

Memorandum, dated 1.5.1987. The BHU on its own has accepted the claim of Dr. Sushil Kumar Singh in similar circumstances in 2013. There is otherwise no prior adjudication of the claim of Sri Sinha by this Court.

58. In such circumstances, we are of the view that the writ petition filed by Sri Sinha was liable to be allowed. Learned Single Judge while rejecting the batch of petitions has not examined the facts of the case of Sri Sinha. In fact there is no consideration of the appellant's case by the learned Single Judge.

59. In such view of the matter and for the discussion aforesaid, Special Appeal No. 309 of 2025, filed by Sri Akhoury Sudhir Kumar Sinha, succeeds and is allowed. The judgment of learned Single Judge, dated 18.3.2025, dismissing Writ-A No. 7111 of 2020, is set aside. A writ of mandamus is issued to the respondents to extend the benefit of pension scheme to Sri Akhoury Sudhir Kumar Sinha on the condition that he shall deposit CPF benefits availed, if any, alongwith 8% yearly interest within two months from today.

60. For the reasons and discussions held above all other appeals i.e. Special Appeal Nos. 228 of 2025 and 235 of 2025 (except Special Appeal No. 309 of 2025), fail and are dismissed.

61. No order is passed as to costs.

(2025) 5 ILRA 1080
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 01.05.2025

BEFORE

THE HON'BLE SAURABH SHYAM
SHAMSHERY, J.

Writ - A No. 27328 of 2018

Banna Lal ...Petitioner
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioner:

Dinesh Kumar, Lal Babu Lal, Manish Singh, Naresh Singh Tomar, Sushma Singh

Counsel for the Respondents:

Ashok Kumar Yadav, C.S.C.

Service Law – Assistant Teacher in Basic Schools

- Equivalence of Qualification – IAF Education Certificate vis-à-vis Intermediate - Right of Children to Free and Compulsory Education (RTE) Act, 2009 – Whether I.A.F. Education Test certificate is equivalent to Intermediate examination for appointment as Assistant Teacher in Basic Schools. Held : *IAF Education Certificate is equivalent to Intermediate*, in view of Circular dated 28.4.1992 issued by Secretary, State of U.P.; Circular issued by the Ministry of Human Resource Development dated 23.8.2017, and judgment of Ram Lal Srivastava Vs State Of U.P. And Others, Neutral Citation No. 2019: AHC:205812 (Para 18) (E-5)

(Delivered by Hon'ble Saurabh Shyam Shamsbery, J.)

1. Heard Sri Yatindra, learned Amicus Curiae, Sri Sarv Dev Singh, learned counsel for the petitioner and Sri K.Shahi for respondent nos.2 and 3.

2. Petitioner had joined Air Force as an Airman in the year 1975 after his High School Examination. He passed I.A.F. Education Test for promotion to the rank of Corporal under Scheme 'A' in August, 1979 held in and conducted by Air Force Headquarters, New Delhi with more than 50 percent.

3. According to the case of the petitioner I.A.F. Education Test is

equivalent to Intermediate Examination and on basis of it during service he has passed Graduation from Kalkatiya University, Warrangal, Anhdra Pradesh in 1992.

4. The petitioner retired from Air Force on 30.11.2007 and thereafter he passed B.Ed Degree in the year 2008, and completed B.T.C. Training in the year 2010-2012.

5. On basis of above qualifications, he has participated in a recruitment process for appointment of Assistant Teacher in Basic Schools, in which he was selected and given appointment vide appointment letter dated 25.7.2013 and he joined at a Primary School.

6. Sri Yatindra, learned Amicus Curaie has submitted that a notice dated 23.4.2014 was issued to petitioner about equivalence of IAF Education Test with Intermediate examination, however respondents were not satisfied with the reply and petitioner's services were terminated by an order dated 01.10.2014 Relevant part of the impugned order is reproduced hereinafter:

“सचिव माध्यमिक शिक्षा परिषद, उत्तर प्रदेश इलाहाबाद को इस कार्यालय के पत्रांक/शिविर/1985/2014-15 दिनांक 09.05.2014 द्वारा उक्त के सम्बन्ध में सम्पूर्ण विवरण अंकित करते हुए श्री बन्ना लाल द्वारा उत्तीर्ण वायुसेना ट्रेड परीक्षा को इण्टरमीडिएट के समकक्ष माना जा सकता है अथवा नहीं के सम्बन्ध में मार्ग दर्शन मांगा गया। उक्त पृच्छा के सम्बन्ध में सचिव, माध्यमिक शिक्षा परिषद, उत्तर प्रदेश, इलाहाबाद ने पत्रांक – परिषद -9/146 दिनांक 09.06.2014 द्वारा सूचित किया गया कि भारतीय वायुसेना द्वारा जारी प्रमाण पत्र (आई.ए.एफ) परिषद की इण्टरमीडिएट परीक्षा के समकक्ष मान्य नहीं है।

उक्त से स्पष्ट है कि श्री बन्ना लाल द्वारा नियुक्ति प्राप्ति के लिये इण्टरमीडिएट परीक्षा उत्तीर्ण होने के सम्बन्ध में जो अभिलेख प्रस्तुत किये गये वह इण्टरमीडिएट परीक्षा के समकक्ष मान्य नहीं है।

अतः श्री बन्ना लाल द्वारा प्रस्तुत वायु सैनिक ट्रेड परीक्षा का सर्टिफिकेट जो REB (SZ) TAMBARAM

द्वारा जारी किया गया है, इण्टरमीडिएट परीक्षा के समकक्ष न होने के कारण इस कार्यालय के पत्रांक/आदेश संख्या/10385-66/2013-14 दिनांक 25.07.2013 विकास खण्ड कोराव इलाहाबाद की सेवा समाप्त की जाती है।”

7. That details of contents of a communication dated 20.2.2014 issued by Directorate of Air Veterans Air Head Quarters, New Delhi and addressed to District Basic Shiksha Adhikari, Allahabad is reproduced hereinafter:

“जिला बेसिक शिक्षा अधिकारी

इलाहाबाद (उ०प्र०)

नव नियुक्त परिषदीय अध्यापक के इण्टरमीडिएट अंक पत्र के सत्यापन के सम्बन्ध में

महोदय,

1- आपके पत्रांक/शिविर/25305/2013-14 दिनांक 11/12/2013 के संदर्भ में।

2- आपको सूचित किया जाता है कि उक्त पत्र के साथ संलग्न अंक पत्र इण्टरमीडिएट अंक पत्र नहीं है। यह अंक पत्र उक्त भूतपूर्व सैनिक द्वारा वायुसैनिक ट्रेड परीक्षा में पास होने का अंक पत्र है जो REB (SZ) TAMBARAM द्वारा जारी किया गया है।”

8. The report dated 9.6.2014 of Secretary Secondary Education was neither placed on record by the respondents nor it was earlier supplied to the petitioner.

9. The petitioner challenged termination order dated 1.10.2014 in a Writ Petition No.58697 of 2014 before this Court, which was disposed of by an order dated 14.3.2018, with a liberty to file an appeal before Secretary, Basic Shiksha Parishad.

10. Accordingly, petitioner preferred an Appeal. The Appeal was rejected vide order dated 20.3.2016 and subsequently a representation was rejected by an order

dated 23.10.2018. Relevant part is reproduced hereinafter:

“प्रकरण के अनुशीलन से स्पष्ट है कि याची श्री बन्ना लाल की नियुक्ति परिषदीय प्राथमिक विद्यालय में सहायक अध्यापक के पद पर हुई थी। तदोपरान्त जिला बेसिक शिक्षा अधिकारी द्वारा श्री बन्ना लाल की सेवायें समाप्त कर दी गयी, जिसके विरुद्ध श्री बन्ना लाल द्वारा प्रत्यावेदन प्रस्तुत किया गया है।

श्री बन्ना लाल की नियुक्ति परिषदीय प्राथमिक विद्यालय में सहायक अध्यापक के पद पर होने के पश्चात जिला बेसिक शिक्षा अधिकारी द्वारा श्री बन्ना लाल के शैक्षिक प्रमाण पत्रों का सत्यापन कराया गया। इसी क्रम में जिला बेसिक शिक्षा अधिकारी ने उक्त अंक पत्र को वायुसेवा मुख्यालय नई दिल्ली से सत्यापन हेतु प्रेषित किया गया। वायु सेना द्वारा अवगत कराया गया कि "संलग्न अंक पत्र इण्टरमीडिएट अंक पत्र नहीं है। यह अंक पत्र उक्त भूतपूर्व सैनिक द्वारा वायु सेना ट्रेड परीक्षा में पास होने का अंक पत्र है जो विभाग द्वारा जारी किया गया है।" पुनः जिला बेसिक शिक्षा अधिकारी इलाहाबाद द्वारा श्री बन्ना लाल से सम्बन्धित शैक्षिक विवरण को कार्यालय के पत्रांक शिविर/1985/2014-15 दिनांक 09.05.2014 द्वारा राचिव माध्यमिक शिक्षा परिषद उ०प्र० इलाहाबाद को प्रेषित कर शैक्षिक प्रमाण पत्रों की समकक्षता के सम्बन्ध में पृच्छा की गयी। माध्यमिक शिक्षा परिषद द्वारा कार्यालय के पत्रांक परिषद-9/146 दिनांक 09.06.2014 द्वारा सूचित किया गया कि भारतीय वायु सेना द्वारा जारी उक्त प्रमाण पत्र परिषद की इण्टरमीडिएट परीक्षा के समकक्ष मान्य नहीं है। इस आधार पर जिला बेसिक शिक्षा अधिकारी इलाहाबाद द्वारा कार्यालय के पत्रांक 667/2014-15 दिनांक 01.10.2014 द्वारा श्री बन्ना लाल की सेवायें समाप्त कर दी गयी।

इस सम्बन्ध में यह भी उल्लेखनीय है कि श्री बन्ना लाल द्वारा पूर्व में परिषद कार्यालय में दिनांक 04.01.2016 को सेवा समाप्ति के विरुद्ध अपील प्रस्तुत की गयी थी। उक्त अपील का निस्तारण परिषद कार्यालय के पत्रांक बे०शि०प०/21873-76/2015-16 दिनांक 10.03.2016 द्वारा किया गया था। वर्तमान में श्री बन्ना लाल द्वारा कोई नवीन तथ्य नहीं प्रस्तुत किये गये हैं। ऐसी स्थिति में जिला बेसिक शिक्षा अधिकारी इलाहाबाद द्वारा निर्गत सेवा समाप्ति आदेश संख्या 667/2014-15 दिनांक 01.10.2014 में किसी प्रकार के परिवर्तन की आवश्यकता नहीं है।

निर्णय

उपरोक्तानुसार श्री बन्ना लाल पूर्व सहायक अध्यापक सिपौवा, वि०ख० कोराव जनपद इलाहाबाद द्वारा प्रस्तुत प्रत्यावेदन निरस्त करते हुए उपरोक्तानुसार निस्तारित किया जाता है।”

11. As referred above, the appeal as well as representation was dismissed on basis of two report dated 20.2.2014 (available on record) and dated 9.6.2014 (not available on record).

12. Learned Amicus Curiae submitted that I.A.F. Examination Certificate is equivalent to Intermediate and placed reliance on following documents and judgment:

(i) A Circular dated 28.4.1992 issued by Secretary, State of U.P. addressed to all the Secretaries (Annexed along with Appeal). For reference same is reproduced in its entirety:

“उपरोक्त विषयक भारत सरकार की विज्ञप्ति सं:15012/8/82-स्थापना (डी) दिनांक 12 फरवरी, 1986 तथा भूतपूर्व सैनिक पुनर्वास कार्यान्वयन समिति के प्रस्तावों पर सम्यक विचारोपरान्त शासन द्वारा निम्नलिखित निर्णय लिये गये हैं :-

(1) ऐसे भूतपूर्व सैनिक, जो मैट्रीकुलेट हों तथा इण्डियन स्पेशल आर्मी सर्टीफिकेट आफ एजुकेशन या नौ सेना/वायु सेना में समकक्षीय सर्टीफिकेट प्राप्त किये हों तथा संघ की सशस्त्र सेवा में कम से कम 15 वर्ष की सेवा पूरी कर ली हो, को उनके लिए आरक्षित सिविल पदों के समूह 'ग' की उन सेवाओं/पदों के लिये अर्ह माना जायेगा, जिसके लिये न्यूनतम शैक्षिक अर्हता स्नातक निर्धारित हो, परन्तु जहां उनके लिये तकनीकी या व्यावसायिक कार्य अनुभव अनिवार्य न हो या जहां गैर तकनीकी व्यावसायिक कार्य अनुभव अनिवार्य हो और नियुक्ति प्राधिकारी का सन्तोष हो जाय कि ऐसे भूतपूर्व सैनिक अल्प प्रशिक्षण प्राप्त करने के उपरान्त अपने दायित्वों का निर्वहन कर सकते हैं।

(2) भूतपूर्व सैनिकों के लिये आरक्षित सिविल सेवा के समूह "ग" व "घ" के ऐसे पदों, जिनके लिए न्यूनतम शैक्षिक अर्हता मैट्रीकुलेशन निर्धारित हो, नियुक्ति प्राधिकारी अपने स्वविवेक से ऐसे भूतपूर्व सैनिकों को न्यूनतम शैक्षिक अर्हता से छूट प्रदान कर सकते हैं, जिन्होंने इण्डियन आर्मी क्लास-1 परीक्षा या उसके समकक्षीय नौ सेना या वायु सेना की परीक्षा उत्तीर्ण कर ली हो और संघ की सशस्त्र सेवा में कम से कम 15 वर्ष की सेवा पूरी कर ली हो और अन्यथा कार्य अनुभव एवं अर्हताओं के आधार पर उन्हें उक्त पद के दायित्वों के निर्वहन के लिए उपयुक्त समझा जाय।

(3) यदि भूतपूर्व सैनिक समूह "ग" व "घ" के पदों के विरुद्ध निर्धारित सीमा तक चयनित न हो सकें तो दक्षता को कुप्रभावित किये बगैर सामान्य मापदण्ड को इस सीमा तक शिथिल किया जा सकता है, जिससे आरक्षण का कोटा पूरा हो जाये।

2. कृपया उपरोक्त निर्णयों से अपने अधीनस्थ समस्त नियुक्ति प्राधिकारियों को अवगत कराने का कष्ट करें।

भवदीय

ओ०पी० आर्य, सचिवा”

(ii) A Circular issued by the Ministry of Human Resource Development dated 23.8.2017 and its relevant part is mentioned hereinafter:

“This Ministry has received several representations on the determination of equivalency of qualifications in respect of personnel hailing from Ex- servicemen category. It was requested to clarify whether an Ex-serviceman who is a matriculate and possessing Indian army Special Certificate of Education or its equivalent certificates in the navy or Air Force and has put in not less than 15 years of service are issued with a Graduation Certificate for re-employment purpose as equivalent to higher secondary with 50% Marks.

2. this matter has been examined in light of various provisions of the Right of Children to free and Compulsory Education (RTE) Act 2009 DOPTs notification dated 12 February, 1986. NCTE notification on minimum qualifications of teachers and recommendations of Expert Committee as formed by NCTE. The recommendations of the expert committee of NCTE vide letter No-1769/NCTE/DGR/RES-8 dated 1st December, 2014 is reproduced as below.

“An Ex- Servicemen who is Matriculate and possessing Indian Army Special Certificate of Education or the Corresponding certificate in the Navy and Air Force and has put in not less than 15 years service in the Armed Forces has

been issued Corporal Certificate of Indian Air Force under Scheme - ‘A’ should be treated as also having qualified 10+2 with 50% Marks (The minimum eligibility qualification programme through ODL conducted by any institution providing training for untrained in service teachers working in Schools in accordance with approval of NCTE). It will enable the untrained in-service primary teachers from ex-servicemen category to undergo D.EL.Ed Programme through ODL Mode”

3- *it has been decided to accept the above recommendations of the Expert Committee of NCTE.*

4- *This issues with the approval of Hon'ble Minister of Human Resource Development.”*

(iii) A Judgment passed by a Co-ordinate Bench of this Court in Ram Lal Srivastava Vs State Of U.P. And Others, Neutral Citation No. 2019:AHC:205812 and its relevant part is mentioned hereinafter:

“ In the present matter, admittedly the petitioner has been accorded an appointment as Assistant Teacher on the basis of his qualification as Graduation, B.Ed. and Special BTC-2004. Therefore, the objection so raised by Shri B.P. Singh, appearing for the District Basic Education Officer, Azamgarh at this belated stage, whether his departmental examination known as 'Corporal Education Test' (CPL EDN) dated 4.12.1980 conducted by the Indian Air Force, is valid or having the equivalence to Intermediate conducted by U.P. Board of High School and Intermediate, would have no meaning at all. Accordingly, the said objection is unfounded and without any basis.”

(iv) The IAF Education certificate itself specified that it has been recognized

as equivalent to Regular Secondary Examination though only for purpose of higher studies and name of University is also mentioned. Relevant part of it is mentioned hereinafter:

“An Ex- Servicemen who is Matriculate and possessing Indian Army Special Certificate of Education or the Corresponding certificate in the Navy and Air Force and has put in not less than 15 years service in the Armed Forces has been issued Corporal Certificate of Indian Air Force under Scheme - ‘A’ should be treated as also having qualified 10+2 with 50% Marks (The minimum eligibility qualification programme through ODL conducted by any institution providing training for untrained in service teachers working in Schools in accordance with approval of NCTE). It will enable the untrained in-service primary teachers from ex-servicemen category to undergo D.EL.Ed Programme through ODL Mode”

(v) On basis of said certificate, petitioner has passed Graduation, B.ED and BTC Training and no objection was ever raised.

13. Learned counsel for respondents has supported the impugned order and referred relevant part of impugned order that since Directorate of Veteran Air Head Quarter has not disputed equivalence, therefore, there was no illegality in the impugned order.

14. Heard learned counsel for the parties and perused the records.

15. There is no dispute that petitioner has passed IAF Education Certificate from Air Force on its basis he has passed graduation and after his retirement he has also passed B.ED and BTC and those

degrees and certificates still hold good and on its basis he was appointed as an Assistant Teacher.

16. A dispute whether IAF Education Certificate is equivalent to Intermediate was decided in negative by the concerned respondent on the basis of two reports dated 20.2.2014 (available on record) and 9.6.2014 (not available on record).

17. The report dated 20.2.2014 only states that mark sheet of IAF Education certificate is not a mark sheet of Intermediate Examination. No reference was made whether it was equivalent to Intermediate or not, therefore, only on its basis, it would not be appropriate to deny equivalence, specifically ignoring other documents. So far as other report dated 9.6.2014 is concerned, being not on record, therefore, Court is not aware about its contents.

18. As referred above, there are more than one documents, which indicates equivalence of IAF Education Certificate with Intermediate such as circular dated 28.4.1992, circular dated 23.8.2017 as well as judgment of Ram Lal Srivastava (supra), but all such documents were not taken note of by respondents, despite circulars were filed along with the appeal.

19. I have carefully perused contents of above referred circulars and Ram Lal Srivastava (supra), that IAF Education Certificate is equivalent to Intermediate, therefore, reason assigned in the impugned order are erroneous and is liable to be set-aside.

20. Now Court takes note that petitioner is at present aged about 67 years and he has worked as an Assistant Teacher

from 1.8.2013 to 30.9.2014 without salary. Therefore, even the impugned order is set-aside, Court cannot direct to appoint him as Assistant Teacher. He has not worked since 2014 till he has reached the age of superannuation i.e. 62 years (2019) i.e. 5 to 6 years. Meanwhile, he has pursued his L.L.B. Degree and now he is a practising Advocate of this Court. The period for which he has not worked will be considered as “No work No Pay”.

21. In the aforesaid circumstances and in the interest of justice, this writ petition is disposed of with following directions:

(a) Impugned orders dated 1.10.2014, 10.3.2016 and 23.10.2018 are set-aside.

(b) Petitioner is entitled for payment of salary from 1.8.2013 to 30.9.2014, when undisputedly, he has worked and his salary for said period shall be paid within a period of 8 weeks.

(c) No direction for reinstatement even on notional basis could be passed.

(d) A lump sum compensation/cost is determined as Rs.2.5 lakhs to be paid by respondents within 12 weeks to the petitioner.

(e) Mr. Yatindra, learned Amicus Curaie has assisted the Court in a very proper manner and for that High Court Legal, Services Committee, Allahabad will pay Rs.5500/ to him within four weeks.

(2025) 5 ILRA 1085

ORIGINAL JURISDICTION

CIVIL SIDE

DATED: LUCKNOW 07.05.2025

BEFORE

THE HON'BLE PANKAJ BHATIA, J.

Writ-A No. 1000115 of 2014

Puran Singh

...Petitioner

Versus

District Judge Lucknow & Ors.

...Respondents

Counsel for the Petitioner:

Heera Lal Srivastava, Amit Jaiswal, Apoorva Tewari

Counsel for the Respondents:

U.N. Misra, Ramesh Chandra Pathak

A. Tenancy Law – UP Urban Buildings (Regulation of Letting, Rent & Eviction) Act, 1972 – Section 30 (1) – Scope of power – Deposit of rent – No adjudication on relationship of landlord and tenant, how far vitiate the impugned order – Held, S. 30 itself does not confer any adjudicatory powers upon the Munsif for deciding the relationship of landlord and tenant, otherwise the use of word '*claiming to be tenant*' would be of no purpose – No power of adjudication have been granted to the Munsif by virtue of S. 30 of the Act and even if the deposit is made by a person claiming himself to be a tenant, and is actually not a tenant, the benefit of deposit u/s 30 would clearly not be available to him in suitable proceedings initiated by the landlord and contested by the tenant/ person in occupation and not a tenant. (Para 11 and 13)

Writ petition dismissed. (E-1)

List of Cases cited:

1. M/s S. Chand & Co. Vs IInd A.D.J.; 1985 (1) ARC 251
2. Moolchand Motuman Tekwani Vs A.D.J.; 1985 (2) ARC 142
3. St. Jones School Vs Special Judge, E.C. Act; 1999 (1) ARC 588
4. Chatur Mohan & ors. Vs Ram Behari Dixit; 1964 All LJ 256
5. Anwar Ali Vs A.D.J.; 2002 (2) ARC 562
6. Rajendra Kumar Karnwal Vs Smt. Kailash Garg; 2005(4) AWC 3858J