

**(2002) 09 AHC CK 0106**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 11438 of 1992

Som Datt Shukla

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

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**Date of Decision :** 05-09-2002

**Acts Referred:**

Uttar Pradesh Secondary Education Services Commission Rules, 1983 — Rule 9

**Citation :** (2002) 3 UPLBEC 2645

**Hon'ble Judges :** Rakesh Tiwari, J

**Bench :** Single Bench

**Advocate :** S.P. Singh, Rajendra Rai, Rajesh Nath Tripathi, Devi Prasad Singh and P.C. Misra, for the Appellant; Indra Raj Singh and S.C., for the Respondent

**Final Decision :** Allowed

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## **Judgement**

Rakesh Tiwari, J.—Heard the learned Counsel for the parties sand perused the records.

2. By means of this petition, the petitioner has prayed for the relief of payment of salary, which has been denied by the District Inspector of Schools, Jaunpur vide order dated 21st December, 1991.

3. The brief facts of this case are that a permanent vacancy arose in Arya Vidyalaya Higher Secondary School, Leduka, District Jaunpur for the post of Principal due to retirement of the earlier Principal. The petitioner being seniormost Teacher in the Institution was promoted as Principal of the Institution under Chapter-II, Regulations 2 to 4 of the U.P. Intermediate Education Act read with Rule 9 of the U.P. Secondary Education Service Commission Act, 1983. The seniority of the petitioner was challenged before the D.I.O.S. by two other Teachers of the Institution. The District Inspector of Schools has held that the petitioner being seniormost Teacher in the institution has rightly been appointed as officiating Principal in the Institution. However, he shall not be paid the salary of the post of Principal, but shall be paid the salary of L.T. Grade.

4. Counsel for the petitioner has relied upon the case in Smt. Ram Rati v. State of U.P. and ors. (1987) 1 UPLBEC 1009. In this case the same question has considered by the Division Bench of this Court. In Para 5 of the judgment it has been held by this Court that if the vacancy of the Principal does not exceed for more than thirty days, then the seniormost Teacher may only look after the work and if the vacancy of a Principal exceeds for more than thirty days, then the seniormost Teacher is entitled to be promoted and is entitled to salary of Principal.

5. The petitioner was worked as Principal from 21.12.1991 to 30.6.1996 in the vacancy of the Principal i.e., he has worked for more than thirty days and as such he is entitled to get the salary for the post of Principal.

6. In view of the facts and the circumstances stated above, the writ petition is allowed. Respondent No. 1 is directed to pay the salary to the petitioner for the post of Principal within two months from today w.e.f. from the date he was promoted.