

**(2004) 08 AHC CK 0291**

**Allahabad High Court**

**Case No:** C.M.W.P. No. 39276 of 2000

Lakhan Singh

APPELLANT

Vs

Zila Sainik Kalyan Evam Punarvas  
Karyalaya and Others

RESPONDENT

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**Date of Decision:** Aug. 27, 2004

**Citation:** (2005) 1 AWC 96

**Hon'ble Judges:** R.B. Misra, J

**Bench:** Single Bench

**Advocate:** Irshad Ali, Tej Pal and S.P. Singh, for the Appellant; S. C., for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

@JUDGMENTTAG-ORDER

R.B. Misra, J.

In this petition prayer has been made to quash the order dated 25.5.1999 (Annexure 5 to the writ petition) passed by Executive Engineer Barh Sagar Nahar Nirman Khand 7, Mirzapur, whereby the petitioner's demand of scale of Rs. 950-1,475 has been rejected on the ground that this scale is of class III category and since the petitioner was born on 8.8.1947 and petitioner's age is about 51 years 8 months and for getting regular employment in the Government service, the maximum age is 32 years" therefore, the petitioner cannot be adjusted in any regular post.

2. According to the petitioner he was initially appointed in Indian Army- to the post of Nayak and after completing 22 years of service was retired on 30.4.1988 and again he was deployed by the Chief Engineer, Flood Division, Allahabad, on 8.12.1992 as a security guard by virtue of being retired army personnel. Since the petitioner was deployed on consolidated salary by appointment order dated 17.12.1992 and keeping in view the interest of the petitioner the consolidated amount was increased to Rs. 1,650 with effect from 12.9.1997. Subsequently it was increased upto Rs. 2,150 being paid as consolidated salary. Petitioner, however,

demand in the scale of Rs. 950-1,475. However the said demand, of the petitioner was rejected on 20.5.1999 on the ground that the petitioner was born on 8.8.1947 and his age is about 51 years eight months, at the time of his first deployment, as such he was not entitled to any regular post as the maximum age is 32 years for Government servant. According to the respondent petitioner was deployed on consolidated salary and he was not deployed in the project on work charge and the security guard is not a cadre of class III category under the respondent, therefore, the petitioner cannot be said to be entitled to the post of class III category.

3. I have heard learned counsel for the parties. The petitioner after being appointed against any existing vacancy or post shall only be entitled to the salary in a particular scale prescribed for provided the appointment was made against the post and vacancy after following the" procedure prescribed under law. Since the petitioner initially was deployed on consolidated salary in exigency of work on the consolidated salary which on sympathetic ground was subsequently increased. In these circumstances the demand of salary of class III in the scale, i.e., in Rs. 950-1,475 cannot be granted to the petitioner.

4. In view of above observation, the writ petition is dismissed.