

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
AT DEHRADUN**

Present: Hon'ble Mr. Ram Singh

----- Vice Chairman (J)

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

CLAIM PETITION NO. 127/2009

Manzoor Hasan, S/o Shri Nanu Khan, R/o Village Manikpur, District Muzaffarnagar.

.....Petitioner

VERSUS

1. State of Uttarakhand through Secretary, Home Affairs, Dehradun, U.K.
2. Dy. Inspector General of P.A.C. Meerut, U.P.
3. Commandant, 40 Bn. P.A.C., Haridwar, U.K.
4. Dy. Inspector General of P.A.C., Dehradun.

.....Respondents

Present: Sri L.K.Maithani, Ld. Counsel
for the petitioner
Sri V.P.Devrani, Ld. A.P.O.
for the respondents

JUDGMENT

DATED: OCTOBER 11, 2019

HON'BLE MR. RAM SINGH, VICE CHAIRMAN (J)

1. The petitioner has filed this claim petition for the following reliefs:-
 - "A) To issue order or direction setting aside the termination order dated 20.05.2000 along with its effect and operation along with all consequential benefits based on the impugned termination order after calling entire record from the respondents declaring the same against the rules and law.*
 - B) To issue order or direction directing to the respondents to restore the status of the petitioner in service, had it been the*

impugned order of termination was never in existence and along with all consequential benefits etc.

C) To issue appropriate order or direction suitable in nature of award damages and compensation to the petitioner for the malicious and malafide act of respondents, by which the petitioner is facing grave mental agony and financial hardship and the amount of the damages and compensation, which may be quantified by this Hon'ble Tribunal and further be directed to the respondents the amount to be recovered from the salary of the erring officer.

D) To issue any other suitable direction or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.

E) Award costs of the claim petition to the petitioner.

F) To declare that the petitioner is also entitled for all benefits like pension and retired dues after completing qualifying service for pension prior to the impugned order and directed the respondents to pay the same along with interest and arrears or in alternate directed to the respondents to grant the subsistence allowance in terms of CSR pension regulation 353(A) along with arrear and interest at the rate of 18 % thereof."

2. Briefly stated, the facts of the case are that the petitioner was appointed as Constable in PAC on 07.07.1989 by respondent No. 3, for which the, basic qualification was high school. The petitioner was a degree holder of 'Prathma' from Tyagi Vidhyapeeth, Shamli, Muzaffarnagar, U.P., which was affiliated with Hindi Sahitya Sammelan, Allahabad. The respondents' contention has been that the petitioner was not having the minimum qualification of High School, hence, disciplinary proceedings were started and after conducting inquiry and collecting record, it was held that the certificate of 'Prathma' held by the petitioner, was not equivalent to High School and found that the petitioner was not having the required qualification hence, the impugned order of termination from service, dated 20.05.2000 was passed.

3. Petitioner filed a writ petition before the Hon'ble High Court at Allahabad and simultaneously, on June, 2000, departmental appeal was also filed before the respondent No. 3, which was rejected. The writ petition filed before the Hon'ble High Court at Allahabad, was transferred

to the Hon'ble High Court of Uttarakhand at Nainital in 2001, after creation of the State. Ultimately, after hearing the writ petition, the Hon'ble High Court at Nainital disposed of the same vide order dated 21.05.2008 and directed the petitioner to approach the Tribunal, on the ground of the alternative remedy.

4. Before this Tribunal, in first round, the petitioner was heard by this court and vide order dated 03.03.2014, it was held that the petition is not maintainable before this Tribunal for adjudication on the ground that the petitioner was terminated before creation of the State of Uttarakhand, therefore, the cause of action arose before creation of State, hence, his petition was returned to the petitioner for proper presentation before the appropriate authority.

5. The judgment of this Tribunal dated 03.03.2014, was assailed by the petitioner before the Hon'ble High Court of Uttarakhand in writ petition (S/B) No. 434 of 2016, from where, the judgment of this Tribunal was set aside and it was held that since the petitioner was working at Srinagar in District Pauri Garhwal, the matter is required to be heard after its transfer vide order dated 11th January, 2013 by the Uttarakhand Public Services Tribunal and setting aside the order of this Tribunal, it was directed to hear and decide the matter on merits. Thereafter, the matter again came up for hearing before this Court. The petitioner slightly amended his petition. The respondents were also given opportunity to respond to the same.

6. The respondents opposed the petition on the ground that the impugned order was passed after giving full opportunity of hearing and at that time, the essential qualification for appointment as Constable in PAC, was high school pass. At the time of recruitment, the certificate of '*Prathma*' was produced by the petitioner, with a declaration that, at that time, the said certificate was equivalent to the high school certificate of U.P. Board of Education of the then State of Uttar Pradesh. It is also contended that the DIG, on 19.12.1998, while perusing the record of the persons for their approval for promotion to next rank, found that the

petitioner got appointment on the basis of such certificate of 'Prathma' issued by *Hindi Sahitya Sammelan*, Allahabad. On enquiry, Secretary, U.P. Education Board, Allahabad informed that neither the 'Prathma' nor 'Madhyama' certificates are equivalent to high school/intermediate, nor any kinds of benefits can be given on the basis of such certificates. It was also intimated that as per the Board rules under Chapter 12, sub rule, the 'Prathma/Madhyama' certificate issued by the Hindi Sahitya Sammelan, Prayag, Allahabad was equivalent to class 8th pass, which was applicable for admission in high school. Therefore, after finding the fact that the petitioner did not possess the compulsory qualification for the post of Constable, the impugned order was passed. Hence, the claim petition is liable to be dismissed.

7. The petitioner in his R.A. has reiterated the facts of his claim petition and further submitted that the Central Government, through G.O. dated 18.06.2001 has recognized this 'Prathma' certificate equivalent to high school examination hence, the termination is illegal and the petition deserves to be allowed.

8. We have heard both the sides and perused the record.

9. The moot question before us to examine is, whether the 'prathma' certificate of Hindi Sahitya Sammelan, Allahabad issued by the Tyagi Vidhyapeeth, Shamli, Muzaffarnagar, U.P. is equivalent to high school or not.

10. It is an admitted fact that the minimum qualification for entry into service of Constable at the time, the petitioner entered, was high school. The petitioner was not having high school certificate, passed by the U.P. Board of Education. He entered into the service on the basis of a certificate of 'Prathma', issued by the Tyagi Vidhyapeeth, Shamli, Muzaffarnagar, U.P. of Hindi Sahitya Sammelan, Allahabad. The contention of the respondents has been that such certificate is not equivalent to the High School certificate because in this respect, query was also made from the U.P. Education Board, from where, it was

specifically informed that this qualification of 'Prathma' is not recognized and is not equivalent to High School certificate of U.P. Board. In this respect, inquiry file was also summoned; detailed inquiry was also conducted and the petitioner was given full opportunity of hearing. An information was collected from the Secretary, Madhyamik Shiksha Parishad, U.P., Allahabad vide their letter dated 09.05.2000, who specifically informed that 'Prathma' or any other certificate issued by Hindi Sahitya Sammelan, Allahabad is equivalent to class 8th pass and such students can take admission in high school examination and it was specifically mentioned in the certificate that the examination of *Hindi Sahitya Sammelan* were not recognized as equivalent to any of the examinations of Education Board. The letter reads as under:

“प्रेषक,
सचिव,
माध्यमिक शिक्षा परिषद,
उ०प्र०, इलाहाबाद।
सेवा में,
श्री प्रताप सिंह,
सेनानायक,
40वीं वाहिनी, पी०ए०सी०
हरिद्वार।

पत्रांक: परिषद-9/57 दिनांक 9 मई 2000

विषय: हिंदी साहित्य सम्मेलन इलाहाबाद की परीक्षाओं की समकक्षता के संबंध में।

महोदय,

उपर्युक्त विषयक आपके पत्रांक पी एफ-6/99 दिनांक 5 मई 2000 के सन्दर्भ में सूच्य है कि परिषद विनियमों के अध्याय बारह के विनियम 10(1)(अ) (चार) के प्रावधानानुसार हिन्दी साहित्य सम्मेलन, इलाहाबाद की प्रथम अथवा कोई उच्चतर परीक्षा उत्तीर्ण परीक्षार्थी परिषद की हाई स्कूल परीक्षा में प्रवेश ले सकते हैं। अर्थात् उक्त परीक्षा कक्षा-8 के समकक्ष मान्य है।

इसी सन्दर्भ में यह भी सूच्य है कि हिन्दी साहित्य सम्मेलन, इलाहाबाद की परीक्षाये परिषद की किसी भी परीक्षा के समकक्ष कभी भी मान्य नहीं थी। अतः वर्ष 1989 में मान्य होने का प्रश्न ही नहीं है।

भवदीय,

(गणेश कुमार)
सचिव”

11. The petitioner has referred to the letter of the Government of India dated 18.06.2001, which reads as under:

“No. 15012/4/87-Estt(D)
Government of India
Ministry of Personnel, P.G. & Pensions.
Department of Personnel & Training
New Delhi
18

To,
All Central Government Employees,
Hindi Sahitya Sammelan,
Allahabad.

Subject: Recognition of Hindi Examination conducted by the Hindi Sahitya Sammelan, Allahabad.

Sir,

With reference to your letter dated Nil addressed to the Hon'ble Chief Justice of India on the above subject and to say that the Government had accorded recognition to the Hindi examinations conducted by the Hindi Sahitya Sammelan, Allahabad only in regard to the standard of Hindi prescribed in the equivalent Hindi examinations as under:

Name of the examination Recognized	Standard of Hindi prescribed in equivalent examination
Prathma	S.L.C.(High School)
Madhyama (Visharad)	B.A.
Uttama (Hindi Sahitya)	B.A.(Hons. In Hindi)

2. The recognition accorded above is not to be treated as equivalent to the full-fledged certificate/degree to which it has been equated.

Sd/-

(C.O.Rajan)

.....”

12. The petitioner has contended that the certificate of 'Prathma' was recognized by the Government of India, equivalent to High School whereas, referring to the above letter, on behalf of the respondents, it is contended that para 2 of the letter specifically clarifies that this certificate or degree is not a full-fledged certificate or degree of any examination of the board. We agree with this argument because para-2 of the letter is very much relevant which clarifies that this certificate cannot be treated as equivalent to High School examination.

13. Moreover, this question was already dealt, with by this Tribunal in Claim petition No. 130 of 2008, Prayag Dutt Dhaundiya vs. State of Uttarakhand & others, decided on 26.08.2015, wherein, the person of

other department having this qualification of 'Prathama' and 'Madhyama' were treated not equivalent to High School and Intermediate and this question was decided in detail that such qualification of Hindi Sahitya Sammelan is not equivalent to High School or Intermediate examination of the U.P. Board. The same principle applies in this case.

14. The decision passed by the Tribunal was passed on the basis of some judgments of the Hon'ble High Court of Allahabad and Hon'ble High Court of Uttarakhand. Again we have gone through the arguments of the party and the case laws referred thereto.

15. Hon'ble High Court of Uttarakhand, in *Writ Petition No. 6928 of 2001 (S/S), Shri Heera Singh Bhandari Vs. District Inspector of Schools, Nainital and another decided on 11.9.2007--2007(2), U.D. 691-*, referring to the judgment of the Hon'ble Supreme Court, passed in *State of Rajasthan vs. Arun Lata, AIR 2002 SC 2642*, had held that certificates of Prathma and Madhyama issued by Hindi Sahitya sammelan, Allahabad are not equivalent to High School or Intermediate of U.P.Board.

16. Hon'ble High Court of Allahabad in **Special Appeal No. 1731 of 2010, Urmila Devi Vs. State of U.P. and another, 2012(1) ADJ 346** decided on 11.11.2011, has held as under:

“12. The question whether the Madhyama examination conducted by the Hindi Sahitya Sammelan Prayag, Allahabad is equivalent to Intermediate Examination conducted by the U.P. Secondary Education Board, Allahabad is no longer res integra. This Court has time and again considered this question and consistently returned the findings that the Madhyama (Visharad) examination of Hindi Sahitya Sammelan, Allahabad is not equivalent to the Intermediate Examination conducted by the U.P. Secondary Education Board, Allahabad. The judgments of this Court considering the question are as follows:

*(1) In **Sarojani Pandey (Smt.) v. State of U.P. & Ors., (2003) 2 UPLBEC 1129** learned Single Judge of this Court relied upon Government Order dated 28th October, 1998, wherein it was clearly stated that examinations of Prathama and Madhyama conducted by the Hindi Sahitya Sammelan, Allahabad are not equivalent to the High School and Intermediate examination conducted by the Board of High School and Intermediate Education U.P. Allahabad. The Court found that this is the latest order will prevail over the*

Government Order dated 22nd August, 1998 issued by the Joint Secretary U.P. Government addressed to Director of Education, Allahabad as well as order dated 26th July, 2001, of the Government of India.

(2) *In **Kunwar Herash Saran Saxena v. State of U.P. & Anr., Writ Petition No. 8579 of 1992 decided on 6.12.2005** learned Single Judge of this Court observed in paras 3 and 6 as follows:-*

3. The controversy in the facts and circumstances of the present case is confined to the issue as to whether the certificate of Madhyama Visharad obtained by the petitioner from Hindi Sahitya Sammelan satisfies the minimum academic qualifications prescribed for appointment on the post of Junior Clerk. As provided for under the Adhinasth Karyalaya Lipik Vargiya Karmcharivarg (Seedhi Bharti) Niyamavali, 1985 or not. Hindi Sahitya Sammelan has been established under the Hindi Sahitya Sammelan Act, 1962 and Section 22 of the University Grants Commission recognises a right in the said Hindi Sahitya Sammelan to award degrees. As a matter of fact University Grants Commission has notified certain degrees awarded by Hindi Sahitya Sammelan vide notification dated 21.8.2003. However, on record there are various government orders issued by the Central Government recognising the certificate for the purposes of appointment in government service, reference (Notification dated 26.7.2001 Annexure-3 to Rejoinder Affidavit and Notification dated 16.9.1990 Annexure-5 to Rejoinder Affidavit). However, it may be noticed that Government of India had appended a note which reads as follows : The recognition recorded above is not to be treated equivalent to the full fledged certificate/degree for which it has been equated (Annexure-6 to the Writ Petition).

6. The petitioner has not been able to bring on record any document for establishing that the certificate possessed by the petitioner from the Hindi Sahitya Sammelan was ever recognised as equivalent to intermediate examination by the Governor of the State. All the documents brought on record by the petitioner issued by the Central Government or any of the authority are of no consequence for determination of the issue concerned.

(3) *In **Pradeep Kumar son of Mukandi Lal v. State of U.P. & Ors.** this Court once again decided the issue on 23.1.2008 and held as follows:*

8. Learned Counsel for the respondents has placed reliance on judgment of this Court reported in (2004) 2 UPLBEC 1716; Shailendra Kumar Singh v. State of U.P. and Ors. The question which was considered in the above case, was as to whether degree of Shiksha Visharad given by Hindi Sahitya Sammelan is equivalent to be treated as B.Ed, degree. This Court after considering the provisions of the National

Council for Teachers Education Act, 1993 came to the conclusion that degree of Shiksha Visharad from Hindi Sahitya Sammelan being not recognised by National Council for Teacher Education, cannot be held to be equivalent to B.Ed.

9. The petitioner has not brought any material on record to establish that degree of Madhyama (Visharad) of Hindi Sahitya Sammelan has been treated to be equivalent to Intermediate by the State of U.P. It is not disputed that for sending a candidate for B.T.C. Correspondence Course training minimum eligibility is Intermediate. Learned Counsel for the petitioner at the time of hearing produced a booklet issued by Hindi Sahitya Sammelan, Allahabad containing various letters issued by the State of UP., Government of India and several institutions regarding degrees issued by Hindi Sahitya Sammelan. Reliance has been placed by Counsel for the petitioner on a press note dated 18th February, 1970 issued by the Government of India along with which a list of organisations conducting different examinations have been issued.

10. A perusal of the above press note relied by Counsel for the petitioner, itself indicates that examination from Hindi organisations is recognised for standard of Hindi prescribed in the equivalent examination. The last paragraph of the press note issued by the Government of India, as quoted above, clearly clarifies that the recognition of this examination is in regard to standard of Hindi prescribed in the equivalent Hindi examination and it is not to be treated as equivalent to full fledged certificate of degree of examination. A copy of the Government order issued by the State of UP. dated 5th December, 1989 has also been relied by Counsel for the petitioner, which was issued in reference to letter dated 12th August, 1988 of the Government of India regarding examinations conducted by Hindi organisations. The Government order dated 5th December, 1989 clearly clarifies that degree of Madhyama (Visharad) issued by Hindi Sahitya Sammelan is equivalent only for standard of Hindi up to that examination and not equivalent to degree or certificate. In this context it is also relevant to refer to provisions of Regulations framed under the UP. Intermediate Education Act, 1921. For the Intermediate examination, which is conducted by Madhyamik Shiksha Parishad, UP. several degrees from different organisation and Universities throughout the country have been mentioned in Chapter-XIV of the regulations and none of the degrees or certificate issued by Hindi Sahitya Sammelan, Prayag has been treated to be equivalent to High School so as to make such candidates eligible to take admission in the Intermediate examination whereas the Purva Madhyamik Examination of Sampurnanand Viswavidyalaya, Varanasi and the examination of Visharad from Kashi Vidya Peeth,

Varanasi have been mentioned as equivalent to High School. The B.T.C. Correspondence Course training is imparted to untrained teachers so as to make them eligible for entitlement of trained grades of teachers. The qualification of Intermediate required is for purposes of appointment and the petitioner was required to fulfil the Intermediate qualification for purposes of appointment or imparting B.T.C. Correspondence Course training for becoming entitled to trained grade of Assistant Teacher. Thus the qualification required for appointment of Assistant Teacher is full fledged certificate of Intermediate and the degree of Madhyama (Visharad) issued by Hindi Sahitya Sammelan cannot be treated to be equivalent to Intermediate examination.

11. The petitioner, thus, has failed to substantiate that degree of Madhyama (Visharad) granted by Hindi Sahitya Sammelan to the petitioner in the year 1990 is equivalent to Intermediate Examination. One more fact which is relevant to be noticed, is that petitioner himself appeared in the Intermediate examination conducted by U.P. Madhyamik Shiksha Parishad and has passed the same in the year 1997. Had his degree of Madhyama (Visharad) from Hindi Sahitya Sammelan equivalent to Intermediate, there was no occasion for the petitioner to pass Intermediate examination of U.P. Madhyamik Shiksha Parishad in the year 1997.

In the aforesaid case learned Single Judge after going through all the relevant Government Orders clearly held that the Madhyama (Visharad) examination is equivalent only for standard of Hindi up to that examination and is not equivalent to any degree or certificate.

(4) In *Manish Kumar v. State of U.P. & Ors., Writ Petition No. 45866 of 2007* learned Single Judge of this Court by his judgment dated 29.9.2010 considered all the Government Orders and the judgments in this regard and reiterated that the Prathama certificate issued by the Hindi Sahitya Sammelan is not equivalent to High School certificate issued by the Madhyamik Shiksha Parishad, Allahabad. He quoted the letter of the Secretary of the Madhyamik Shiksha Parishad reporting that the Prathama, Madhyama or any other examination conducted by Hindi Sahitya Sammelan was not equivalent to High School/ Intermediate examination at any time in the past or in the present. The Government Orders produced to support the equivalence were found to be false. In the past the examination conducted by the Hindi Sahitya Sammelan were taken to be equivalent to Class-VIII for appearing in the High School examination of the U.P. Secondary Education Board, but now since it is compulsory for all the students appearing in the High School examination either from any institution or on private basis, to pass Class IX examination, the equivalence of the examinations conducted by the Hindi Sahitya Sammelan are not recognised. Learned Single Judge observed that Chapter XIV of the Regulation framed under the U.P. Intermediate Education Act, 1921 mentions as many as 71 certificates recognised by the

U.P. Madhyamik Shiksha Parishad as equivalent to the High School examination for the purposes of appearing in the Intermediate Examination. There is no mention of the Prathama certificate issued by the Hindi Sahitya Sammelan in this list. Para 981 of Chapter 136 of Manual of Government Orders (Revised Edition 1981) also does not mention the equivalence given to Prathama or Madhyama examination to the High School and Intermediate examination conducted by the Secondary Education Board U.P. Learned Single Judge distinguished the judgment in Som Pal Singh v. Regional Joint Director of Education (referred as above) on the ground that it was based upon concession given by learned Standing Counsel, did not dispute the factum of Government Order dated 22.8.1998. The Government Order was thereafter superseded by another Government Order dated 28.10.1998. The factum of supercession has been mentioned in Sarojani Pandey (Supra); Shailendra Kumar Singh v. State of U.P. & Ors. (2004) 2 UPLBEC 1716. Learned Single Judge also noticed that in State of Rajasthan & Ors. v. Lata Arun AIR 2002 SC 2642 it was noticed by the Supreme Court that the educational certificates of Madhyama issued by Hindi Sahitya Sammelan has been deleted from the recognised qualification vide notification dated 28.6.1985.

.....

15. There is another aspect to the matter namely that if the qualification conducted by private societies, in respect of language are treated as equivalent to the statutory boards, the candidates passing the examination from the statutory board will be seriously discriminated in appointments in Government Service, which is regulated by the statutory rules. The Court cannot permit the equivalence to be considered so casually. In Rajasthan Pradesh V.S. Sardarshahar & Anr. (Supra) the Supreme Court considered the legal status of Hindi Sahitya Sammelan and found that it is neither university/ deemed university nor an educational board. It is society registered under the Societies Registration Act and is not an educational institution imparting education in any subject. There is no school/ college imparting education in any subject affiliated to it. It also does not have any recognition from any statutory authority, even in respect of medical qualifications after 1967.

16. In the aforesaid circumstances, we fully agree with the reasoning given by the learned Single Judge in the judgment cited as above and reiterate that the Prathama and Madhyama (Visharad) examination conducted by the Hindi Sahitya Sammelan are not equivalent to the High School and Intermediate Examination conducted by the Board of High School and Intermediate Education U.P. The petitioner's qualification of Madhyama (Vishrad) is thus not equivalent to Intermediate Examination, and thus the petitioner was not qualified and eligible to be appointed as a clerk.

17. Hon'ble High Court of Uttarakhand, in Special Appeal No. 247 of 2008, Director, Krishi Utpadan Mandi Samiti, Uttarakhand Vs. Lal Chand Decided, on 9.3.2010 (2011(2)UC1144), also held that "Prathama" and "Madhyama" examinations from Hindi Sahitya

Sammelan, Allahabad were not recognized by the U.P. or successor State of Uttarakhand, hence, the same could not have been taken into consideration to bestow eligibility of high school examination.

18. Hence, it has categorically been held in the above cases, that 'Prathma' and 'Madhyama' qualification of Hindi Sahitya Sammelan are not recognized by State of Uttarakhand and the State of U.P.. Hence, the petitioner was not having minimum required qualification for entry into the service.

19. Learned counsel for the petitioner has also raised an objection that during the inquiry, petitioner requested to summon the officers of the department in their defence, as those officers after examining their qualification selected him into service but he was not allowed to cross-examine them, accordingly, opportunity of hearing was not allowed to him. Learned A.P.O. has contended that the question for recognition of qualification, equivalent to High School was such, for which any of those persons were not the relevant witnesses nor could have witnessed any defence if they had been summoned. In this respect, learned counsel for the respondents referred to the judgment of ***Manish Kumar v. State of U.P. & Ors.[2010(9) ADJ 762], Writ Petition No. 45866 of 2007 decided on 29.9.2010*** wherein this question was dealt with whether the issue of providing opportunity of hearing in a matter is fatal or not, if the promotion was cancelled on the ground that the 'Pratham' certificate issued by Hindi Sahitya Sammelan, Allahabad is not equivalent to High School. The Hon'ble High Court at Allahabad has held that by not providing opportunity of hearing to the employee, no violation of the principle of natural justice has been made. In this regard, the Hon'ble High Court has held as under:

"21. In so far as the petitioner's argument with respect to the breach of principle of natural justice while passing the impugned order is concerned, it is well settled the principle of natural justice is not a ritual which should be offered in each and every case as under a given circumstance even after giving an opportunity of

hearing, the same result is likely to come and the order has been passed without opportunity of hearing such order should not interfered with merely for the reason that the opportunity of hearing was not afforded. The Apex Court in the case of Malloch Vs. Aberdeen Corporation, (1971) 2 ALL ER 1278, has held that the breach of natural justice do also occur where all facts are not admitted or are not all beyond dispute but relief can be refused when the case of the applicant is not one of "real substance" or that there is no substantial possibility of his success or that the result will not be different even if natural justice is followed. The same view has been reiterated in the case of Glynn Vs. Keele University. Cinnamond Vs. British Airport Authority, not only in England but here also the Supreme Court in the case of S.L. Kapoor Vs. Jagmohan and others, (1980) 4SCC 379 has held as under:-

"In our view the principles of natural justice know of no exclusionary rule dependent on whether it would have made any difference if natural justice had been observed. The non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary. It ill comes from a person who has denied justice that the person who has been denied justice is not prejudiced. As we said earlier where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is permissible, the Court may not issue its writ to compel the observance of natural justice, not because it is not necessary to observe natural justice but because Courts do not issue futile writs. We do not agree with the contrary view taken by the Delhi High Court in the judgment under appeal."

22. *The same view has been reiterated in M.C.Mehta Vs. Union of India and others (1999)6SCC 237 and Aligarh Muslim University and others Vs. Mansoor Ali Khan, 92007) 7 SCC 529 and many other decisions of Apex Court as well as of this Court.*

23. *Here in the present case as has been held that Prathma certificate issued by Hindi Sahitya Sammelan is not equivalent to High School certificate issued by Madhyamik Shiksha Parishad, Allahabad, even if an opportunity was offered to the petitioner, he would not have been able to improve his case and the argument of learned counsel for the petitioner, to the effect had the opportunity was offered to him, the authorities would have taken a different view after considering the petitioner's reply, does not hold any water."*

20. Learned counsel for the petitioner has referred to the judgment of the Hon'ble Supreme Court in Rakesh Bakshi & Anr vs. State of Jammu and Kashmir, 2019(2) Supreme 4. We have gone through this judgment and found that the facts of this case are totally different. In that case, the question was about the possession of requisite qualification on the cutoff date and in such case, the result was declared after cutoff date and the qualification was acquired but

the present case is totally different because it is not the case of the petitioner that he had acquired any other essential/equivalent qualification before his entry. The petitioner will get no benefit from this judgment, referred by him, as the facts are totally different.

21. In view of the above, we are of the view that petitioner has not been able to prove his case and therefore, is not entitled for any relief. The principle of natural justice was not violated during the enquiry. Consequently, the claim petition, devoid of merit, is liable to be dismissed.

ORDER

The claim petition is hereby dismissed. No order as to costs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(RAM SINGH)
VICE CHAIRMAN (J)

DATE: OCTOBER 11, 2019
DEHRADUN
KNP