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**(1992) 03 AHC CK 0041**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 29371 of 1990

Raj Kumar Singh

APPELLANT

Vs

District Inspector of Schools, Aligarh and others

RESPONDENT

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**Date of Decision :** 24-03-1992

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (1992) 03 AHC CK 0041

**Hon'ble Judges :** P.P.Gupta, J

**Final Decision :** Dismissed

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## Judgement

1. The petitioner, Raj Kumar Singh, was appointed as Assistant Teacher in Sri Sahab Singh Uchchattar Madhyamik Vidyalaya Dariapur, Pargana and Tahsil Hathras, Aligarh, which is an educational institution recognised by the U.P. Intermediate Education Board. He joined his duties as an Assistant Teacher on 2621981 and had been working since then on that post. He was paid salary upto 3181981. He took leave from 191981 to 3061982. He resumed his duties with effect from 171982. His grievance is that although he has been working regularly and continuously on the said post he was not paid his salary since October, 1982 till the date of the filing of the writ petition. He made several representations (Annexures "II" to "VII" to the writ petition), but could not get any relief. He further claimed that vide Government Notification dated 29121981 his service in B.T.C. grade had been converted into C.T. grade with effect from July, 1979. He claimed that on the recommendation of the pay committee report, he was entitled to get his salary as L. T. Grade teacher with effect from 111986. He, therefore, prayed for an appropriate writ in the nature of mandamus directing the respondents to pay him his salary from 171982 to 31121985 in C.T. Grade and from 111986 in L.T. Grade. It appears that the petitioner also filed a civil suit in the court of Munsif, Hathras for the same relief, which was decided in his favour on 1571991. He, therefore, moved an application on 20791 praying that respondents no. 1 and 2 may be directed to pay salary to the petitioner in accordance with the order dated 1571991, passed by the learned Munsif,

Hathras, in the suit filed by him. Along with the affidavit filed in support of this application, a copy of the order dated 15/7/1991 was also filed.

2. With the consent of the parties the petition was heard and is being disposed of finally at the stage of admission.

3. It was submitted by the learned counsel for the petitioner that a direction may be issued to respondents nos. 1 and 2 to pay him the salary as per orders dated 15/7/1991, passed by the learned Munsif, Hathras.

4. The learned Standing Counsel argued that because the petitioner had already availed an alternative remedy by way of filing a suit and obtained a decree therein, the present writ petition for the same relief is not maintainable.

5. The petitioner has obtained a decree regarding the arrears of his salary from the court of Munsif, Hathras. Elaborate procedure for executing such decree is provided under Order 21 of the Code of Civil Procedure. The remedy provided under Article 226 of the Constitution is not intended to supersede the modes of obtaining relief before a Civil Court. This Article is not meant to shortcircuit or circumvent the statutory procedure that has been laid down under the Code of Civil Procedure. Since the petitioner has already obtained a decree for the same relief's that have been prayed in the present writ petition, he is well advised to get the decree executed against the respondents by initiating appropriate proceedings under Order 21 of the Code of Civil Procedure.

6. Since the petitioner claims to have been unnecessarily harassed, such proceedings in execution, if and when initiated, shall be disposed of as expeditiously as possible.

7. With the above observations, this writ petition is hereby dismissed with no order as to costs.

(Petition dismissed.)