



A.F.R.

Neutral Citation No. -

2026:AHC-LKO:70249

Reserved on: 09.09.2026

Delivered on: 30.09.2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 8255 of 2023

Smt. Raisa Khan

.....Petitioner(s)

Versus

State of U.P. Thru. Prin. Secy. Deptt. of Minority Welfare Lko. and 6
others

.....Respondent(s)

Counsel for Petitioner(s)	: R.b.s. Rathaur,
Counsel for Respondent(s)	: C.S.C., Afzal Ahmad Siddiqui, Ravi Prakash Yadav

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard Ms. Anu Pandit, Advocate holding brief if Sri RBS Rathaur, learned counsel for the petitioner and Sri Ravi Prakash Yadav, learned counsel for the respondent.

2. The present writ petition has been filed on following prayer:

“(i) issue a writ, order or direction in the nature of Certiorari to quash the impugned order dated 13th September, 2023 passed by opposite party no.1 (Annexure No.1);

(ii) issue a writ, order or direction in the nature of Mandamus commanding opposite parties to make payment of Gratuity to the petitioner along with interest @ 18% per annum forthwith;

(iii) issue such other suitable writ, order or direction as the Hon’ble Court may deem just and proper in the facts and circumstances of the case; and

(iv) Allow the writ petition with costs.”

3. Factual aspect of the matter is that the petitioner was appointed as an Assistant Teacher (Tahtaniya level) in Madarsa Ahle Sunnat Merajul Uloom, Delhi Darwaza Road, Faizabad, on 16.08.1992. The petitioner thereafter continued to discharge her duties as a teacher in the said institution. The petitioner rendered her entire teaching service and, upon attaining the age of retirement, retired from service on 31.03.2019.

4. After her retirement, the petitioner was not paid the amount of gratuity to which she claimed entitlement. The petitioner submitted several applications before the District Minority Welfare Officer, Vikas Bhawan, Faizabad/Ayodhya, as well as before the higher authorities, requesting release of her gratuity. The said applications were also sent through registered post. However, despite the representations made by the petitioner, no effective action was taken by the concerned authorities for release of the gratuity.

5. In the aforesaid circumstances, the petitioner approached this Court by filing Writ Petition No. 7351 (S/S) of 2020, *Smt. Raeesa Khan vs. State of U.P. and Others*. The said writ petition was disposed of by this Court on 15.02.2023 with a direction to the petitioner to submit a comprehensive representation, along with a copy of the order passed by the Court, before the Principal Secretary, Minority Welfare Department, Government of Uttar Pradesh.

6. In compliance with the aforesaid order, the petitioner submitted her comprehensive representation before the Principal Secretary, Minority Welfare Department, Government of Uttar Pradesh, at Babu Bhawan/Secretariat, U.P. Government. The matter was thereafter considered by the competent authority. However, vide order dated 13.09.2023, the Principal Secretary rejected the petitioner's representation on the ground that the petitioner had not exercised the option for retirement at the age of 60 years during her service and had instead retired after attaining the age of 62 years. On that basis, the claim of the petitioner for payment of gratuity was rejected.

7. Being aggrieved by the order dated 13.09.2023 passed by the Principal Secretary, Minority Welfare Department, Government of Uttar Pradesh, the petitioner again approached this Court by filing the instant writ petition i.e. Writ Petition No. 8255 (S/S) of 2023, *Smt. Raeesa Khan vs. State of U.P. and Others*, challenging the aforesaid order. The said writ petition is stated to be pending before this Court.

8. In the meantime, several similarly situated employees/petitioners also approached this Court raising the issue relating to their entitlement to gratuity. In Writ Petition No. 5724 of 2024, this Court, vide order dated 01.10.2024, considered the controversy concerning the Government Orders dated 30.03.1993 and 04.02.2004 and quashed the said Government Orders. The Court further directed grant of gratuity to the petitioners along with interest at the rate of 6% per annum.

9. The issue relating to the exercise of option for retirement at the age of 58/60 years and the consequential entitlement to gratuity was also considered in proceedings before the Hon'ble Supreme Court of India. The State Government had filed Special Leave Petition (Civil) No. 1595 of 2023 in relation to the said controversy. The said SLP was dismissed by the Hon'ble Supreme Court and the entitlement to gratuity was upheld, with a direction for payment of gratuity along with interest at the rate of 6% per annum.

10. The petitioner has relied upon the order dated 01.10.2024 passed by this Court, Lucknow Bench, in Writ Petition No. 5724 of 2024, as well as the order dated 09.12.2025 passed by the Hon'ble Supreme Court in SLP (C) No. 1595 of 2023 and SLP (C) No. 4818 of 2023.

11. In view of the aforesaid facts and the subsequent judicial orders concerning the entitlement of similarly situated employees to gratuity, the petitioner has challenged the order dated 13.09.2023 passed by the Principal Secretary, Minority Welfare Department, Government of Uttar Pradesh, whereby her claim for gratuity was rejected on the ground that she had not exercised the option to retire at the age of 60 years.

12. The petitioner has, accordingly, sought quashing of the order dated 13.09.2023 and a direction to the respondents to release the amount of gratuity payable to her, stated by the petitioner to be approximately Rs.20 to 25 lakhs, from the date it became due, together with interest at the rate of 6% per annum up to the date of actual payment. The petitioner has further sought appropriate directions to the Principal Secretary/Secretary and other concerned officers of the Minority Welfare Department for ensuring release of the aforesaid amount.

13. Submission of learned counsel for the petitioner is that the impugned order dated 13.09.2023 passed by the Principal Secretary, Minority Welfare Department, Government of Uttar Pradesh, whereby the petitioner's claim for payment of gratuity has been rejected, is legally unsustainable and is liable to be quashed. The sole basis for rejection of the petitioner's claim is that she did not exercise an option to retire at the age of 60 years and continued in service until attaining the age of 62 years. Such a ground, by itself, cannot operate to deprive the petitioner of her accrued statutory/service benefit of gratuity, particularly when she had admittedly rendered long and continuous service and retired from the institution on 31.03.2019.

14. She next submitted that the petitioner was appointed as an Assistant Teacher (Tahtaniya level) in Madarsa Ahle Sunnat Merajul Uloom, Delhi Darwaza Road, Faizabad, on 16.08.1992 and thereafter continuously discharged her duties as a teacher in the said institution. The petitioner, thus, rendered several decades of service before her retirement on 31.03.2019. Her long and undisputed tenure of service constitutes the foundation of her claim for gratuity and the respondents cannot deny such benefit merely on the ground that she continued in service beyond the age of 60 years.

15. She submitted that after retirement, the petitioner repeatedly approached the competent authorities for release of her gratuity. Representations were submitted before the District Minority Welfare

Officer, Vikas Bhawan, Faizabad/Ayodhya, as well as before the higher authorities and the representations were also sent through registered post. Despite repeated requests, the respondents failed to take any effective action for payment of gratuity. The continued withholding of the petitioner's retiral dues, despite her repeated representations, is arbitrary and unjustified.

16. She further submitted that the petitioner had earlier approached this Court by filing **Writ Petition No. 7351 (S/S) of 2020, *Smt. Raeesa Khan v. State of U.P. and Others***. The said writ petition was disposed of by this Court on 15.02.2023 with a direction to the petitioner to submit a comprehensive representation along with a copy of the order before the Principal Secretary, Minority Welfare Department, Government of Uttar Pradesh. Thus, the petitioner duly pursued the remedy indicated by this Court and placed her entire claim before the competent authority.

17. She submitted that in compliance with the order dated 15.02.2023, the petitioner submitted a comprehensive representation before the Principal Secretary, Minority Welfare Department. However, instead of considering the petitioner's entitlement to gratuity in accordance with the applicable law and the nature of the benefit claimed, the Principal Secretary rejected the claim vide order dated 13.09.2023 solely on the ground that the petitioner had not exercised an option for retirement at the age of 60 years and had retired after attaining the age of 62 years.

18. Further submission of learned counsel for the petitioner is that the reasoning adopted in the impugned order is contrary to the subsequent judicial pronouncements rendered in respect of similarly situated employees. The question whether an employee who continued in service beyond the age of 58/60 years without exercising the requisite option could thereby be deprived of gratuity has already been considered by this Court and thereafter by the Hon'ble Supreme Court. The subsequent judicial developments directly bear upon the very basis on which the petitioner's claim was rejected.

19. She submitted that this Court in **Writ Petition No. 5724 of 2024, vide order dated 01.10.2024**, considered the controversy concerning the Government Orders dated 30.03.1993 and 04.02.2004 and quashed the said Government Orders. While dealing with the issue of gratuity of similarly situated employees, this Court further directed payment of gratuity along with interest at the rate of 6% per annum. The said judgment/order is directly relevant to the petitioner's claim, since the respondents have rejected her gratuity claim on substantially the same ground concerning the age of retirement and exercise of option.

20. She next submitted that the controversy also came to be considered by the Hon'ble Supreme Court of India in **SLP (C) No. 1595 of 2023** and connected proceedings. The Hon'ble Supreme Court, vide order dated 09.12.2025, dealt with the issue concerning the exercise of option for retirement and the consequential entitlement to gratuity and upheld the entitlement of the similarly situated employees, with a direction for payment of gratuity along with interest at the rate of 6% per annum. The petitioner relies upon the said order as being directly relevant to the legal issue arising in the present case.

21. She submitted that the effect of the aforesaid judicial pronouncements is that the ground which formed the basis of the impugned order dated 13.09.2023 cannot be sustained when examined in the light of the subsequent authoritative determination of the controversy. The petitioner's claim cannot be defeated merely by relying upon the alleged absence of an option to retire at the age of 60 years, particularly when employees similarly situated have been held entitled to gratuity by the competent constitutional courts.

22. She submitted that the respondents are required to consider the petitioner's claim consistently with the law declared by this Court and the Hon'ble Supreme Court. Once the legal basis on which the petitioner's claim was rejected has been found unsustainable in proceedings concerning similarly situated employees, the continued

denial of gratuity to the petitioner would result in an arbitrary and discriminatory treatment. The petitioner cannot be placed in a disadvantageous position merely because her claim was rejected by the impugned order prior to the subsequent judicial determination of the controversy.

23. She also submitted that gratuity is a retiral benefit earned on account of the service rendered by an employee and, upon the employee satisfying the conditions governing such entitlement, the same cannot be withheld except in accordance with law. In the present case, the petitioner had rendered service from 16.08.1992 until 31.03.2019 and had retired after completing her service. The respondents have not disputed the petitioner's long service; rather, the rejection of her claim rests upon the single circumstance that she did not exercise an option to retire at the age of 60 years. In view of the subsequent judicial pronouncements, that circumstance cannot furnish a sustainable basis for denial of gratuity.

24. She submitted that the impugned order also fails to adequately consider the petitioner's actual service position and the legal consequences flowing from her continued service. The petitioner continued to discharge her duties until 31.03.2019 and was permitted to remain in service by the authorities. Having accepted the petitioner's services and allowed her to continue in employment, the respondents cannot, at the stage of settlement of retiral dues, rely upon the very continuation in service as a ground to deprive her of gratuity, particularly when the issue has subsequently been judicially settled in favour of similarly situated employees.

25. She submitted that the petitioner had diligently pursued her claim and cannot be blamed for the delay in release of her gratuity. Immediately after retirement, she submitted repeated representations before the concerned authorities. She, thereafter, approached this Court in Writ Petition No. 7351 (S/S) of 2020 and, pursuant to the order dated

15.02.2023, submitted a comprehensive representation before the Principal Secretary. The petitioner has thus continuously asserted her entitlement, whereas the delay in payment is attributable to the respondents.

26. She submitted that the petitioner is, therefore, entitled to parity with similarly situated employees whose claims have been considered by this Court in Writ Petition No. 5724 of 2024 and by the Hon'ble Supreme Court in SLP (C) No. 1595 of 2023 and connected proceedings. The respondents cannot selectively deny the same benefit to the petitioner when the legal issue governing her entitlement has already been adjudicated upon by the constitutional courts.

27. She submitted that the petitioner has claimed payment of gratuity from the date on which the same became due. Since the amount has remained unpaid despite the petitioner's retirement on 31.03.2019 and repeated representations, the respondents are liable to release the entire amount of gratuity payable to the petitioner without any further delay, together with appropriate interest. In view of the judicial orders relied upon by the petitioner, interest at the rate of 6% per annum would appropriately compensate the petitioner for the prolonged withholding of her retiral dues.

28. She lastly submitted that the impugned order dated 13.09.2023, having been passed on a ground which does not survive in view of the subsequent judicial pronouncements, cannot be permitted to stand. The order has the effect of depriving the petitioner of a retiral benefit earned after rendering more than two decades of service and is consequently liable to be quashed.

29. On the other hand, learned counsel for the respondent submitted that the petitioner's claim for gratuity is misconceived. Upon consideration of her representation and after affording her an opportunity of hearing, it was found that she had not exercised the requisite option

for retirement at the age of 60 years. She was, however, extended the benefit of service up to the age of 62 years, including session benefits, and all other admissible dues were paid to her. Consequently, her claim for gratuity was found unsustainable and was rejected by the State Government vide office memorandum dated 13.09.2023 in accordance with the applicable Government Orders and Rules.

30. He next submitted that the Additional Director, Treasury and Pensions, Ayodhya Mandal, Ayodhya, was not the appointing authority of the petitioner. The service conditions of teachers and non-teaching staff working in Madarsas are governed by the Government Orders, Madarsa Service Rules and departmental orders issued from time to time, which are applicable to the petitioner. Her representation was duly considered, but she was found not eligible for the gratuity claimed by her. Accordingly, the same was rejected and disposed of by the order dated 13.09.2023 in accordance with law.

31. He further submitted that the entitlement to pensionary and gratuity benefits of teachers/employees of Arabic/Persian Madarsas is governed by the relevant Government Orders, namely Government Orders dated 23.11.1993, 11.08.2004, 14.12.2011 and 27.08.2018. These provisions have already been implemented and govern the petitioner's claim. Therefore, her entitlement cannot be determined by applying rules applicable to employees of any other department contrary to the specific Government Orders governing Madarsa employees.

32. He submitted that the petitioner did not submit the requisite option within the prescribed period and failed to comply with the applicable provisions of the relevant Government Order. She is, therefore, not entitled to gratuity. The grounds raised by the petitioner are misconceived and devoid of merit. The impugned order dated 13.09.2023 has been passed after consideration of her representation and in accordance with the applicable Government Orders and Rules. The

petitioner is, therefore, not entitled to any relief and the writ petition deserves to be dismissed.

33. I have considered the submissions advanced by learned counsel for the parties and perused the material on record.

34. To resolve the controversy involved in the matter, relevant portion of the judgments relied upon by learned counsel for the petitioner are being quoted below:

WRIT - A No. - 5724 of 2024; University College Ret. Teachers Welfare Asso. Lko. Thru. Its President Dr. S.S.Chauhan And Another Vs. State Of U.P. Thru. Prin. Secy. Deptt. Of Higher Education U.P. Lko. And Others:

“46. Considering aforesaid answers to the questions, Government Orders dated 30.03.1983 and 04.02.2004 are hereby quashed to the extent of denial of gratuity benefits to such Teachers who exercised their option to continue in service for the extended period.

47. Opposite parties are directed to ensure payment of gratuity to the petitioners alongwith interest @ 6% per annum on such arrears with effect from the date of their superannuation till the date of actual payment. Compliance of the aforesaid directions shall be made by the opposite parties positively within a period of six months from the date a certified copy of this order is served upon the concerned authorities.

48. Resultantly, the petition succeeds and is allowed. Parties to bear their own costs.”

CIVIL APPEAL NO. 3639 OF 2022; (@ SLP (C) NO. 1595 OF 2022); State of U.P. and Ors. VS Smt. Priyanka :

“The High Court has rightly observed that the respondent would be entitled to the benefit of the Government Order dated 16.9.2009 and would be entitled to the benefit of death-cum-retirement gratuity being the heirs of the deceased employee.

At this stage, it is required to be noted that it is not the case on behalf of the appellants that if the deceased employee would have exercised the option, even then he would not have been entitled to the benefit of death-cum-retirement gratuity under the scheme. The deathcum-retirement gratuity is the benevolent scheme and the same is extended to the respondent being heirs/dependent of the

deceased employee by the learned Single Judge, confirmed by the Division Bench.

In the facts and circumstances of the case, no interference of this Court is called for.

6. In view of the above and for the reasons stated above, the present appeal fails and deserves to be dismissed and is accordingly dismissed.”

35. The controversy which arises for consideration in the present writ petition is as to whether the petitioner, who was appointed as an Assistant Teacher on 16.08.1992 and continued in service till her retirement on 31.03.2019, could be denied the benefit of gratuity merely on the ground that she had not exercised an option to retire at the age of 60 years and had continued in service up to the age of 62 years. The impugned order dated 13.09.2023 proceeds substantially, if not exclusively, on the aforesaid ground.

36. There is no dispute regarding the fact that the petitioner rendered long and continuous service in the institution and that she was permitted by the respondents to continue in service till 31.03.2019. It is also not in dispute that after her retirement the petitioner repeatedly approached the authorities for release of her gratuity and, having failed to secure the same, earlier approached this Court by filing Writ Petition No. 7351 (S/S) of 2020. Pursuant to the order dated 15.02.2023 passed therein, she submitted a comprehensive representation before the Principal Secretary, Minority Welfare Department. The said representation came to be rejected by the impugned order dated 13.09.2023 on the ground of non-exercise of the option for retirement at the age of 60 years.

37. The respondents seek to justify the impugned order by contending that the service conditions of teachers and non-teaching employees of Madaras are governed by the applicable Government Orders and Rules and that the petitioner, having failed to exercise the requisite option within the prescribed period, was not entitled to gratuity. It has also been submitted that the petitioner was extended the benefit of service up to

the age of 62 years and that all other admissible dues had been paid to her. However, the mere reference to the applicable Government Orders and the alleged non-exercise of option cannot, by itself, conclude the petitioner's entitlement, particularly when the very issue concerning denial of gratuity on the basis of such option has subsequently received authoritative consideration by this Court and the Hon'ble Supreme Court.

38. In this regard, considerable significance attaches to the judgment and order dated 01.10.2024 passed by this Court in Writ-A No. 5724 of 2024, *University College Ret. Teachers Welfare Association, Lucknow through its President Dr. S.S. Chauhan and Another v. State of U.P. through Principal Secretary, Department of Higher Education, U.P., Lucknow and Others*. This Court, while considering the controversy relating to denial of gratuity to employees who had continued in service for the extended period, quashed the Government Orders dated 30.03.1983 and 04.02.2004 to the extent they denied gratuity benefits to such teachers. The Court further directed payment of gratuity along with interest at the rate of 6% per annum from the date of superannuation till the date of actual payment.

39. The aforesaid determination assumes significance because the basis on which the petitioner's claim has been rejected is substantially founded upon the same concept, namely, that continuation in service beyond the prescribed age, without exercise of the requisite option, would disentitle the employee from the benefit of gratuity. Once this Court has examined the legal effect of continuation in service for the extended period and has held that such circumstance cannot furnish a valid basis for denial of gratuity in the circumstances considered therein, the respondents were required to examine the petitioner's claim in the light of the said legal position.

40. The subsequent order of the Hon'ble Supreme Court also assumes relevance. In Civil Appeal No. 3639 of 2022 arising out of SLP (C) No.

1595 of 2022, *State of U.P. and Others v. Smt. Priyanka*, the Hon'ble Supreme Court declined to interfere with the judgment under challenge and, while considering the entitlement to death-cum-retirement gratuity, noticed that the benefit was founded upon a benevolent scheme. The appeal was consequently dismissed. The said pronouncement reinforces the principle that retiral benefits, including gratuity, cannot be denied by adopting an unduly restrictive interpretation when the employee otherwise satisfies the conditions governing such benefit.

42. It is true that the respondents are entitled to regulate the service conditions of employees of aided Madaras in accordance with the applicable statutory provisions and Government Orders. It is equally true that an employee claiming gratuity must establish her entitlement under the governing service regime. However, once the petitioner was permitted to continue in service up to 31.03.2019, accepted as having rendered service during the extended period and thereafter retired from service, the respondents cannot, while settling her retiral dues, disregard the legal consequences flowing from such continued service. The impugned order does not demonstrate any independent consideration of the petitioner's entitlement to gratuity apart from the alleged absence of an option to retire at the age of 60 years.

43. The reasoning adopted in the impugned order is, therefore, insufficient to sustain the denial of gratuity. The petitioner was not an employee who left service before completing the qualifying period or whose entitlement was otherwise defeated by any proved disqualification. Her claim arises from long service rendered from 16.08.1992 until 31.03.2019. The respondents themselves permitted her to continue in service until the date of her retirement. Thus, the circumstance which has been relied upon for denying gratuity is, in substance, the very circumstance which enabled the petitioner to render further service to the institution.

44. The subsequent judicial determination is also relevant for another reason. The petitioner had already asserted her claim and pursued the same before the competent authorities and before this Court. Her earlier writ petition was disposed of with a direction to submit a comprehensive representation, which she duly complied with. Consequently, the petitioner cannot be said to have acquiesced in the denial of her retiral benefit or to have slept over her rights. The delay in settlement of gratuity is attributable to the consideration and rejection of her claim by the authorities and not to any inaction on the part of the petitioner.

45. The contention of the respondents that the petitioner was given the benefit of service up to the age of 62 years and that all other admissible dues were paid does not answer the question of gratuity. Payment of other retiral or service dues cannot, by itself, amount to a valid determination that gratuity was not payable. Gratuity constitutes a distinct retiral benefit and its denial must have a sustainable legal foundation. The impugned order, however, does not disclose any consideration of the petitioner's claim in the light of the subsequent judicial interpretation governing similarly situated employees.

46. This Court is also conscious of the fact that the judgment relied upon by the petitioner in Writ-A No. 5724 of 2024 was rendered subsequent to the impugned order dated 13.09.2023. However, the subsequent judgment is not being applied as creating a new right from the date of its pronouncement. Rather, it is being taken into consideration for determining the legality and sustainability of the basis adopted by the respondents for denying a retiral benefit to the petitioner. The legal position declared by a constitutional court is required to be applied while the petitioner's claim is being judicially considered, particularly where the factual and legal basis of the claim substantially corresponds with the controversy already adjudicated upon.

47. The principle of parity also assumes importance in the facts of the present case. Once the competent constitutional courts have considered

the entitlement of similarly situated employees to gratuity and have directed payment thereof with interest, the respondents cannot deny the petitioner's claim merely by relying upon the same ground which has been found insufficient for withholding such benefit in the cases relied upon by the petitioner. Any distinction sought to be made must have a cogent legal and factual foundation. No such distinguishing circumstance has been demonstrated before this Court.

48. Upon an overall consideration of the matter, this Court finds that the impugned order dated 13.09.2023 suffers from an error inasmuch as the petitioner's claim for gratuity has been rejected essentially on the ground of non-exercise of option to retire at the age of 60 years, without properly appreciating the effect of her continued service up to the age of 62 years and the legal position governing entitlement to gratuity. The respondents have failed to establish any other legally sustainable ground for withholding the petitioner's gratuity.

49. The petitioner had rendered service for more than two decades, was permitted to continue in service by the respondents and retired on 31.03.2019. Her claim for gratuity was thereafter continuously pursued. In these circumstances, denial of gratuity merely because she had continued in service beyond the age of 60 years cannot be sustained, particularly in view of the judicial pronouncements relied upon by learned counsel for the petitioner.

50. Accordingly, the writ petition succeeds and is **allowed**. The impugned order dated **13.09.2023**, passed by the Principal Secretary, Minority Welfare Department, Government of Uttar Pradesh, is hereby **quashed**.

51. The respondents are directed to determine and release the gratuity legally payable to the petitioner on the basis of her qualifying service and the applicable rules/orders, without treating the non-exercise of option to retire at the age of 60 years as a ground for denying such

benefit. The competent authority shall undertake the necessary calculation and ensure payment of the admissible amount of gratuity to the petitioner within a period of three months from the date a certified copy of this order is produced before the competent authority.

52. The petitioner shall also be entitled to interest at the rate of 6% per annum on the amount of gratuity from the date on which the gratuity became payable upon her superannuation, i.e. 31.03.2019, till the date of actual payment, in view of the direction regarding interest contained in the judgment relied upon by the petitioner and the prolonged withholding of her retiral dues.

53. It is clarified that the respondents shall not deny the petitioner the aforesaid benefit merely on the ground that she had not exercised an option to retire at the age of 60 years, the said ground having already been found insufficient to deny gratuity to similarly situated employees in the judicial pronouncements referred to hereinabove.

54. There shall be no order as to costs.

(Irshad Ali,J.)

September 30, 2026

Adarsh K Singh