

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. _____ OF 2026

**[Arising out of Special Leave Petition (Civil) Nos. 33434-
33435 of 2026]**

**SHIV HARSH KISAN POST
GRADUATE COLLEGE**

...APPELLANT

Versus

**HARISH CHANDRA
BHARTI & ORS.**

...RESPONDENTS

ORDER

1. Heard.
2. Leave granted.
3. Having heard Mr. Sharan Dev Singh Thakur, learned

Additional Advocate General appearing for the petitioner and Mr. Alok Mishra, learned counsel appearing for the respondents, it would not detain us for too long to set aside the impugned orders dated, i.e, dated 23.07.2026 and 20.08.2026 for following reasons.

4. On an advertisement issued in the year 2013, inviting applications for Class III posts in the petitioner college, including that of Routine Grade Clerk and Library Clerk, respondent Nos.1 and 2 herein applied and were called for interview. and they were declared successful and were selected for the post of Routine Grade Clerk and Library Clerk. In the year 2014–15, it was alleged that the selection process carried out was contrary to rules. An Inquiry Committee was set up to examine the allegations against the selection process adopted. The Inquiry Committee, after examining the allegations found that selection and the appointment process were riddled with legal infirmities and submitted a report dated 26.04.2015. On 19.06.2015 (Annexure P/1), the Special Secretary, Government

of Uttar Pradesh, wrote a letter to the Director, informing there has been a clear violation of the prescribed procedure and violation of rules in the appointment made to Class III / IV posts and as such, the Government had decided to cancel the appointments. By communication dated 20.06.2015 (Annexure P/2), the Director directed the Authorized Controller / District Magistrate, Basti to cancel the appointments. Hence, a show cause notice was issued on 29.06.2015 to respondent Nos.1 and 2 herein amongst others as to why their appointments should not be cancelled, and on reply being submitted on 03.07.2015 denying their involvement in the alleged irregularities and praying that they be continued in service, an order came to be passed on 08.07.2015 cancelling their appointments.

5. Aggrieved by the said cancellation / termination order, Writ Application No.46719 of 2015 came to be filed before the High Court. The learned Single Judge, by order dated 19.08.2015 (Annexure P/9), allowed the writ petition and quashed the cancellation order dated 08.07.2015, by observing that:

- (i) In case where an order of termination from service, whether by way of cancellation of appointment or in consequence of disciplinary proceedings, there should have been compliance of principles of natural justice;
- (ii) Notwithstanding the impugned order being quashed, the competent authority was entitled to proceed afresh against the writ applicants, namely. Respondent Nos.1 and 2 herein and;
- (iii) Respondent Nos.1 and 2 herein would be entitled to reinstatement in service upon such inquiry, if concluded in their favor.

6. A perusal of the learned Single Judge's order would clearly indicate that the appointing authority was granted liberty to proceed afresh against the petitioners, and it was made clear that writ applicants would not be entitled to reinstatement into service unless enquiry being concluded in their favour.

7. The two original writ petitioners filed a Special Appeal Defective No.122 of 2026, challenging the aforesaid order passed by the learned Single Judge to the extent of not granting

reinstatement and initiation of inquiry afresh, apart from seeking back wages from the year 2015 and also sought for continuity of services. The Division Bench has passed the impugned orders by directing that respondent Nos.1 and 2 herein should be reinstated and they be paid subsistence allowance by treating the period commencing from termination till reinstatement as period of suspension. Said findings cannot be sustained for reasons more than one:

(a) Firstly, the learned Division Bench, vide order dated 07.04.2026, took note of the fact that the District Magistrate / Authorized Controller had undertaken the inquiry and had directed further proceedings to be taken. However, it proceeded to pass the impugned order dated 23.07.2026 directing that the original writ applicants would be entitled to the benefit of the observation of learned Single Judge to the extent of they being reinstated and payment of subsistence allowance from date of the order of the learned Single Judge. A perusal of the order of the learned Single Judge would disclose that Writ applicants would only be entitled to be reinstated into service if upon

enquiry concluded in their favour and nothing has been said about granting of subsistence allowance. However, the Division Bench seems to be under the impression that Writ applicants were under suspension, and it is in this background that Division Bench had made following observations under the orders noted hereinbelow:

“Order Dated 07.04.2026

2. It has been ...xxx... quashed. By virtue of the further directions issued for fresh inquiry, the status of the original petitioners has to be treated to be that of a suspended employee.”

Order Dated 23.07.2026

1. ...xxx...
2. ...xxx...
3. ...xxx...
4. ...xxx...
5. In the meantime, it is expected that the Authorized Controller would have formed a firm opinion as to the

further course to be adopted concerning a fresh disciplinary proceeding that may be drawn. However, for the above purposes, the original petitioners/appellants would remain entitled to be considered entitled to the benefit of the order of the learned single judge to the extent of they being reinstated and payment of subsistence allowance from the date of the order of the learned single judge. That status may be conferred on the petitioners by passing an appropriate order and the subsistence allowance may be paid out on or before the next date and the proof of the same be filed on record by the State.

6. ...xxx...

Order Dated 28.08.2026

1. ...xxx...

2. ...xxx...

3. ...xxx...

4. Before such time may be granted, bona fides must be established by the State. It must be disclosed that subsistence allowance which was undeniably due to the petitioner for the entire period of suspension suffered during pendency of the writ petition and now again, has been computed and paid out.

5. For that purpose, time was granted in the forenoon session to the learned Additional Advocate General to obtain fresh instructions. In the afternoon, it has been informed that the respondents would compute and pay out the subsistence allowance to the petitioner for the entire period from 19.08.2025 till date, within a period of one month. Also subsistence allowance for the current and future period would be paid on time, w.e.f. 01.09.2026 onwards.

6. ...xxx...”

(b) Secondly, the writ applicants were not the suspended employees, but they were employees who were terminated by order dated 08.07.2015 and as such, the Division Bench committed a serious error in construing them or treating them as suspended employees and directing the State to pay subsistence allowance. Payment of subsistence allowance would arise only in case of suspended employees as per the extant Civil Services Rules.

(c) Thirdly, the main relief that has been claimed in the intra-court appeal is for reinstatement and payment of salary or wages and as such, by way of an interim order, that too while the appeal was pending for almost 10 months, the impugned order directing reinstatement and payment of subsistence allowance was not warranted.

At the most, the High Court could have ordered for expeditious hearing of the intra-court appeal.

8. In the light of the aforesaid discussion, we are of the considered view that impugned orders cannot be sustained. Hence, they are hereby set aside and appeals are allowed. We request the High Court to expedite the hearing of the intra-court appeal, subject to the learned counsels appearing for both the parties extending full cooperation.

9. Pending applications, if any, stand consigned to records.

No order as to costs.

.....J.
(ARAVIND KUMAR)

.....J.
(VIPUL M. PANCHOLI)

**NEW DELHI;
SEPTEMBER 23, 2026.**

ITEM NO.16

COURT NO.11

SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C)
No(s).33434-33435/2026

[Arising out of impugned final judgment and order
dated 23-07-2026 in SAD No.122/2026 20-08-2026 in
SAD No.122/2026 passed by the High Court of
Judicature at Allahabad]

SHIV HARSH KISAN POST GRADUATE COLLEGE

Petitioner(s)

VERSUS

HARISH CHANDRA BHARTI & ORS.

Respondent(s)

FOR ADMISSION

IA No. 286509/2026 - EXEMPTION FROM FILING O.T.

Date : 23-09-2026 This matter was called on for
hearing today.

CORAM : HON'BLE MR. JUSTICE ARAVIND KUMAR
HON'BLE MR. JUSTICE VIPUL M. PANCHOLI

For Petitioner(s) :

Mr. Sharan Dev Singh Thakur, Sr. A.A.G.
Ms. Ruchira Goel, AOR
Mr. Siddharth Thakur, Adv.
Ms. Rishika Rishabh, Adv.
Ms. Ayushi Srivastava, Adv.
Ms. Anamika Agrawal, Adv.

For Respondent(s) : Mr. Alok Mishra, Adv.
Mr. Raghvendra Upadhyay, AOR
Ms. Purnima Jain, Adv.
Mr. Madhur, Adv.
Mr. Swaraj Maurya, Adv.
Mr. Yash Singh, Adv.
Mr. Kshitij, Adv.
Mr. Siya Ram Sharma, Adv.

**Mrs. Gayatri Sharma, Adv.
Ms. Kajal Verma, Adv.
Mr. Chadra Kishore Yadav, Adv.**

**Nikilesh Ramachandran, AOR
Shubham Seth, Adv.
Aditya Krishnan, Adv.**

**UPON hearing the counsel the Court made the
following**

O R D E R

Leave granted.

Civil Appeals are allowed of in terms of the signed
order placed on the file.

Pending application(s), if any, shall stand consigned
to record.

**(NEHA GUPTA)
COURT MASTER (SH)**

**(AVGV RAMU)
COURT MASTER (NSH)**