



2026:AHC:186360

RESERVED
AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 11062 of 2026

Dileep Kumar Yadav and 3 others

.....Petitioner(s)

Versus

State of U.P. and 3 others

.....Respondent(s)

Counsel for Petitioner(s)	: Siddharth Khare, Sr. Advocate
Counsel for Respondent(s)	: C.S.C., Sanjay Kumar Singh

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. Heard learned counsel for the petitioners, Mr. Sanjay Kumar Singh, learned counsel for respondent-BSA and Mr. Shailendra Singh, learned Standing Counsel for the State-respondent.

A. The present writ petition has been filed seeking a writ of certiorari for quashing the order dated 30.04.2025 passed by the Basic Shiksha Adhikari, Ballia, as well as the order dated 29.05.2026 passed by the Secretary, Uttar Pradesh Basic Education Board, Prayagraj.

B. A further prayer has been made for issuance of a writ of mandamus directing the respondents to reinstate the petitioners on the post of Assistant Teacher in the Junior Basic Schools of District Ballia, permit them to discharge their duties, and release their regular monthly salary. The petitioners have also prayed for grant of all consequential benefits flowing from their continuity in service, including fixation of seniority and payment of arrears of salary for the period during which they have been deprived of the same.

2. Learned counsel for the petitioners submits that, pursuant to the Government Order dated 01.12.2018, applications were invited for appointment to the post of Assistant Teacher against 69,000 vacancies in Junior Basic Schools established and administered by the Uttar Pradesh Basic Education Board. The recruitment process was accordingly initiated for filling up the aforesaid posts of Assistant Teachers. The last date prescribed for submission of the application forms was 22.12.2018.

3. Under the aforesaid recruitment process, possession of a two-year BTC training certificate was prescribed as one of the requisite qualifications for appointment to the post of Assistant Teacher.

4. Learned counsel for the petitioners further submits that each of the petitioners had been duly selected for undergoing the two-year BTC training course for the 2015-16 batch. However, owing to the circumstances attending the commencement of the training, the said course was actually conducted during the academic session 2017–2019.

5. Learned counsel for the petitioners further submits that, while submitting their applications pursuant to the aforesaid recruitment process, the petitioners had correctly disclosed their marks as recorded in their respective mark-sheets, wherein they were shown to have failed in the BTC examination. Despite such disclosure, the applications submitted by the petitioners were duly accepted by the competent authority, having been found to be in order, and admit cards were thereafter issued to them for appearing in the Assistant Teacher Recruitment Examination, 2019, scheduled to be held on 06.01.2019.

6. Learned counsel for the petitioners further submits that all the petitioners duly appeared in the Assistant Teacher Recruitment Examination, 2019 (hereinafter referred to as the “ATRE-2019”)

and were declared successful upon declaration of the result in the first week of May, 2020.

7. Learned counsel for the petitioners submits that, upon declaration of the result of the ATRE-2019, the State Government issued a Government Order dated 13.05.2020 inviting applications for appointment to the post of Assistant Teacher from amongst the candidates who had qualified the said examination. For the aforesaid purpose, no separate applications were required to be filled up. Instead, the online application already filled at the time of consideration of the Assistant Teacher Recruitment Examination, as available on the official website, was required to be further updated by furnishing the remaining details, including the preference for the district of appointment.

8. Learned counsel for the petitioners submits that, upon declaration of the result of the ATRE-2019, the State Government issued a Government Order dated 13.05.2020 inviting applications for appointment to the post of Assistant Teacher from among the candidates who had qualified in the said examination. For this purpose, no separate applications were required to be submitted. Instead, the online application already submitted at the time of consideration for the Assistant Teacher Recruitment Examination, as available on the official website, was required to be updated by furnishing the remaining details, including the preference for the district of appointment. A controversy subsequently arose with regard to discrepancies between the details furnished in the application form and the documents produced during counselling. To rectify such discrepancies, the State Government issued Government Orders dated 04.12.2020 and 05.03.2021, as well as a circular dated 31.03.2021. Under the said orders and circular, where there was an increase in marks on account of scrutiny, re-evaluation or back-paper results, as compared to the marks indicated in the

application form, such increase was not to be treated as an impediment to granting appointment, and the increased marks were to be taken into account for that purpose. The validity of the aforesaid Government Order was upheld by the Supreme Court by judgment dated 08.04.2021 passed in Writ Petition (Civil) No. 322 of 2021, Jyoti Yadav and another v. State of U.P. and others. In the aforesaid list, only the name of petitioner no. 4 was included against Serial No.418, pursuant to which petitioner no. 4 submitted her joining before the District Basic Education Officer, Ballia, on 19.10.2020. Subsequently, the Basic Shiksha Adhikari, Ballia, issued an order dated 26.10.2020 cancelling the selection and appointment of petitioner no. 4.

9. Learned counsel for the petitioners further submits that, in the final select list published by the State authorities, all the petitioners were shown as finally selected for appointment and were allotted District Ballia. Pursuant to the counselling conducted in furtherance of the said selection, an appointment order dated 16.10.2020 was issued by the Basic Shiksha Adhikari, Ballia, containing the names of the candidates selected for appointment. The said order, however, contained the name of petitioner no. 4 alone, whose name figured at serial no. 418 therein. Pursuant thereto, petitioner no. 4 submitted her joining before the Basic Shiksha Adhikari, Ballia, on 19.10.2020.

10. It is further submitted that, subsequently, by order dated 26.10.2020, the Basic Shiksha Adhikari, Ballia, cancelled the selection and appointment of petitioner no. 4. Thereafter, similarly worded orders dated 24.01.2021 and 27.01.2021 were passed in respect of the other petitioners, whereby their respective selections/candidatures were cancelled and appointment was declined. The precise dates of the orders concerning each petitioner shall be referred to from the record.

11. The principal ground taken in the aforesaid orders was that the result of the back-paper examination of the fourth semester of the BTC course had been declared in the year 2019 and, consequently, according to the respondents, the petitioners did not possess the requisite qualification within the prescribed cut-off date and were, therefore, ineligible for consideration in the recruitment in question.

12. A controversy subsequently arose with regard to discrepancies between the details furnished in the application form and the documents produced during counselling. To rectify such discrepancies, the State Government issued Government Orders dated 04.12.2020 and 05.03.2020, as well as a circular dated 31.03.2021. Under the said orders and circular, where there was an increase in marks on account of scrutiny, re-evaluation or back-paper results, as compared to the marks indicated in the application form, such increase was not to be treated as an impediment to granting appointment, and the increased marks were to be taken into account for that purpose. The validity of the aforesaid Government Order was upheld by the Supreme Court by judgment dated 08.04.2021 passed in Writ Petition (Civil) No. 322 of 2021, Jyoti Yadav and another v. State of U.P. and others.

13. Learned counsel for the petitioners submits that, in terms of the aforesaid Government Order, the petitioners became eligible for consideration for appointment to the post of Assistant Teacher, notwithstanding their having initially been declared unsuccessful in the BTC examination. It is submitted that the petitioners subsequently appeared in the back-paper examination and were declared successful therein, pursuant to which BTC certificates were duly issued in their favour on 07.08.2019. Consequently, in view of the specific stipulations contained in the aforesaid

Government Order, the petitioners were eligible to be considered for appointment in the recruitment in question.

14. Learned counsel for the petitioners further submits that, pursuant to the Government Order dated 05.03.2021, the Basic Shiksha Adhikari, Ballia, proceeded to issue an appointment order dated 12.03.2021, whereby appointment was accorded to the five candidates named therein, including the petitioners. Pursuant thereto, the petitioners submitted their respective joining and commenced discharging their duties as Assistant Teachers at different Primary Schools in District Ballia. The petitioners were permitted to continue in service and were also paid their regular salary.

15. It is submitted that, after permitting the petitioners to enter and continue in service for a considerable period, the Basic Shiksha Adhikari, Ballia, surprisingly issued notices dated 24.03.2025, once again calling in question their eligibility to participate in the ATRE-2019 examination. By the said notices, the petitioners were required to appear before the Basic Shiksha Adhikari on 28.03.2025 and explain their position in respect of the alleged deficiency in their eligibility.

16. It is submitted that the principal objection reflected in the show-cause notice was that the BTC training certificates of the petitioners had been issued on 07.08.2019, which was subsequent to 22.12.2018, i.e., the last date prescribed for submission of applications pursuant to the recruitment process. The petitioners appeared before the Basic Shiksha Adhikari in response to the aforesaid notices and submitted their respective written representations, duly supported by relevant documents.

17. Thereafter, by order dated 30.05.2025, the Basic Shiksha Adhikari, Ballia, directed termination of the services of five

similarly situated employees, including the four petitioners herein. Aggrieved by the said order, the four petitioners approached this Court by filing Writ-A No. 8469 of 2025, Dileep Kumar Yadav v. State of U.P. and 3 others. The said writ petition was finally disposed of by order dated 18.08.2025, permitting the petitioners to avail the remedy of filing an appeal/representation before the Secretary, Uttar Pradesh Basic Education Board, Prayagraj.

18. In compliance with the aforesaid order, the petitioners submitted their appeal/representation dated 25.08.2025 before the Secretary, Uttar Pradesh Basic Education Board, Prayagraj. The said authority, however, by the impugned order dated 29.05.2026, rejected the appeal/representation preferred by the petitioners, holding the same to be devoid of merit, and affirmed the order whereby their services had been terminated. It is against the aforesaid orders that the present writ petition has been instituted.

19. The impugned orders further place reliance upon the following judgments, which, according to the respondents, govern the controversy in issue:-

- (i) the judgment dated 09.06.2020 passed by this Court in Writ-A No. 4127 of 2020, Devendra Singh and others v. State of U.P. and others;
- (ii) the judgment dated 24.03.2025 passed by this Court in Writ-A No. 849 of 2021, Preeti Jatav and others v. State of U.P. and others; and
- (iii) the judgment dated 15.05.2025 rendered by the Division Bench in Special Appeal No. 350 of 2025, Preeti Jatav and others v. State of U.P. and others.

20. The aforesaid decisions have been relied upon by the authorities while examining the eligibility of the petitioners and the effect of declaration of their BTC back-paper results subsequent to the last date prescribed for submission of the application forms.

21. The impugned orders have been assailed, inter alia, on the following grounds:

A. Because the impugned orders have been passed in an arbitrary, discriminatory and legally unsustainable manner, without due consideration of the material facts and circumstances relevant to the petitioners' cases.

B. Because the petitioners were duly selected through a regular recruitment process and were thereafter appointed in accordance with law. Having been validly appointed and permitted to continue in service, their services could not have been terminated in the manner adopted by the respondents, particularly in the absence of any proved misconduct attributable to them. It is submitted that no allegation of misconduct whatsoever has been levelled against the petitioners. The impugned orders, therefore, suffer from a manifest non-application of mind to the nature and status of the petitioners' appointments.

C. Because no disciplinary proceedings of any nature have been initiated against the petitioners. No charge-sheet was served upon them, nor was any departmental inquiry conducted in accordance with the procedure prescribed by law. Consequently, the impugned orders, insofar as they terminate the petitioners' services without following the procedure prescribed for such action, are vitiated by a violation of the settled principles governing termination from service and the principles of natural justice.

D. Because the impugned orders rely upon a report dated 08.12.2025, purportedly submitted by the Basic Shiksha Adhikari, Ballia, a copy of which was never furnished to the petitioners. The petitioners were thereby deprived of an effective opportunity to examine, controvert or respond to the material relied upon against them. Reliance upon such undisclosed material, without affording the petitioners an opportunity of being heard, renders the decision-making process ex parte and contrary to the fundamental requirements of natural justice.

E. Because the Basic Shiksha Adhikari, Ballia, was fully cognizant of the relevant facts and circumstances relating to the petitioners' eligibility and selection at the time of their appointment. Indeed, the same authority had earlier examined the matter while passing orders cancelling the petitioners' selection/candidature, including the orders dated 26.10.2020, 24.01.2021 and 27.01.2021, and was thus in possession of the relevant records and material pertaining to their qualification and eligibility. It is submitted that the petitioners neither suppressed nor concealed any material fact at any stage of the recruitment process, nor did they resort to any misrepresentation, fraud or manipulation of documents for securing their appointment. If, despite being fully apprised of the relevant facts, the competent authorities proceeded to select and appoint the petitioners and thereafter permitted them to discharge their duties and receive salary, the petitioners cannot be made to suffer for any error, omission or lapse attributable to the respondents themselves. The impugned orders, having failed to take into consideration these material circumstances and having proceeded mechanically to terminate the petitioners' services without any finding of fraud, misrepresentation or concealment on their part, suffer from arbitrariness, non-application of mind and consequential violation of the principles of fairness in administrative action.

F. Because the impugned action of the respondents is ex facie contrary to the departmental clarifications and Government Orders issued by the State Government governing the recruitment in question. Pursuant to the aforesaid Government Orders, candidates who had initially been declared unsuccessful in the BTC examination were afforded an opportunity to avail the remedies of scrutiny, re-evaluation and back-paper, and the revised result, upon declaration, was expressly required to be taken into consideration for determining their eligibility and candidature. The petitioners had availed the opportunity so provided, appeared in the back-paper examination and were thereafter declared successful, whereupon their revised result and BTC certificates were duly issued. The respondents, having proceeded to consider the

petitioners' candidature in the light of the aforesaid Government Orders and having ultimately appointed them, could not subsequently disregard the revised result and proceed on the basis of their initial unsuccessful result. The impugned orders, having failed to give effect to the binding departmental instructions and the applicable Government Orders, and having proceeded on a premise contrary thereto, are consequently vitiated by non-application of mind and are liable to be set aside.

G. Because similarly situated candidates, namely, Atul Kumar Pandey and Shailpi Singh, who are serving as Assistant Teachers in District Aligarh and District Kannauj, respectively, had also initially been declared unsuccessful in the BTC examination and were subsequently declared successful on the basis of their back-paper results. Their candidature and appointments have nevertheless been accepted and they have been permitted to continue in service.

22. The petitioners, being similarly circumstanced, could not have been singled out for adverse treatment by the respondents without any distinguishing circumstance having been brought on record. The differential treatment meted out to the petitioners, despite their cases being founded upon an identical factual and legal matrix, is manifestly discriminatory and violative of the principle of equality enshrined under Article 14 of the Constitution of India.

23. In view of the foregoing facts and circumstances, and having regard to the aforesaid grounds, the impugned orders cannot be sustained in law and are, accordingly, liable to be set aside.

24. Learned counsel appearing for the respondent-Basic Shiksha Parishad, on the other hand, submits that, for the purpose of direct recruitment against 69,000 posts of Assistant Teachers, the Government issued guidelines dated 01.12.2018. Paragraph 4(1) thereof specifically provided that candidates who had passed the requisite /BTC training could apply for the Teachers Selection Examination, 2019. Pursuant thereto, an advertisement was issued

on 05.12.2018, prescribing the period for registration from 06.12.2018 to 22.12.2018 up to 6:00 p.m.

25. It is submitted that, subsequently, discrepancies were noticed in the marks obtained, dates of issuance and roll numbers reflected in the marksheets relating to the fourth semester of the BTC training examination furnished by the petitioners. Consequently, show-cause notices were issued to them, requiring them to produce their original BTC training certificates and to explain the discrepancies noticed in the documents submitted by them. According to the respondents, the petitioners had obtained appointment by suppressing material facts and by relying upon documents which did not establish possession of the requisite qualification as on the last date prescribed for submission of applications. Their appointments, therefore, were contrary to the terms and conditions governing the Teachers Selection Examination, 2019.

26. Learned counsel submits that petitioner No. 4 was issued an appointment letter on 16.10.2020 and his name appeared at Serial No. 418 in the list of selected candidates. However, upon verification of his educational credentials, it was found that he had not successfully completed the fourth semester of the BTC training examination within the prescribed period. Consequently, his selection was cancelled by order dated 24.01.2021. Similarly, petitioner No. 1 had also failed in the fourth semester of the BTC training examination, 2018, and his selection was accordingly cancelled by order dated 24.01.2021. Petitioner Nos. 2 and 3 had likewise failed in the fourth semester BTC examination, 2018, and their selections were cancelled by orders dated 22.01.2021 and 27.01.2021, respectively.

27. It is further submitted that the issue involved in the present petitions is no longer *res integra*. Learned counsel has placed

reliance upon the judgment of this Court in Writ-A No.4127 of 2020, Devendra Singh and 7 Others v. State of U.P. and others, as well as Writ-A No.849 of 2021, Preeti Jatave and 6 Others v. State of U.P. and 6 Others, which were dismissed by order dated 24.03.2025.

28. Learned counsel further submits that the advertisement itself made it unequivocally clear that the last date for submission of applications was 22.12.2018. The petitioners, however, relied upon marksheets of the fourth semester of the BTC examination which had been issued subsequent to the said cut-off date. Thus, the documents relied upon by the petitioners themselves demonstrate that they had not acquired the requisite qualification by 22.12.2018. The subsequent issuance of the marksheets could not retrospectively confer eligibility upon the petitioners as on the last date prescribed in the advertisement.

29. It is, therefore, contended that, on the crucial date, namely, 22.12.2018, the petitioners did not possess the requisite qualification and were consequently ineligible to participate in the selection process. Their subsequent selection and appointment, being contrary to the express terms of the advertisement, were liable to be cancelled. The appeals preferred by the petitioners against the orders of cancellation were, accordingly, rejected by respondent No. 3.

30. Learned counsel has further placed reliance upon the judgment of this Court in Anjali Singh v. State of U.P. and 8 Others, Writ-A No.9826 of 2021, decided on 05.10.2021, wherein, according to him, a similar controversy arose and the writ petition was dismissed. It is submitted that this Court, while dismissing the said petition, declined to grant relief to a candidate who did not

possess the requisite qualification within the period prescribed under the advertisement.

31. Having bestowed anxious consideration upon the rival submissions advanced by learned counsel for the parties and having perused the material brought on record, this Court is of the considered view that the challenge laid by the petitioners to the impugned orders does not merit acceptance.

32. The foundational fact which remains undisputed is that, on the last date prescribed for submission of applications for the recruitment in question, the petitioners had not successfully completed the requisite BTC training. Their BTC qualification was acquired only upon declaration of the result of the back-paper examination and issuance of the consequential certificates on 07.08.2019. The subsequent acquisition of the requisite qualification, however bona fide it may have been, cannot efface the eligibility requirement as it existed on the determinative date prescribed under the recruitment notification.

33. The circumstance that the petitioners disclosed their marks correctly in the application forms, or that their applications were accepted and admit cards were subsequently issued, cannot, by itself, confer an indefeasible right of appointment upon candidates who did not possess the prescribed qualification within the stipulated time. An erroneous acceptance of an application, issuance of an admit card, declaration of result, or even subsequent appointment cannot operate as an estoppel against the competent authority in the matter of enforcement of the statutory eligibility conditions. Eligibility is required to be tested in accordance with the governing recruitment conditions and not by the consequences flowing from an administrative omission or error.

34. Equally, the subsequent issuance of appointment orders and the petitioners' continuance in service cannot convert an otherwise ineligible candidature into a legally valid one. The doctrine of legitimate expectation cannot be invoked to perpetuate an appointment which is contrary to the prescribed eligibility conditions, nor can the plea of long continuance in service furnish an independent source of eligibility where the foundational qualification was absent at the relevant stage of recruitment.

35. The reliance placed by the petitioners upon the Government Orders concerning scrutiny, re-evaluation and back-paper results does not advance their case beyond the permissible ambit of those instructions. Such orders cannot be construed as obliterating the essential eligibility condition prescribed for participation in the recruitment process unless they expressly and unambiguously provide that a qualification acquired after the prescribed cut-off date would relate back to the date of the original application. No such legal consequence can be inferred merely from the fact that the revised result was subsequently taken into consideration.

36. The plea of discrimination based upon the continuance of certain other persons said to be similarly situated is also of no avail. Article 14 of the Constitution does not countenance the invocation of negative equality. An illegality, if any, committed in favour of another candidate cannot furnish a juridical foundation for claiming repetition of the same illegality. Before a plea of discrimination can succeed, the petitioner must establish parity in all material particulars and a corresponding legal entitlement; mere similarity of circumstances, divorced from the governing eligibility conditions, is insufficient.

37. The contention that the petitioners could be removed only after institution and conclusion of disciplinary proceedings is

equally misconceived. The action impugned herein is not founded upon any allegation of misconduct committed by the petitioners in the course of their service. The termination of their engagement proceeds from the discovery that the petitioners did not satisfy the prescribed eligibility condition at the relevant stage of recruitment. Where the very foundation of appointment is found to be legally defective, the question of conducting a disciplinary enquiry for establishing misconduct does not arise merely because the candidates had, in the meantime, entered service.

38. This Court is conscious of the fact that the petitioners were permitted to discharge duties and were paid salary for a considerable period. Such circumstances undoubtedly evoke sympathy; however, equitable considerations cannot be permitted to eclipse the statutory requirements governing public employment. The constitutional obligation to maintain purity, transparency and uniformity in public recruitment must prevail over individual equities founded upon an appointment which cannot be sustained against the governing eligibility criteria.

39. Consequently, this Court finds no manifest illegality, jurisdictional infirmity or perversity in the impugned orders warranting interference in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India. The petitioners have failed to establish any enforceable legal right to continue in service notwithstanding the absence of the requisite qualification on the material date.

40. The controversy in question has been dealt in the case of **Preeti Jatave And 6 Others vs. State of U.P. And 6 Others, in Writ A No.849 of 2021, decided on 24.03.2025**, wherein the Court has dismissed the writ petition with the observation that the petitioners were neither qualified by last date of submission of form nor they

are entitled for benefit of any negative quality and argument of arbitrariness on basis of negative quality. In the aforesaid case of **Preeti Jatave (supra)**, the petitioners therein were not qualified at the time of filling the form and had passed the relevant examination by giving back paper.

41. Against the aforesaid order passed by learned Single Judge, **Special Appeal No.350 of 2025 (Preeti Jatave And 5 Others vs. State of U.P. And 7 Others)**, was filed, which has been dismissed vide order dated 15.05.2025. In the Special Appeal the Government order dated 05.03.2021 merely explains that the applicants who have made application would not be prejudiced on account of any act of the examination body/University later in point of time. This action also cannot be construed as a decision extending the last date fixed for making of the application form.

42. Similarly, in the case of **Prateeksha Kumari vs. State of U.P. And 3 Others, in Writ A No.19023 of 2021**, the writ petition was dismissed. In the aforesaid writ petition, the petitioner was admittedly failed and had passed after giving back paper. Hence, the petitioner was not qualified as on last date of submission of the form, and it was only after the increase in marks after giving back paper that the petitioner had passed the said examination which was much after the last of submission of form.

43. In the case of **Anjali Singh vs. State of U.P. and 8 Others, decided in Writ A No. 9826 of 2021**, the petitioner had similarly passed the BTC examination after appearing in the back paper in the year 2019, and had taken the plea that, as per the Government Order dated 05.03.2021, any change in the marks obtained in the back paper was liable to be taken note of. However, the Court dismissed the writ petition with the following observations:-

“Law is settled that eligibility of a candidate for appointment is to be seen with reference to the last date fixed for making of application. On the last date of making application i.e. 22.12.2018, petitioner was not possessing qualification of BTC. Merely because she has subsequently cleared the back paper would not mean that her eligibility from a retrospective date would stand revived. No exception can be taken if her claim is denied for such reasons.

Dismissed accordingly.”

44. Similarly in the case of **Vinti Pandey vs. State of U.P. And 3 Others in Writ A No.1445 of 2021**, the writ petition was dismissed vide order dated 29.10.2021 with nearly similar observations. Against the aforesaid order Special Appeal No.488 of 2022 (Basic Education Board U.P. Prayagraj And Another vs. Vinti Pandey And 2 Others) was also dismissed vide order dated 14.07.2022.

45. Accordingly, the writ petition fails and is, hereby, **dismissed**. The impugned orders dated 30.04.2025 passed by the Basic Shiksha Adhikari, Ballia, and order dated 29.05.2026 passed by the Secretary, Uttar Pradesh Basic Education Board, Prayagraj, are upheld. There shall, however, be no order as to costs.

(Mrs. Manju Rani Chauhan,J.)

September 8, 2026

Rahul Goswami