



2026:AHC-LKO:33582

**HIGH COURT OF JUDICATURE AT  
ALLAHABAD  
LUCKNOW**

**WRIT - A No. - 12815 of 2025**

Deva Nand Srivastava

.....Petitioner(s)

Versus

State Of U.P Thru. Addl. Chief Secy./  
Prin. Secy. Deptt. Of Revenue, Lko.  
And 2 Others

.....Respondent(s)

---

Counsel for Petitioner(s) : Abhineet Jaiswal, Shreya Jaiswal  
Counsel for Respondent(s) : C.S.C.

---

**AFR**

**RESERVED ON 23.04.2026**

**DELIVERED ON 11.05.2026**

**Court No. - 18**

**HON'BLE KARUNESH SINGH PAWAR, J.**

1. Heard Shri Abhinit Jaiswaal, learned counsel for the petitioner, and Shri Ram Pratap Singh, learned Additional Chief Standing Counsel for the respondent-State.

**Reliefs Sought**

2. By means of the present writ petition, the petitioner has sought issuance of a writ in the nature of certiorari for quashing the impugned order dated 09.10.2025 issued by respondent no.3, a copy whereof has been brought on record as Annexure No.1 to the writ petition, whereby the representation preferred by the petitioner has been rejected.

3. A further prayer has been made for issuance of a writ in the nature of mandamus commanding respondent no.3 to consider and promote the petitioner to the post of Assistant Consolidation Officer (ACO) with

effect from the date on which his juniors were promoted, along with all consequential benefits, including seniority, within such reasonable time as may be fixed by this Court.

### **Facts of the Case**

4. Brief facts of the case are that the Petitioner was initially temporarily appointed on the post of Consolidation Lekhpal vide order dated 11.09.1986 passed by Settlement Officer of Consolidation, Saharanpur, on regular vacancy. The petitioner was appointed on a substantive vacant post, however the term officiating (स्थानापन्न) has been transcribed in the initial appointment letter dated 11.9.1986. The petitioner continued on the post of Consolidation Lekhpal and, upon completion of three years of service, his services were confirmed on the said post with effect from 01.03.1990 under Rule 16 of the 1978 Lekhpal Rules, vide order dated 25.04.1991 passed by the Settlement Officer of Consolidation, Saharanpur. The confirmation order refers to the several letters issued by the Respondent No. 3 pertaining to confirmation of Consolidation Lekhpals appointed prior to 31.12.1986. Petitioner's name finds mention at Serial No. 17 of the list appended to the aforesaid order which is annexed as Annexure- 4 to this Writ Petition. Since the petitioner was discharging his duties on the post of Consolidation Lekhpal without any gap or break he became entitled for the promotional post i.e Consolidator under The Uttar Pradesh Consolidators Service Rules, 1978 (hereinafter referred to as "1978 Consolidators Rules". Rule 5 also provides source of recruitment through promotion from those employees who have worked as Consolidation Lekhpal continuously for not less than 10 years. The procedure for recruitment by promotion and appointment is provided under Rule 15 and 18 of the aforesaid 1978 Consolidator Rules. The procedure for confirmation on the post of Consolidator is prescribed under Rule 20 of 1978 Consolidator Rules. The departmental selection committee was constituted for considering promotion of Consolidation Lekhpals on the promoted post of Consolidator. It examined the case of

Petitioner and found him eligible and fulfilling the criteria prescribed for being promoted on the next higher post of Consolidator and consequently recommended him for the same vide order dated 01.10.2008 issued by the District Magistrate/District Deputy Director of Consolidation, Bijnor, the Petitioner was promoted on the post of Consolidator. Thereafter, vide order dated 14.05.2012 passed by District Magistrate/District Deputy Director of Consolidation, Bijnor, the Petitioner was confirmed on the post of Consolidator. Copies of promotion Order dated 01.10.2008 and confirmation order dated 14.05.2012 are collectively annexed as Annexure-6 (colly) to the Writ Petition. While discharging duties on the substantive post of Consolidator, the Petitioner became entitled for next promotional post i.e Assistant Consolidation Officer (hereinafter referred to as "A.C.O"). The promotion to the post of Assistant Consolidation Officer is regulated by Uttar Pradesh Revenue Consolidation Service Rules, 1992 (hereinafter referred to as "1992 Rules").

**5.** The strength of service for the post of A.C.O as defined under Rule 4 of the 1992 Rules, is 820. The aforesaid strength of service for the post of A.C.O continues to be 820 as on the date. Rule 5 (1) of the 1992 Rules provides source of Recruitment inter alia on the post of Assistant Consolidation Officer (A.C.O). Rule 5 of the 1992 Rules came to be amended vide notification dated 18.8.1997 issued under Article 309 of Constitution of India as per the amended Rule 5(1) of the 1992 Rules the source of recruitment on the post of Assistant Consolidation Officer (A.C.O) has been prescribed to be 50% from direct recruitment and remaining 50% by promotion from amongst the substantively appointed Consolidators.

**6.** The total appointment on 410 posts of A.C.O are from the direct recruitment and remaining 410 posts are by way of promotion. Rule 17 (1) of 1992 Rules, provides procedure for recruitment by promotion through the Department Selection Committee (DSC), comprising of (i) Consolidation Commissioner, U.P as Chairman; (ii) Additional

Consolidation Commissioner, U.P as Member; and (iii) Joint Director, Consolidation (Headquarters), U.P to be nominated by the Consolidation Commissioner as Member. Rule 17 (2) of 1992 Rules, provides that the appointing authority shall prepare eligibility list in accordance with the U.P Promotion by Selection (post outside purview of Public Service Commission) Eligibility List Rules, 1986 and place it before the Selection Committee along with their character rolls and other records of the candidate.

**7.** Rule 17 (3) of 1992 Rules provides that Departmental Selection Committee (DSC) shall consider the petitioner's case on the basis of the records referred in Rule 17 (2) and if it considers necessary, it may interview the candidates also. Rule 17 (4) provides that DSC shall prepare list of selected candidates, at the time of recruitment and forward the same to the appointing Authority.

**8.** Rule 22 of 1992 Rules, provides the seniority of persons substantively appointed in any category of posts shall be determined in accordance with the Uttar Pradesh Government Servants' Seniority Rules, 1991 (hereinafter referred to as "1991 Seniority Rules") as amended from time to time.

**9.** Thus the final seniority list of the Consolidators serving in the Department of Consolidation was issued vide Office memorandum dated 31.05.2022 issued by Respondent No. 3. This seniority list has been prepared in accordance with the provisions of 1991 Seniority Rules, after disposing of the objections filed by the incumbents against the tentative seniority list. The final seniority list was circulated by the Respondent No. 3 vide letter dated 01.06.2022 which is on record. The name of Petitioner finds place at Serial No. 48 of the seniority list.

**10.** It appears that the promotion of Consolidators on the post of A.C.O in the Consolidation Department have been delayed for considerable long time despite eligible Consolidators were in the department. Thus

Association of Consolidators preferred a Writ-A No. 3309 of 2023 (Pradeshik Chakbandikarta Sangh vs State of U.P and Others) seeking direction to the Respondent No. 3 to hold the meeting of Departmental Selection Committee for promotion from the post of Consolidators to the post of A.C.O.

**11.** This writ petition was disposed of by this Court vide judgment and order dated 23.05.2023 directing the Respondent No. 2 and 3 to complete the process of promotion of Eligible Consolidator to the post of A.C.O. within a period of two months from the date of judgment and order dated 23.05.2023. Since the directions of the court were not complied by the Respondent No. 2 and 3 within the stipulated time, the Association filed a Contempt Application (Civil) No. 2385 of 2023 (Pradeshik Chakbandikarta Sangh vs Mr. Sudhir Garg and Another). During the pendency of the Contempt Application several promotion of Consolidators were made to the next higher post of A.C.O and for remaining Consolidators, an undertaking was given on 10.10.2023 that appropriate exercise will be taken in respect thereof.

**12.** In the aforesaid promotion on the post of ACO it is alleged that several employees working on the post of Consolidators and who are Junior to the Petitioner were promoted on the post of A.C.O. and the Petitioner who was working on the substantive post of Consolidator and was initially appointed and confirmed on the post of Consolidation Lekhpal under 1978 Lekhpal Rules was left and superseded.

**13.** During pendency of the Contempt Application (Supra), the order dated 03.10.2023 was passed by the Respondent No. 3 addressed to the several Settlement Officer of Consolidations, wherein a list of several Consolidators was appended and the Concerned Settlement Officers were directed to examine the service records with respect to regularization of such Consolidators. The name of Petitioner finds mention at Serial No. 58 of the aforesaid list appended with order dated 03.10.2023 which is on

record as Annexure-11 to this Writ Petition. Since the petitioner was already confirmed hence he preferred an application dated 30.11.2023 addressed to Respondent No. 3 stating therein his source and nature of appointment. The petitioner has also indicated that there was no occasion for regularization and requested to consider his case for promotion on the post of A.C.O. In response to the aforesaid application dated 03.10.2023 written by Respondent No. 3, the Settlement Officer of Consolidation, Bijnor vide letter dated 08.11.2023 addressed to Respondent No. 3 submitted a reports of Consolidators including that of the Petitioner who was posted at Bijnor. In this regard, it is clearly stated that Petitioner was appointed on regular vacancy and inadvertently the term officiating was transcribed in the appointment order dated 11.09.1986 and also he recommended to regularise the Petitioner from the date of joining i.e from 12.09.1986. The Copy of letter dated 08.11.2023 is annexed as Annexure-13 to this Writ Petition.

**14.** In the meantime, the matter of promotion of consolidators to the higher post was placed in the meeting dated 16.01.2024 presided by the Respondent No. 2. One of the issues placed for discussion in the meeting was, as to whether services of those Consolidation Lekhpal who were appointed on Officiating basis / ad-hoc basis and have been confirmed on aforesaid post without being regularized and having been promoted on the post of Consolidator would be deemed to be regularized with retrospective effect. The aforesaid meeting presided by the Respondent No. 2 along with other members it was resolved In that meeting to ensure whether with respect of those Consolidators who were appointed on Officiating basis / ad-hoc basis, were appointed on the sanctioned post or not. If they were appointed on the sanctioned post, in such cases they shall be deemed to be regularized from the date of confirmation on their post. However, in respect of those who were not appointed on the substantive post, in their cases it was directed to identify such Officers who had given salary to such excess employees appointed on that post

and to initiate proceedings for recovery of salary so paid. Copy of minutes of meeting dated 16.01.2024 is annexed as Annexure-14 to this Writ Petition.

**15.** The relevant extract of the meeting so far as the case of the petitioner is concerned, is extracted below:-

"3- बिन्दु संख्या (1) यो संबंध में विचार-विमर्श के उपरान्त यह मत स्थिर किया गया कि जिन, चकबन्दीकर्तागण को चकबन्दी लेखपाल के मूल पद के सापेक्ष तदर्थ / स्थानापन्न नियुक्ति दी गयी है, उनके संबंध में यह सुनिश्चित कर लिया जाए कि विभाग में जितने पद सृजित थे, उनके सापेक्ष तदर्थ / स्थानापन्न रूप से नियुक्त लेखपालों को सम्मिलित करते हुए प्रदों की संख्या बढ़ रही है अथवा नहीं। यदि संख्या बढ़ रही है, तो इसके लिए ऐसे अधिसंख्य पद के सापेक्ष वेतन देने वाले अधिकारियों को चिन्हित कर उनसे वेतन वापस कराने की कार्यवाही की जाए।

यदि तदर्थ / स्थानापन्न की गयी नियुक्ति को मिलाकर सृजित पदों से अधिक संख्या नहीं हो रही है, तो ऐसे चकबन्दीकर्तागण को उनके मूल पद पर स्थायी होने की तिथि से Deemed to be regularized मान लिया जाए।"

**16.** Respondent no.3 vide letter dated 21.02.2024 sought report from several Settlement Officer of Consolidation with respect to Consolidators who were given appointment on post of Consolidation Lekhpal on ad-hoc / officiating basis. In response to this letter the Settlement Officer of Consolidation, Saharanpur, vide letter dated 04.03.2024 had submitted a report with respect to several Consolidators including that of the Petitioner stating therein that the Petitioner was appointed on vacant post of Consolidation Lekhpal through regular appointment and that he was appointed on the sanctioned post. The letters dated 21.02.2024 sent by Respondent No. 3 and reply dated 04.03.2024 by the Settlement Officer of Consolidation, Saharanpur, are collectively annexed as Annexure-15 to the Writ Petition.

**17.** The petitioner vide letter dated 05.12.2024 issued by Consolidation

Directorate, was called upon on 07.12.2024 at 11.00 AM along with service records in the Office of Respondent No. 3 for the purpose of promotion. In compliance thereof, the Petitioner appeared on 07.12.2024 along with copy of all relevant documents including his appointment order, confirmation order, promotion order on the post of Consolidator etc. and requested Respondent No. 3 to consider him for promotion on the post of A.C.O. However the petitioner was not considered and several Consolidators, who are junior to the Petitioner (placed at Serial No. 48 of Seniority List) have been promoted vide order dated 19.12.2024. Names of few of those Consolidators find mention at serial no. 97, 132, 252, 305, 398, 412, 413, 442, 446, 447, 449, 450, 451, 452, 453, 455, 456, 457, 728, 739, 772 and many more, of the seniority list who are junior to the petitioner have been promoted on the aforesaid promotional post of A.C.O vide order dated 19.12.2024. Copies of several orders dated 19.12.2024 whereby employees working on the post of Consolidators who are Junior to the Petitioner have been promoted as A.C.O superseding the petitioner are collectively annexed as Annexure- 17 to the Writ Petition.

**18.** Aggrieved by the inaction on part of Respondent No.3 the petitioner filed a Writ Petition which was registered as Writ-A No. 1782 of 2025 (Deva Nand Srivastava and Another Vs State of U.P. & others) which was disposed of vide order dated 14.2.2025 without entering into merits and directions was issued to respondent no.3 to consider and decide the representation of the petitioner within a period of six weeks from the date of receipt of a certified copy of the order was produced. The petitioner served the copy of the order dated 14.2.2025 along with representation dated 30.12.2024.

**19.** Upon the aforesaid representation, respondent no.3 called for a report from the Settlement Officer of Consolidation, Bijnor, which was duly submitted on 12.03.2025. However, vide the impugned order dated 09.10.2025, brought on record as Annexure No.1 to the writ petition,

respondent no.3 has rejected the representation of the petitioner on the ground that he had not been regularized on the post of Chakbandi Lekhpal and, therefore, was not found eligible for promotion to the higher post.

### **Submissions of the Petitioner**

**20.** The submission of learned counsel for the petitioner is that despite being fully eligible and entitled for promotion to the post of Assistant Consolidation Officer (ACO), the petitioner has not been granted promotion. On the contrary, several persons junior to him, whose names have been mentioned in paragraphs 39 and 40 of the writ petition, have already been promoted, thereby superseding the petitioner.

**21.** It is further submitted that the said persons were appointed on officiating/ad hoc as well as temporary basis. He submits that no third-party rights would be affected in case the petitioner is considered for promotion to the post of A.C.O.

**22.** It is further submitted that the petitioner is holding lien over the substantive post of Consolidator upon being confirmed in his services and has been granted one promotion, therefore, at this stage, his promotion to the higher post of A.C.O. cannot be denied on the grounds stated in the impugned order.

**23.** It is contended that, as per the decision taken in the meeting dated 16.01.2024 presided over by respondent no. 2, the services of the petitioner are deemed to be regularized. The Settlement Officer of Consolidation, Saharanpur vide his report dated 04.03.2024 addressed to respondent no. 3, has clearly stated that the petitioner was appointed against a vacant and sanctioned post of Consolidation Lekhpal through a regular appointment.

**24.** It is also submitted that several persons junior to the petitioner, as well as similarly situated employees appointed in the same manner, have been granted promotion despite there being no formal order of regularization in

their cases.

**25.** The petitioner has been continuously serving in the Consolidation Department without any break since his initial appointment on 11.09.1986, and his services have been duly confirmed on the post of Consolidator. If, prior to such confirmation, his services were not formally regularised by the department, the petitioner cannot be held responsible for the same. Moreover, in terms of the decision taken in the meeting dated 16.01.2024, his services are deemed to have been regularised.

**26.** It is thus contended that the petitioner has been treated differently and subjected to hostile discrimination, which is violative of Articles 14 and 16 of the Constitution of India.

**27.** The petitioner otherwise fulfills the eligibility criteria and are under the zone of consideration and as many as 80 vacancies on the post of ACO, in the Consolidation Department. Despite this, he has been illegally deprived of promotion, resulting in stagnation in his service.

### **Submissions of the Respondents**

**28.** Per contra learned Standing counsel while opposing the petition submitted that the petitioner was appointed on a substitute basis and cannot be regularized on the said post unless his appointment is first regularised under the U.P. Regularization of Ad hoc Appointments (On Posts within the Purview of the Public Service Commission) Rules, 1979. The four-member committee was constituted vide order dated 19.11.2024 under the joint chairmanship of the Finance Controller and the Joint Director (Consolidation). The committee afforded personal hearing to the incumbents, including the petitioner, who appeared and presented his case. However, the petitioner could not produce any record/document relating to his regularization.

**29.** Thereafter, the meeting of the Departmental Promotion Committee

(DPC) for promotion to the post of Assistant Consolidation Officer (ACO) from the post of Consolidator was held on 16.12.2024. The case of the petitioner was duly considered by the DPC, which, after due deliberation, found him ineligible for promotion on the ground that his appointment on the feeder post of Chakbandi Lekhpal was in a substitute capacity and his services had not been regularized. Consequently, his promotion was not granted.

**30.** Thus, the petitioner is not entitled to promotion to the higher post of Assistant Consolidation Officer (ACO).

### **Consideration by the Court**

**31.** Perused the record.

**32.** Perusal of the record shows that it is not in dispute that the petitioner was initially appointed on a temporary basis to the post of Consolidation Lekhpal on officiating basis vide order dated 11.09.1986. Thereafter, his services came to be confirmed on the said post by the Consolidation Lekhpal vide order dated 25.04.1991.

**33.** The petitioner was granted promotion to the higher post of Consolidator vide order dated 01.10.2008 issued by the District Magistrate/Deputy Director of Consolidation, Bijnor, wherein his name finds place at Serial No. 6. Subsequently, his services on the promoted post of Consolidator were also confirmed vide order dated 14.05.2012 issued by the District Magistrate, wherein his name appears at Serial No. 30. In the final seniority list of Consolidators, the name of the petitioner finds place at Serial No. 48.

**34.** Pursuant to the directions issued by this Court in Writ-A No. 3309 of 2023, several persons similarly situated to the petitioner, i.e., those initially appointed on officiating/ad hoc basis, were granted promotion. A letter dated 03.10.2023 contains two lists: the first list pertains to

Consolidators whose initial nature of appointment is not recorded in their service books, and the name of the petitioner does not find place therein. The second list, appended to another letter of the same date issued by the competent authority, contains the names of those incumbents whose services have been regularised. The name of the petitioner finds place at Serial No. 58 in the said list.

**35.** From the second list (at page 161 of the paper book), it is evident that persons at Serial Nos. 5 and 30, who are much junior to the petitioner and whose services are shown as not regularised, have been promoted. Further, persons at Serial Nos. 20, 24, 37, 69 and 126, who are also junior to the petitioner, have been promoted to the higher post. These facts have not been specifically denied in the counter affidavit filed by the State.

**36.** In response to the letter dated 3.10.2023, Respondent No. 3, vide Annexure-13, has categorically recommended the name of the petitioner. It has also been mentioned therein that the initial appointment of the petitioner dated 11.09.1986 was made against a substantive vacancy, and the word "officiating" was mentioned due to an error.

**37.** Further, a meeting was convened on 16.01.2024 under the chairmanship of Respondent No. 2 in the presence of various Consolidation Officers and the Under Secretary, Department of Personnel. In the said meeting, a decision was taken that the services of such incumbents who were initially appointed on ad hoc/officiating basis shall be deemed to be regularised from the date of their confirmation on the initial post, subject to the condition that the initial appointment was made against a sanctioned post.

**38.** Pursuant to the aforesaid decision, Respondent No. 3 sought reports from all Consolidation Officers for identifying incumbents appointed against sanctioned and non-sanctioned posts. The Settlement Officer Consolidation, in response to the letter dated 21.02.2024, submitted a report categorically stating that the petitioner was appointed against a

sanctioned regular vacant post. The letter dated 04.03.2024 issued by the Settlement Officer Consolidation, Saharanpur, is on record at page 174 of the paper book.

**39.** However, vide order dated 19.12.2024, several persons junior to the petitioner working on the post of Consolidator were promoted to the post of Assistant Consolidation Officer (ACO). Specific pleadings in this regard have been made in the writ petition. Some of such persons include Shri Rajesh Singh, Brijendra Singh, Mukesh Pundeer, Kamlesh Kumar, Vinay Kumar, Ambrish Kumar Shukla, Brijesh Yadav, Sushil Kumar, Santosh Kumar Arya, Hukum Singh, Vijay Veer Singh, Krishna Singh Rana and Jadi Singh.

**40.** A perusal of Annexure-1, by which the representation of the petitioner has been rejected, shows that the claim of the petitioner has been rejected on the ground that his initial appointment was on officiating basis and his services were not regularised. However, the record reveals that several similarly situated persons, who are junior to the petitioner, have been granted promotion to the post of ACO.

**41.** Pleadings to this effect have been made in paragraphs 39 and 40 of the writ petition along with a tabular chart. In the counter affidavit, the State in paragraph 38 has stated that such persons were found suitable for promotion as their appointments on the feeder post of Chakbandi Lekhpal were regular. However, in the rejoinder affidavit, the said averments have been specifically denied on the ground that no documentary proof, such as initial appointment orders, has been filed by the State to substantiate how their initial appointments differ from that of the petitioner.

**42.** It is not disputed that it was the duty of the respondent-department to consider and regularise the services of the petitioner, who was appointed against a substantive vacancy and has continuously discharged his duties for approximately 40 years. The petitioner was even granted promotion to the post of Consolidator on 01.10.2008.

43. The administrative lapse on the part of the respondents in not issuing appropriate regularisation orders cannot be permitted to operate to the prejudice of the petitioner at the fag end of his career. On the one hand, the respondents failed to regularise the services of the petitioner, and on the other hand, they seek to deny him further promotion on the ground that his services were not regularised. The respondents cannot be permitted to take advantage of their own inaction to the detriment of the petitioner.

### **Legal Position**

44. The law in this regard has been laid down by the Hon'ble Supreme Court in *Kusheshwar Prasad Singh vs. State of Bihar and others*, reported in (2007) 11 SCC 447. It has been held that one cannot be permitted to take undue and unfair advantage of his own wrong to gain favourable interpretation of law. It is sound principle that he who prevents a thing from being done shall not avail himself of the non performance he has occasioned. The relevant paragraphs 14, 15 and 16 of the said judgment are extracted below:-

*"14. In this connection, our attention has been invited by the learned counsel for the appellant to a decision of this Court in Mrutunjay Pani v. Narmada Bala Sasmal [AIR 1961 SC 1353] wherein it was held by this Court that where an obligation is cast on a party and he commits a breach of such obligation, he cannot be permitted to take advantage of such situation. This is based on the Latin maxim commodum ex injuria sua nemo habere debet (no party can take undue advantage of his own wrong).*

*15. In Union of India v. Major General Madan Lal Yadav [(1996) 4 SCC 127 : 1996 SCC (Cri) 592] the accused army personnel himself was responsible for delay as he escaped from detention. Then he raised an objection against initiation of proceedings on the ground that such proceedings ought to have been initiated within six months under the Army Act, 1950. Referring to the above maxim, this Court held that the accused could not take undue advantage of his own wrong. Considering the relevant provisions of the Act, the Court held that presence of the accused was an essential condition for the commencement of trial and when the accused did not make himself available, he could not be allowed to raise a contention that proceedings were time-barred. This Court (at SCC p. 142, para 28) referred to Broom's Legal Maxims (10th Edn.), p. 191 wherein it was stated:*

*"It is a maxim of law, recognised and established, that no man shall take advantage of his own wrong; and this maxim, which is based*

*on elementary principles, is fully recognised in courts of law and of equity, and, indeed, admits of illustration from every branch of legal procedure."*

*16. It is settled principle of law that a man cannot be permitted to take undueIt has been held that one cannot be permitted to take undue and unfair advantage of his own wrong to gain favourable interpretation of law. It is sound principle that he who prevents a thing from being done shall not avail himself of the non-he has occasioned. and unfair advantage of his own wrong to gain favourable interpretation of law. It is sound principle that he who prevents a thing from being done shall not avail himself of the non-performance he has occasioned. To put it differently, "a wrongdoer ought not to be permitted to make a profit out of his own wrong".*

**45.** In the case of **Ram Het Tewari vs State of U.P. and others reported in 2005 SCC OnLine All 1514** it has been held that contrary stand cannot be taken by the departments for regularizing the service of the employee appointed on the post of consolidation Lekhpal merely on account of usage of word officiating basis i.e. 'sthanapann' in the appointment letter where such an employee working on substantive vacancy and similarly situated employees have been regularized. Relevant paragraphs 3-9 of the judgment are extracted below:-

*"3. The sole ground for rejecting the claim of the petitioner is that the petitioner was appointed on an officiating basis and therefore, the Rules, namely the U.P. Regularisation of Ad-hoc Appointments (On Posts Outside the Purview of the Public Service Commission) Rules, 1979 (hereinafter referred to as the Rules of 1979) are not applicable to a case of an officiating employee, inasmuch as, the Rules of 1979, as amended from time to time only applies to an ad-hoc appointee.*

*4. In order to appreciate the submissions made at the Bar, Rule 4 of the Rules of 1979 is quoted hereunder:*

*"4. Regularisation of ad-hoc appointments— (1) Any person who—*

*(i) was directly appointed on ad-hoc basis on or before June 30, 1998 and is continuing in service as such on the date of commencement of the Uttar Pradesh Regularisation of Ad-hoc Appointments (On Posts Outside the Purview of the Public Service Commission) (Third Amendment) Rules, 2001.*

*(ii) Possessed requisite qualifications prescribed for regular appointment at the time of such ad-hoc appointment, and*

*(iii) has completed or, as the case may be, after he has completed three years' service shall be considered for*

*regular appointments in permanent or temporary vacancy, as may be available, on the basis of his record and suitability before any regular appointment is made in such vacancy in accordance with the relevant rules or orders."*

5. *The aforesaid Rules indicate that any person who was appointed 'on an ad-hoc basis' on or before 30-6-1998, who possessed the requisite qualification for regular appointment and who had completed three years of continuous service, would be considered for a regular appointment in a permanent or temporary vacancy, as may be available. In the present case, there is no dispute with regard to the fact that the petitioner was working on a substantive vacancy, as is clear from the order of appointment itself. The only question, which arises for consideration is whether the petitioner being appointed on an officiating basis could be included in the definition of the word 'Ad-hoc'. The legal glossary defines the word 'officiating' as under—*

*'Acting in an official capacity, filling a position temporarily' and the word "Ad-hoc" has been defined as "made, established, acting or concerned with a particular end or purpose".*

6. *Therefore, an ad-hoc appointment is for a particular purpose or for a limited purpose. The word 'officiating' also means to fill up a position temporarily, which means to fill a post for a limited period.*

7. *Normally, when a person officiates on a post, he does only for a limited period in addition to the post which he holds, that is to say, that an incumbent retains his original post and in addition to it he officiates on another post. In the present case, the petitioner has been appointed afresh for the first time on the post of Consolidation Lekhpal. The petitioner was not officiating on this post in addition to another post. Therefore, the usage of the word 'Sthanapann' in the appointment letter has to be understood in the manner in which the appointment was made. In my view, the word 'Sthanapann' should be read as if it was made for a limited period on an ad-hoc basis.*

8. *In Arun Kumar Chatterjee v. South Eastern Railway, ((1985) 2 SCC 451 : AIR 1985 SC 482). the Supreme Court explained the meaning of the word 'Officiating' as generally used in service parlance.*

*"According to its ordinary connotation, the word 'Officiating' is generally used when a servant having held one post permanently or substantively, is appointed to a post in a higher rank, but not permanently or substantively, while still retaining his lien on his substantive post i.e. officiating in that post till his confirmation. Such officiating appointment may be made when there is a temporary vacancy in a higher post due to the death or retirement of the incumbent or otherwise. In contrast, the word 'temporary' usually denotes a person appointed in the civil service for the first time and the appointment is not permanent but temporary i.e. for the time being, with no right to the post"*

9. *The learned counsel for the petitioner has invited my attention to Annexures-11 and 12 to the writ petition where, in similar situation, another employee was appointed on an officiating basis*

*and thereafter, the respondents had regularised his services. This fact has not been controverted by the respondents. Consequently, in my view, it is not open to the respondents to take a contrary stand. A uniform policy has to be adopted and it is not open to the respondents to pick and choose at their own convenience. In view of the aforesaid discussions, the writ petition is allowed and impugned order dated 15-5-2004 is quashed. The petitioner is entitled to the claim of regularisation. Consequently, a mandamus is issued directing the respondent No. 3 to consider the petitioner on the post of Consolidation Lekhpal by issuing consequential orders for the regularisation of his service within six weeks from the date a certified copy of this judgment is produced before him. It is made clear that if the petitioner was not found to be working between the period 15-5-2004 till the date of the order of the regularisation, he shall not be paid the salary/wages, for that period but the said period would be included for calculating the length of service and other consequential benefits of service that may be available to the petitioner."*

**46.** In paragraph 7 of the above judgement the Court has already considered an identical controversy and interpreted the word "*sthananpann*" used in the appointment letter. It has been held that the said expression is to be understood as indicating that the appointment was made for a limited period on an ad hoc basis.

**47.** In *State of U.P. and others vs. Pyare Lal (Special Appeal Defective No. 350 of 2025)*, as well as in *State of U.P. and 4 others vs. Gokil Ram (Special Appeal Defective No. 358 of 2025)*, it has been categorically held that regularisation of service is preceded by confirmation in service. Once the services are confirmed, without there being any dispute as to its legality order for regularisation is unwarranted.

**48.** In *Syed Mohammed Jaki vs. State of U.P. and others (Writ-A No. 13084 of 2025)*, this Court, while relying upon the aforesaid judgments, has held as follows:

*"12. It is not the case of opposite parties that the orders on confirmation and promotion granted to petitioner were ever withdrawn or recalled at any time or that he has not rendered continuous satisfactory service since 1987 till 2025.*

*13. The aforesaid aspect has been considered by Division Bench of this Court in the cases of Pyare Lal (supra) and Gokil Ram (supra) in which benefits was*

*granted primarily on the ground that such reason for denying pensionary benefits cannot be raised at such a belated stage after superannuation of the employee. The relevant portion of judgment rendered in the case of Pyare Lal (supra) is as follows:*

*"5. After hearing the parties what comes out is that the respondent herein was appointed on adhoc basis as Consolidation Lekhpal on 08.08.1989. There is an order on record dated 29.09.1998 veracity of which has not been doubted by the appellant, according to which, the services of respondent- Pyare Lal were confirmed on the post of Consolidation Lekhpal w.e.f. 19.08.1991.*

*6. We asked the learned counsel for parties as to where is the order of regularization which should have preceded the order of confirmation, none could place it before us, but it is not in dispute that by the order dated 29.09.1998, the services of Pyare Lal were confirmed on the aforesaid post w.e.f. 19.08.1991. In fact, from the order dated 20.02.2025 which was impugned before the writ court, it comes out that after the confirmation he was promoted to the post of Consolidator on 01.02.2001 and confirmed on the said promotional post on 14.05.2011. Thereafter, he retired voluntarily as Consolidator on 31.03.2024. The claim of the respondent to pensionary benefits was rejected on the ground that his services had never been regularized, therefore the pensionary benefits were illegally paid to him. However, while passing the said order, the Consolidation Commissioner lost sight of the fact that regularization precedes confirmation and there is no dispute that respondent's services were confirmed by the order dated 29.09.1998 w.e.f 19.08.1991. In the order dated 20.02.2025, we do not find any such*

*finding that the order of confirmation was fraudulent or illegally passed. Moreover, the said order also mentions that the Additional Chief Secretary, on 05.02.2024, had treated the services as deemed to have been regularized accordingly pension of some other officers was paid but respondent was not paid the same.*

*7. It being so, we fail to understand as to how at such belated stage, such a plea could be raised by the State authorities denying pensionary benefits to the respondent.*

*9. Learned Single Judge apart from quashing the order dated 20.02.2025 has also granted relief no.2. As regards, the validity of order dated 20.02.2025, for the reasons given hereinabove, we sustain the judgment of writ court in so far as quashing the order dated 20.02.2025 is concerned. However, we find it difficult to sustain the said judgment so far as relief no.2 i.e. for counting the respondent's adhoc services rendered from 19.08.1989 to 19.08.1991 for the purpose of pensionary benefits is concerned, in view of the U. P. Qualifying Service For Pension and Validation Act, 2021, the vires of which has been challenged and is pending before this Court.*

*11. In view of the above discussions, we modify the judgment of the writ court to the extent it provides for addition of the ad-hoc services of the respondent while calculating the qualifying services for pensionary benefits/post retiral benefits, meaning thereby, the said services shall not be counted. The post retiral dues shall now be paid accordingly as may be permissible in law. The post retiral dues shall be paid within three months, if there is no other legal impediment.*

*The services rendered w.e.f. 19.08.1991 shall be considered for the aforesaid pensionary benefits and not those rendered prior to."*

14. *The said reasoning has been followed in the case of Gokil Ram (supra).*

15. *It is admitted that the aforesaid judgments have attained finality with benefit also being accorded to the aforesaid persons.*

16. *Although, learned State counsel has submitted that the aforesaid judgments would be inapplicable in the present facts and circumstances since aforesaid persons had not been appointed in leave vacancy but in the considered opinion of this Court, the aforesaid factor would be irrelevant once the reason for denying pensionary benefits were the same.*

17. *In view of discussion made here-in-above particularly the fact that benefits of confirmation and promotion granted to petitioner having not been denied, benefit thereof is required to be granted to petitioner particularly in view of Article 370 of Civil Service Regulations which indicates that continuous temporary or officiating service under the Government of U. P. following without interruption by confirmation shall qualify for pensionary benefits. The provisions of Article 370 of Civil Service Regulations is as follows:-*

*"370. Continuous temporary or officiating service under the Government of Uttar Pradesh following without interruption by confirmation in the same or any other post shall qualify except- (1) Periods of Temporary or officiating service in non-pensionable establishment; (2) Periods of service in work charged establishment; and (3) Periods of service in the post paid from contingencies."*

18. *Obviously the exceptions indicated in Article 370 of the Civil Service Regulations would be inapplicable in case of petitioner whose services admittedly stood confirmed with effect from 01.03.1991."*

**49.** The Hon'ble Supreme Court in **Vinod Kumar and others vs. Union of India and others, reported in (2024) 9 SCC 327**, has held that where an employee has rendered long and continuous service for a substantial period of time, and has also been granted promotion, without any indication of the temporary nature of his initial appointment throughout his service tenure, such an employee cannot be denied the rights accrued to him merely on account of the terms of his initial appointment. Procedural technicalities cannot be invoked to defeat the substantive rights of employees that have accrued over a considerable period through continuous service.

## **Conclusion and Directions**

**50.** In view of the aforesaid settled proposition of law, and considering the undisputed facts of the present writ petition, it is apparent that although the petitioner was initially appointed on an "officiating" basis, the said term, in identical circumstances, has been interpreted by this Court in **Ram Het Tiwari (supra)** to mean "ad hoc" rather than "officiating". Ordinarily, officiating implies holding a post temporarily in addition to one's substantive post; however, in the present case, the petitioner was appointed for the first time on the post of Consolidation Lekhpal.

**51.** Moreover, Opposite Party No. 2, in its communication has admitted that the use of the word "officiating" in the appointment letter was inadvertent. Therefore, in view of such admission as well as the judicial interpretation in **Ram Het Tiwari (supra)**, the term "officiating" is liable to be read as "ad hoc".

**52.** So far as the contention of the respondents that the petitioner's services were not regularised and, therefore, he cannot be considered for further benefits is concerned, the same is misconceived. In light of the law laid down by this Court in **Pyare Lal, Gokil, and Syed Mohd. Jakil (supra)**, it is well settled that regularisation is implicit in confirmation. Once an employee's services are confirmed, and such confirmation is not

under challenge on grounds of illegality, the same attains finality.

**53.** In the present case, the petitioner's services on the posts of Consolidation Lekhpal as well as Consolidator were duly confirmed. Therefore, the ground taken in the impugned rejection (Annexure-1), to the effect that the petitioner was appointed on an officiating basis and his services were not regularised, is wholly untenable and liable to be set aside.

**54.** Accordingly, the writ petition succeeds and is **allowed**.

**55.** A writ in the nature of **certiorari** is issued quashing the impugned order dated 09.10.2025 contained in Annexure-1 to the writ petition.

**56.** Further, a writ in the nature of **mandamus** is issued directing the respondents to consider case of the petitioner for promotion to the post of Assistant Consolidation Officer (ACO) with effect from the date his juniors were promoted, along with all consequential benefits, including seniority, within a period of three months from the date of production of a certified copy of this order.

**May 11, 2026**  
Madhu J.R/P.S

**(Karunesh Singh Pawar,J.)**