendance Register of the Institution for the aforesaid relevant period.

5. In view of the aforesaid observations and directions the writ petition succeeds and is allowed.