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Reserved

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 8734 of 2025

Awadhesh Kumar Chaudhary
And 6 Others

.....Petitioners(s)

Versus

State Of U.P. And 3 Others

.....Respondents(s)

Counsel for Petitioners(s)	: Siddharth Khare, Sr. Advocate
Counsel for Respondent(s)	: Archana Singh, C.S.C.

With

WRIT - A No. - 8766 of 2025

Sweety Shokeen And 3 Others

.....Petitioners(s)

Versus

State Of U.P. And 3 Others

.....Respondents(s)

Counsel for Petitioners(s)	: Kamlesh Kumar Tiwari, Sr. Advocate
Counsel for Respondent(s)	: Archana Singh, C.S.C.

Court No. - 52

HON'BLE MRS. MANJU RANI CHAUHAN, J.

1. The petitioners have preferred instant writ petitions challenging orders dated 09.05.2025 and 21.05.2025 passed by respondent no. 3¹ and respondent no. 4² respectively, whereby services of the petitioners have been terminated on the ground of mentioning increased marks in the application forms submitted by them while applying for the posts of Assistant teachers.
2. Facts of the case, in brief, are that the State Government issued a Government Order dated 01.12.2018 notifying the holding of Assistant

1 The Secretary Board of basic Education, UP Prayagraj
2 District Basic Education Officer , Kushinagar (BSA)

Teachers Recruitment Examination 2019³ for the appointment against 69000 posts of Assistant Teachers. The petitioners, being eligible for the posts of Assistant Teachers, applied pursuant to the said advertisement. They were issued admit cards for appearing in the ATRE 2019. Pursuant thereto, the petitioners participated in the said examination conducted on 06.01.2019. The result of ATRE 2019 was declared on 12.05.2020, wherein names of the petitioners were shown as qualified candidates.

3. After being declared qualified in ATRE 2019, the State Government issued a Government Order on 13.05.2020 for consideration of the appointments of selected candidates as Assistant Teachers. In pursuance thereof, petitioners applied for the appointment. Thereafter, a final select list was published on 01.06.2020. In the said list, the petitioners were shown to have been duly selected and they were allotted District Kushinagar. The petitioners participated in the counseling conducted by the BSA, Kushinagar. Initially some objections stood against the petitioners' appointment, therefore, the BSA published a list of 39 candidates, whose cases were kept pending on account of such objections. For rectification of said discrepancies, the matter was considered at the level of the State Government, whereafter Government Orders dated 04.12.2020 and 15.01.2021 were issued. Pursuant to the said orders, the candidates were required to furnish individual affidavits before the BSA. After consideration of petitioners' cases, appointment orders were issued by the BSA in favour of the petitioners.

4. The petitioners joined their services in the office of District Basic Education Officer, Kushinagar. Thereafter, they were given postings on 08.09.2021 in their respective schools run by the U.P. Board of Basic Education. Since the date of their joining, the petitioners had been performing their duties with due diligence and sincerity, however, the respondent no. 3 terminated their services by the order impugned dated 21.05.2025 in compliance with the instructions issued by respondent no. 2 in

3 The ATRE 2019

its order dated 09.05.2025, on the ground that the petitioners had filled up higher marks in their application forms than they actually secured. The said orders are being assailed by means of present writ petition.

5. Learned counsel for the petitioners submits that the petitioners possess the requisite qualifications as required for the post of Assistant Teacher. They were fulfilling all required eligibility criteria as on the date of submission of their respective application forms. It is contended that a number of candidates were denied appointment on account of non-fulfillment of required eligibility criteria as on 22.12.2018, which was the last date for submission of application forms. Such candidates preferred writ petition before this Court which was dismissed by order dated 24.03.2025. Said order was subject matter of challenge in **Special Appeal Nos. 350 of 2025⁴** and **Special Appeal Defective No. 336 of 2025⁵**. Learned Counsel for the petitioners further contends that the aforementioned special appeals were decided vide judgement and order dated 15.05.2025, however, the observations so made therein have no applicability regarding petitioners' appointment.

6. It has been argued by learned counsel for the petitioners that the petitioners had efficiently discharged their duties for almost five years and they were holding regular and permanent appointments, thus, their services cannot be dispensed with without following the procedure as specified under the U.P. Basic Education Staff Rules, 1973 read with U.P. Government Servant (Discipline and Appeal) Rules, 1999.

7. Learned counsel for the petitioners next submits that non-existent objections have been cited in the orders impugned as the respondent authorities were duly aware of the minor discrepancies and they had taken remedial measures for rectification of alleged discrepancies in accordance with the Government orders/ and circulars issued in that regard.

4 Preeti Jatave And 5 Others v. Sate of Uttar Pradesh And 7 Others

5 Ritesh Kumar Chaurasia And Another v. State of U.P. And 4 Others

8. Learned counsel for the petitioners further contends that the petitioners have served for five years and there has been no complaint regarding their functioning, thus, action of the respondent authorities terminating the petitioners' services is of extreme nature that too without following the due procedure as prescribed under the relevant Rules, which is liable to be set aside by this Court.

9. Learned counsel for the petitioners next submits that the list detailing 39 applicants, whose cases were kept pending on account of objections, was published. For example, in the case of petitioner - Preeti, it has been mentioned that she did not participate in the re-counseling. Likewise, in the case of petitioner - Manish Kumar Mahaur, the variation in marks was on account of revised marks issued by the University. Though, said objections were not in existence.

10. Despite minor discrepancies, that existed with regard to a large number of candidates, all over the State, for rectification of the same, the matter was accorded consideration at the level of the State Government and the educational authority based on the relevant Government Orders dated 04.12.2020, 15.01.2021 and circulars dated 16.12.2020, 18.01.2021 and 19.01.2021. Pursuant to which, the district authorities proceeded to take remedial measures. During the course of said proceedings, the petitioners were required to furnish their individual affidavits before the District Basic Education Officer, Kushinagar. After full consideration of individual cases, on the basis of individual affidavits as furnished, the petitioners were issued appointment letters and they joined accordingly.

11. Learned counsel for the petitioners contends that once the correct information was furnished by way of individual affidavits and appointment letters were issued after scrutiny, there was no occasion to cancel the petitioners' appointments on non-existent grounds. Thus, the impugned orders are arbitrary, illegal and discriminatory. He further submits that once an opportunity was given to rectify the mistake of entering enhanced marks in the application forms and the same was duly rectified, and the petitioners

were offered appointments, therefore, passing of the impugned orders is barred by the 'principle of estoppel'.

12. It is further argued that services of the petitioners cannot be dispensed with in a manner as adopted in the present case that too after a lapse of five years from the date of appointment and without following proper procedure as prescribed under law. Learned counsel for the petitioners further submits that as per the settled legal position the remedial power can be exercised only within a reasonable period. Such an exercise after a lapse of five years, during which the petitioners have been continuously working, is arbitrary and unreasonable. There has been no concealment or misrepresentation of facts on the part of the petitioners while filling up application forms and it must be taken as human error which could have been ignored.

13. Challenging the orders impugned, learned counsel for the petitioners further contends that neither any malpractice on the part of the petitioners has been proved nor there is any fraud or misrepresentation has been established against them, therefore, the order impugned is unsustainable. In support of his submissions, relying upon a judgment of Apex Court in the case of **Radhey Shyam Yadav and another vs State of U.P. and others**⁶, he further submits that the petitioners cannot be held responsible for an irregularity committed by the authorities in computation of marks that too after the petitioners were appointed following detailed scrutiny of the records.

14. Learned counsel for the petitioners has also relied upon a judgment of a Coordinate Bench of this Court in the case of **Ajay Kumar and others vs. State of U.P. and others**⁷, wherein the petitioners had wrongly disclosed in their application forms that they had passed B.T.C. Course and incorrectly mentioned the marks obtained in the said course, although they had passed B.T.C after few days of the registration and, later on, made corrections in this regard when opportunity was granted to them, could not be said to have

⁶ (2024) 11 SCC 770

⁷ WRIT A No.- 15776 of 2023; Neutral Citation No- 2024: AHC: 13031 - Judgment dated 29.01.2024

misrepresented before the authorities, thus, their appointments could not have been declared void ab initio. The Court, while entertaining the plea in the said case, observed that pursuant to subsequent circulars issued by the respondents, as the petitioners had already cured the bonafide mistake committed by them by rectifying the errors and disclosing the correct results, the impugned order therein declaring the appointments void ab initio, was no more in existence, therefore, they were entitled to continue in service. The petitioners in the present case, on similar circumstances, who had rectified their discrepancies by placing correct marks, are also entitled for the same relief.

15. Learned counsel for respondent nos. 3 & 4 submits that the impugned orders were passed after due verification of the petitioners' records, wherein the entries made by them in their application forms were found to be incorrect during the course of verification of their original records. She further submits that the discrepancies cannot be ignored because the said wrongful information had affected the entire fate of the examination, on the basis of which the petitioners secured appointment though they were not eligible for it. She further submits that the petitioners' claim is barred by the ratio of the judgement dated 21.05.2020 passed in the case of **Ram Sharan Maurya and Others v. State of U.P. and Others**⁸, wherein it has been held that the candidates who placed themselves in an advantageous position by furnishing incorrect information in the online application forms, cannot be permitted to derive any benefit, as it would be violative of the doctrine of fairness and equality.

16. It has been further argued by learned counsel appearing for respondent nos. 3 & 4 that in view of the judgement of the Apex Court in the case of **Subedar Singh and Others v. State of U.P.**⁹, the petitioners are not entitled for any consideration. Only those candidates who, on account of inadvertent error, placed themselves in a disadvantageous position could be granted benefit of rectification. The appointments of candidates who had placed

⁸ Civil Appeal No. 3707 of 2020 (Arising out of Special Leave Petition (Civil) No. 6841 of 2020)

⁹ Special Leave to Appeal (C) No. 6687 of 2020

themselves in an advantageous position, by filling incorrect information, were rightly cancelled.

17. Learned counsel for respondent nos. 3 & 4 has drawn attention of the Court to Clause-2 of the Government Order dated 04.12.2020, which has been brought on record at Page-44 of short counter affidavit. She submits that as per the said Government Order, only those who are in disadvantageous position, due to inadvertent error, were permitted for rectification as per rules. In case of such candidates, who have filled incorrect details in the online application form which resulted their placement in an advantageous position, their candidature be cancelled forthwith.

18. It has further been contended by learned counsel for respondent nos. 3 & 4 that the petitioners cannot claim equity as cancellation of their candidature was on the basis of incorrect information regarding marks, based upon which they secured appointments. She has tried to demonstrate the anomalies found during verification of records, drawing attention of the Court to the following details mentioned in tabulated form:

Sl. No.	Registration Number	Name of Petitioner	Marks filled in online application form	Actual marks obtained as per record
1.	5500031603	Awadhesh Kumar Chaudhary	(Intermediate) 384/500	(Intermediate) 348/500
2.	3500472823	Sunit Kumar Yadav	(Graduation) 1371/2200	(Graduation) 1341/2200
3.	5500009747	Arjun Singh	(Training Qualification) Theory- 241/245 Practical- 175/176	(Training Qualification) Theory- 486/800 Practical- 351/400
4.	3100075048	Priyamvda Pusker	(Training Qualification) Theory- 1000/1000 Practical- 722/722	(Training Qualification) Theory- 328/600 Practical- 394/400
5.	2400119521	Preeti	(Training Qualification) Theory- 651/1110 Practical- 253/340	(Training Qualification) Theory- 464/750 Practical- 440/700
6.	0300060177	Manish Kumar Mahaur	(Graduation) 743/1350	(Graduation) 733/1350
7.	1400043696	Rinku Singh	(Training Qualification) Theory- 298/560 Practical- 126/140	(Training Qualification) Theory- 540/900 Practical- 395/500

8.	2400136448	Sweety Shokeen	(Training Qualification) Theory- 865/1175 Practical- 780/825	(Training Qualification) Theory- 755/1050 Practical- 890/950
9.	3500191277	Priyanka Srivastava	(Graduation) 1133/1800	(Graduation) 1113/1800
10.	0800106015	Pinky	(Training Qualification) Theory 650/650 Practical- 461/477	(Training Qualification) Theory- 499/780 Practical- 439/520
11.	5000071389	Km. Pushpa	(Graduation) 1269/1800	(Graduation) 1209/1800

19. Learned counsel for respondent nos. 3 & 4 has relied upon various orders passed in the matters of incorrectly filled application forms by the candidates at the time of filling up application forms. In such cases the Courts have dealt with the issue of inadvertent mistakes and the deliberate attempt to place himself/herself in advantageous position. Observations of the Courts passed in few cases, upon which learned counsel for the respondent nos. 3 & 4, has relied upon, are as follows:

- i. **Special Appeal No. 834 of 2013¹⁰:**
If prospective teacher can not even correctly fill up the simple on line application form for his employment, it is obvious what he is going to teach if appointed. There are certain decisions cited on this issue. But none of them deal with this aspect whether under the discretionary jurisdiction of the Court under Article 226 of the Constitution of India such incompetent persons should be allowed to play with the future of the next generation.

Therefore, we are of the opinion that the petitioner/appellant should wait till he attains sufficient maturity and learns to be more careful in filling up the applications for jobs. The appeal is therefore, dismissed.
- ii. **Writ-A No. 4070 of 2020¹¹:**
20. The error committed by the candidates cannot be said to be human in nature. The petitioners should have read the instructions that were issued time and again and should have correctly filled the entries relating to the marks obtained by them in their previous examinations. The contention that this was an error committed by the Computer Operator cannot simply be accepted. If the Courts were to accept such a plea of the petitioners, then this would result in a situation where the petitioners would get the benefit of a wrong if the wrong claim went unnoticed and if noticed the petitioners could always turn around and claim that this was a result of a human error. Each candidate necessarily must bear the consequences of his failure to fill up the application form correctly. From perusal of the record, I am of the opinion that the error/errors committed by the petitioners are neither minor nor are human error/errors.

10 Ram Manohar Yadav v. State of U.P. and 3 Others, Order dated 30.05.2013
11 Ashutosh Kumar Srivastava & 60 Others v. State of U.P. and 2 Others, Order dated 30.05.2020

21. In view of the facts as narrated above as well as the law laid down by the different Division Bench of this Court from time to time as well as by the Apex Court, no relief could be granted to the petitioners.

22. The writ petition is dismissed.”

iii. **Writ-A No. 11079 of 2020¹²:**

“On an overall conspectus of the aforesaid discussion the Court comes to the following conclusions. A permission to rectify and amend entries made in the online applications would be clearly impermissible in light of the caveats carried in the advertisements and notices issued by the respondents as well as the declarations made by the candidates themselves while participating in the recruitment process. It would not only be iniquitous but also detrimental to public interest to command the respondents to permit rectifications at the fag end of a recruitment exercise which commenced in December 2018. The stipulations contained in the advertisements and notices issued were never assailed by the petitioners prior to participating in the recruitment process. It would be unfair not just to the respondents but to the other selected candidates to now accord them such permission which would necessarily result in the selection process being stalled and derailed. This Court as well as the Supreme Court has consistently taken the view that such a course being tread would be wholly unfair and unwarranted. The Court repels the challenge to the Government Order of 4 December 2020 being contrary to the mandate of Rule 14. It also negatives its challenge on the ground of being discriminatory or unfair.

These petitions shall consequently stand disposed of with liberty to the State respondents to evaluate the case of each of the petitioners before this Court in light of the Government Order dated 4 December 2020.”

20. Learned counsel for respondent nos. 3 & 4 contends that the applicants have deliberately shown their marks higher than they actually secured in their academics, which is evident from their academic records, thus, they are not entitled to be considered for being granted benefit of any ignorance in view of the observations made in **Subedar Singh (supra)**.

21. I have heard Sri Ashok Khare, learned Senior Advocate, assisted by Sri Yatindra, learned counsel for the petitioners, learned Standing Counsel for the State and Mrs. Archana Singh, learned counsel for respondent nos. 3 and 4.

22. The petitioners applied against 69000 posts of Assistant Teachers. They were selected and joined their services. By the impugned order dated 21.05.2025 issued pursuant to the order of respondent no. 2 dated 09.05.2025 appointments of all teachers who have been placed in an

12 Pawan Kumar and 26 Others v. State of U.P. and 2 Others, Order dated 14.12.2020

advantageous position by mentioning higher marks than they actually secured, were directed to be cancelled.

23. Questioning the termination of petitioners' services, learned counsel for the petitioners contended that the petitioners have served for about five years, thus, their services cannot be dispensed with without following the procedure as provided under the U.P. Basic Education Staff Rules, 1973 read with U.P. Government Servant (Discipline and Appeal) Rules, 1999, however, he has failed to satisfactorily respond the objections raised by learned counsel for respondent nos. 3 & 4 that the petitioners have mentioned higher marks than those actually secured except the petitioner nos. 5, 6 & 7, in Writ-A No. 8734 of 2025, namely, Preeti, Manish Kumar Mahaur and Rinku Singh and petitioner no. 1 Sweety Shokeen in Writ-A No. 8766 of 2025.

24. Perusal of the record shows that petitioner nos. 5, 6 & 7 in Writ-A No. 8734 of 2025, namely, Preeti, Manish Kumar Mahaur and Rinku Singh did not mention higher marks than they actually possess, though, the mistake occurred at their end is bonafide. Petitioner – Preeti mentioned her marks in the application form separately i.e. marks of B.Ed. in Practical and Theory examinations instead of aggregate of the duo. The petitioner – Manish Kumar Mahaur mentioned the marks 743/1350 in his application form according to the marks obtained by him in Graduation (B.Sc.) which were shown in his old mark-sheet (Sl. No. 13176008)¹³, however, after re-examination in the revised mark-sheet (Sl. No. 13618783)¹⁴, his marks are shown as 733/1350. Thus, no inflation of marks has been done by him while filling up the application form. The marks disclosed by Rinku Singh in his application form are also not higher than the marks he actually possesses in his academic records, as he secured higher marks i.e. 935/1400 (66.78%) in the training qualification, which exceed the marks mentioned in the application form i.e. 424/700 (60.57%). Insofar as petitioner no. 1 – Sweety Shokeen in Writ-A No. 8766 of 2025 is concerned, she did not mention

¹³ Annexed at Page No. 92 of the writ petition.

¹⁴ Annexed at Page No. 89 of the writ petition.

higher marks in the application form, as the aggregate of marks obtained out of total marks, disclosed in the application form, comes to same figure which she actually secured i.e. 1645/2000 marks in D.Ed.

25. The respondent no. 2, while passing the order impugned dated 09.05.2025, has referred to various judgements and orders passed by this Court as well as the Apex Court on the issue of bonafide human error committed by the candidates while filling up their application forms and the advertent mistakes committed in order to secure appointments on the basis of projecting higher marks than they actually possessed in their academic records. It would be apt to refer the relevant extracts of those judgement and orders of this Court and the Apex Court, which are being reproduced herein below:

i. **Writ-A No. 4677 of 2020¹⁵:**

“63. I had occasion to consider the issue about rectification to an application form relating to the present examination, where the error sought to be corrected was about an unclaimed reservation category, in Writ - A No.4552 of 2020, Deepti Singh vs. State of U.P. and 2 others, decided on 23.06.2020. In Deepti Singh (supra), it was held:

"This Court has keenly considered the matter. It is true that the mistake on the petitioner's part of not mentioning her horizontal reservation category may be inadvertent but the terms and conditions in the form do not permit the petitioner to reform the same lateron, once she has filled up and submitted the examination form, without claiming something as important as a reservation category. A reservation category is one that places the petitioner in a special selection pool of 2% candidates. Once the recruitment process has gone ahead, a selectee in that pool whose result has been declared or on way would be disturbed because the petitioner now makes her claim, if permitted. This kind of a late reform of the petitioner's candidature entitling her to seek selection under a reservation category cannot be permitted in the opinion of this Court."

64. In view of what has been said above, this Court does not find any good ground to interfere.

65. In the result, these writ petitions fail and are dismissed. There shall be no order as to costs."

ii. **Writ-A No. 8697 of 2020¹⁶:**

“:As is evident from the extracted part of that decision, the Supreme Court in the peculiar facts of that case had permitted the appellant to rectify the mistake. Archana Chauhan cannot therefore be recognized as a precedent of universal application. In any case this Court is bound by the decisions rendered by the Full Bench and the Division Bench noted above, where this issue was dealt with in extenso and ruled upon on merits.

The writ petition is consequently dismissed."

15 Ruksar Khan v. State of U.P. and 3 Others, Order dated 08.07.2020

16 Dharmendra Kumar v. State of U.P. and another, Order dated 20.10.2020

iii. **Special Appeal Defective No. 467 of 2021¹⁷:**

“It is not in dispute that subsequent to the judgment aforesaid, individual case of the petitioner was considered by the appellant herein with a detailed order cancelling their selection. The said order was passed subsequent to the judgment. Thus, counsel for the petitioner/non-appellant prays for liberty to challenge the individual order. The judgment of the learned Single Judge is not sustainable in the light of the judgment of the Supreme Court dated 08th April, 2021, in Writ Petition (Civil) No.322 of 2021 (Jyoti Yadav and another vs. State of U.P. and others).

Learned counsel for the appellant has no objection, if the judgment of the learned Single Judge be set aside with liberty to the petitioner to challenge subsequent order.

In view of the above, the judgment of the learned Single Judge is set aside, however, with the liberty to the petitioner/non-appellant to challenge the subsequent order passed against the petitioner.

The appeal is disposed of with the aforesaid.

iv. **Writ Petition (s) (Civil) No (s). 378 of 2021¹⁸:**

“7. We need not consider individual fact situation as the reading of the G.O. and the Circular as stated above is quite clear that wherever a candidate had put himself in a disadvantaged position as stated above, his candidature shall not be cancelled but will be reckoned with such disadvantage as projected; but if the candidate had projected an advantaged position which was beyond his rightful due or entitlement, his candidature will stand cancelled. The rigour of the G.O. and the Circular is clear that wherever undue advantage can enure to the candidate if the discrepancy were to go unnoticed, regardless whether the percentage of advantage was greater or lesser, the candidature of such candidate must stand cancelled. However, wherever the candidate was not claiming any advantage and as a matter of fact, had put himself in a disadvantaged position, his candidature will not stand cancelled but the candidate will have to remain satisfied with what was quoted or projected in the application form. These petitions are, therefore, disposed of in the light of what is stated above.

8. It must however be stated here that the authorities are not strictly following the intent of the G.O. and the Circular. For example, the Office Order dated 28.03.2021 issued by the Basic Teacher Education Officer, District Hardoi, shows cancellation of the candidature of one Raghav Sharan Singh at Serial No.4, though the projection of marks by way of mistake by said candidate was to his disadvantage. Logically, said candidate would be entitled to have his candidature considered and reckoned at the disadvantaged level. The record shows that even with such disadvantage, the candidate was entitled to be selected.”

26. With respect to the anomalies in application forms of the candidates, who applied against the 69000 posts of Assistant Teachers, the State Government has issued clarification by communication dated 05.03.2021. Copy of the said document has been brought on record as Annexure SCA-7

17 The State of U.P. v. Harendra Kumar Verma and 65 Others, Order dated 15.07.2021

18 Rahul Kumar v. State of Uttar Pradesh & Ors., Order dated 29.06.2021

to the Short Counter Affidavit. Clause (1) of the said communication specifically mentions that the candidates who have filled more aggregate of marks than their actual marks, their appointment/ candidature shall be cancelled. Relevant Clause (1) of the said communication is being reproduced below:

(1) समिति की संस्तुति के बिन्दु-1, प्राप्तांक अधिक के संबंध में- जिन अभ्यर्थियों द्वारा अपने आवेदन पत्र में उनके पास उपलब्ध वैद्य प्रमाण-पत्र /अंकपत्रों के आधार पर अधिक प्राप्तांक अंकित किये गये थे तथा उनके अंकपत्रों /प्रमाणपत्रों के संबंध में स्कूटनी/ पुनर्मूल्यांकन / बैंक पेपर में अर्जित अंक अथवा अन्य किसी आधार पर प्राप्तांकों में विश्वविद्यालय / निगम संस्था द्वारा स्वयं परिवर्तन किया गया है तथा संबंधित प्रमाण पत्र आवेदन पत्र पूरित करने के पश्चात् निर्गत किया गया, तो ऐसे अभ्यर्थियों के अंकों में परिवर्तन होने/ त्रुटिपूर्ण आवेदन-पत्र भरने के लिए संबंधित अभ्यर्थी को जिम्मेदार नहीं माना जा सकता, क्योंकि तत्समय संबंधित अभ्यर्थी के पास आवेदन पत्र में अंकित सूचनाओं संबंधी ही प्रमाण-पत्र / अंक पत्र उपलब्ध थे। अतः ऐसे अभ्यर्थी यदि संबंधित जनपद में अपने वर्ग में जनपद में अन्तिम चयनित अभ्यर्थी के गुणांक से अधिक गुणांकधारी हैं तो ऐसे अभ्यर्थियों के नियुक्ति पत्र निर्गत कर दिया जाये। यदि संबंधित अभ्यर्थी का वास्तविक गुणांक जनपद में संबंधित वर्ग में अन्तिम चयनित अभ्यर्थी के गुणांक से कम है, किन्तु राज्य स्तर पर संबंधित वर्ग एवं वरीयताक्रम में अन्तिम चयनित अभ्यर्थी के गुणांक से अधिक है तो ऐसे अभ्यर्थी का प्रस्ताव शिक्षा निदेशक, बेसिक के माध्यम से शासन को उपलब्ध कराया जाये। शासन द्वारा दिये गये निर्देश के क्रम में कार्यवाही की जायेगी जहां पर अभ्यर्थी के द्वारा स्वयं बिना किसी अभिलेखीय आधार के वास्तविक प्राप्तांक से अधिक अंक अथवा कम पूर्णांक अंकित किया गया है, उनके चयन/अभ्यर्थन को निरस्त कर दिया जाय।"

27. The issue of categorization of advantageous and disadvantageous positions has been considered by the Apex Court in the case of **Jyoti yadav & Anr. v. The State of Uttar Pradesh & Ors.**¹⁹. Relevant part of the said judgement reads thus:

"14. Wherever the mistakes committed by the candidates purportedly gave additional marks or weightage greater than what they actually deserved, according to the Communication dated 05.03.2021, their candidature would stand rejected. However, wherever mistakes committed by the candidates actually put them at a disadvantage as against their original entitlement or the variation could be one attributable to the University or issuing authority, an exception was made by said Communication. The reason for treating these two categories of candidates differently cannot thus be called irrational."

28. The Apex Court in the case of **Rahul Kumar v. State of Uttar Pradesh & Ors.**²⁰, has observed that the candidate who had put himself in a disadvantageous position and he was not claiming any advantage,

19 Writ Petition (Civil) No. 322 of 2021, Decided on 08.04.2021

20 Writ Petition (s)(Civil) No(s). 378/2021, Judgement dated 29.06.2021

candidature of such person shall not be cancelled: Relevant excerpt of the said order is being quoted herein-below:

7. We need not consider individual fact situation as the reading of the G.O. and the Circular as stated above is quite clear that wherever a candidate had put himself in a disadvantaged position as stated above, his candidature shall not be cancelled but will be reckoned with such disadvantage as projected; but if the candidate had projected an advantaged position which was beyond his rightful due or entitlement, his candidature will stand cancelled. The rigour of the G.O. and the Circular is clear that wherever undue advantage can enure to the candidate if the discrepancy were to go unnoticed, regardless whether the percentage of advantage was greater or lesser, the candidature of such candidate must stand cancelled. However, wherever the candidate was not claiming any advantage and as a matter of fact, had put himself in a disadvantaged position, his candidature will not stand cancelled but the candidate will have to remain satisfied with what was quoted or projected in the application form.

(Emphasis supplied)

29. In a catena of judgements, the Supreme Court has consistently held that submission of false or incorrect information with the intent of securing an undue benefit amounts to misrepresentation and fraud, and any appointment or advantage obtained on the basis of such false information is liable to be cancelled. In the case of **District Collector & Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram and another v. M. Tripura Sundari Devi**²¹, the Court has observed that a candidate cannot claim equity or sympathy when he/she has obtained a benefit by suppressing or misstating material facts. Similarly, in the case of **Kendriya Vidyalaya Sangathan and others v. Ram Ratan Yadav**²², the Supreme Court has held that furnishing incorrect information in recruitment documents justifies termination, irrespective of whether the misstatement was intentional or otherwise. The suppression or misstatement of material information in recruitment documents is a serious lapse, and even if the candidate claims inadvertence, the employer is justified in cancelling the candidature.

30. In the case of **Union of India v. M. Bhaskaran**²³, the Supreme Court has held that appointments obtained by producing false documents or

²¹ (1990) 3 SCC 655

²² (2003) 3 SCC 437

²³ 1995 Supp 4 SCC 100

incorrect information are void ab initio, and no equity can be claimed by the wrongdoer. In that respect reference may also be made to the judgement of Apex Court in the case of **State of Bihar and others v. Kirti Narayan Prasad**²⁴. Similarly, in the case of **Meghmala and others v. G. Narasimha Reddy and others**²⁵, the Court emphasised that fraud vitiates every solemn act and no benefit can be retained, if obtained by deceit or misrepresentation.

31. Applying the aforesaid settled principles, it is found that entering higher marks than actually obtained is not a mere clerical lapse but a deliberate act capable of altering the merit position, therefore it cannot be regularised under the guise of ‘human error’. Any undue advantage so obtained is illegal and vitiates the selection itself. This Court further notes that the settled position of law leaves no room for ambiguity. Entering marks higher than the candidate has actually secured is a conscious act that materially alters the candidate’s position in the merit list. Such conduct cannot be trivialised as a human error.

32. It is a cardinal principle of service jurisprudence that fraud vitiates every solemn act. A candidate who enters the selection process by misrepresenting material particulars, such as academic marks that constitute the very basis of merit-based recruitment, cannot invoke the equitable doctrine of estoppel. One who approaches the authority with unclean hands, is not entitled to seek protection under any equitable principle. Public appointments must strictly conform to statutory norms and prescribed eligibility criteria. Where an applicant manipulates higher marks to obtain an undeserved advantage, the appointment becomes tainted from its inception. Since there can be no estoppel against statute, the employer is empowered and indeed duty-bound to annul an appointment obtained in derogation of the recruitment rules, notwithstanding any administrative lapse or delay.

²⁴ (2019) 13 SCC 250

²⁵ (2010) 8 SCC 383

33. The plea that the appointing authority had granted time to rectify the application form is misconceived. Such an opportunity is meant to correct bonafide clerical or inadvertent errors, not to sanitise a deliberate falsification of essential data. A procedural indulgence extended by the authority cannot be construed as a waiver of its right to scrutinise the veracity of the information furnished or to take action upon detection of misrepresentation. Even the issuance of an appointment letter does not confer any indefeasible or vested right to continue in service when the very foundation of the appointment is vitiated. An employment secured by deceit is voidable at the instance of the employer, and neither length of service nor any administrative oversight can breathe legitimacy into an appointment that is tainted from the outset.

34. The argument that the employer is now precluded from acting because it failed to detect the discrepancy earlier is equally untenable. Public employment is a matter of public trust, and the State is under a constitutional obligation to uphold the integrity of the selection process. An illegality does not ripen into a legal right merely because it remained unnoticed for some time. Once the appointment is shown to have been procured by misrepresentation of marks, the employer is under no legal obligation to continue such appointment. Since the very entry into service is tainted, the candidate cannot claim protection under Articles 14 or 311 of the Constitution of India.

35. Permitting estoppel in such circumstances would undermine the sanctity of meritocracy, distort the selection process, and result in the displacement of genuinely more meritorious candidates. The doctrine of estoppel cannot be invoked to perpetuate illegality or to defeat the legitimate expectations of eligible aspirants.

36. Having considered the submissions and perused the material available on record, this Court is of the firm view that where a candidate deliberately enters marks higher than those actually secured, thereby placing himself/

herself in a position of unwarranted advantage and ultimately securing appointment, such appointment cannot be termed legal or valid. Such an act, by any stretch of reasoning, cannot be treated as a mere human error or an inadvertent mistake, as it confers an undue advantage upon the candidate to the prejudice of other eligible aspirants and strikes at the very root of fairness and transparency in the selection process. The candidates' act of furnishing inflated academic marks constitutes a material misrepresentation. Their subsequent appointment is, therefore, vitiated ab initio. The opportunity given for rectification cannot absolve the candidates of intentional falsification. No estoppel can arise to protect an appointment that is fundamentally illegal. The very foundation of the appointment stands vitiated by misrepresentation.

37. In the facts at hand, it is an admitted position that the petitioners except Preeti, Manish Kumar Mahaur, Rinku Singh and Sweety Shokeen, deliberately inflated the marks obtained by them in their academic examinations while submitting their application forms for the posts of Assistant Teacher. Such inflation of marks placed them in an artificially enhanced position in the merit list, thereby enabling them to secure appointments to a public post to which they were not legitimately entitled.

38. Admittedly, case of the petitioners nos. 5, 6 & 7 in Writ-A No. 8734 of 2025, namely, Preeti, Manish Kumar Mahaur and Rinku Singh and petitioner no. 1 – Sweety Shokeen in Writ-A No. 8766 of 2025 fall within the criteria of disadvantage, thus, their appointments are based on the merit criteria they possess.

39. The records pertaining to remaining petitioners, in both the petitions, reveal a deliberate attempt of mentioning higher marks than they actually possess in their academic records. As per the settled position, discussed above, they are not entitled for any relief as being claimed for.

40. Having considered the submissions advanced by learned counsel for the parties and upon perusal of the record, a case is made out in favour of petitioner nos. 5, 6 & 7, namely, Preeti, Manish Kumar Mahaur and Rinku Singh in Writ-A No. 8734 of 2025 and petitioner no. 1 – Sweety Shokeen in Writ-A No. 8766 of 2025, only. The order impugned dated 21.05.2025 in respect to petitioners nos. 5, 6 & 7, namely, Preeti, Manish Kumar Mahaur and Rinku Singh in Writ-A No. 8734 of 2025 and petitioner no. 1 – Sweety Shokeen in Writ-A No. 8766 of 2025 is quashed.

41. In view of the above, Writ-A No. 8734 of 2025 in respect of petitioner nos. 5, 6 & 7 namely, Preeti, Manish Kumar Mahaur and Rinku Singh and Writ-A No. 8766 of 2025 in respect to petitioner no. 1 – Sweety Shokeen are allowed. Insofar as rest of the petitioners in both the writ petitions are concerned no relief is granted in their favour and the writ petitions are dismissed.

42. There shall be no order as to costs.

(Mrs. Manju Rani Chauhan,J.)

December 16, 2025
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