

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
BENCH AT NAINITAL**

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

**WRIT PETITION NO 2543 (S/S) OF 2015**

[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 93/NB/DB/2022]

Chandra Shekhar Pant, s/o Late Sri R.D.Pant, presently posted on the post of Dresser in Animal Husbandry Department 'D' Class, Hospital Block Dhauladevi, District Almora.

.....**Petitioner**

**vs.**

1. State of Uttarakhand through Secretary, Animal Husbandry Department, Uttarakhand, Dehradun.
2. Director of Animal Husbandry Department, Uttarakhand, Dehradun.

.....**Respondents**

Present: Sri Harendra Belwal, Advocate for the petitioner  
Sri Kishore Kumar, A.P.O. for the respondents

**JUDGMENT**

**DATED: JANUARY 09, 2023**

**Justice U.C.Dhyani (Oral)**

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 12.09.2022 in WPSS No. 2543/2015, Chandra Shekhar Pant vs. State of Uttarakhand and another, which reads as under:

“The present Writ Petition has been filed with the following reliefs:-

(i) Issue a writ, order or direction in the nature of certiorari to quash the impugned order dated 23.10.2015 (Filed as Annexure-13) passed by the respondent No. 1.

(ii) Issue a writ, order or direction in the nature of mandamus directing the respondents to grant

promotional pay scale to the petitioner after completing 14 years satisfactory service of Dresser in Animal Husbandry Department in pursuance of the Government Order dated 12.03.2011.

(iii) Issue a writ, order or direction in the nature of mandamus directing the respondent to give promotional pay scale to the petitioner after completing 14 years satisfactory service in the Animal Husbandry Department as granted to the similarly situated Dresser in the Government Industrial Training Institute Uttarakhand.

2. Heard Mr. Harendra Belwal, learned counsel for the petitioner, and, Mr. N.S. Pundir, learned Deputy Advocate General, Mrs. Anjali Bhargava, learned Addl. C.S.C., Mr. Sushil Vashistha and Mrs. Indu Sharma, learned Brief Holders for the State.

3. During the arguments, Mr. N.S. Pundir, learned Deputy Advocate General for the State, submitted that the present matter relates to promotional pay scale, therefore, the petitioner has alternate efficacious remedy to raise his grievances before the Uttarakhand Public Services Tribunal.

4. Mr. Harendra Belwal, learned counsel for the petitioner also agrees to transfer the present matter to the Uttarakhand Public Services Tribunal.

5. As the disputes raised in the present writ petition can be effectively adjudicated by the Uttarakhand Public Services Tribunal, with the consent of both the parties, the complete record along with the writ petition, after retaining the copies thereof, is being transmitted to the Uttarakhand Public Services Tribunal for hearing the writ petition as a claim petition in accordance with law.

6. The Uttarakhand Public Services Tribunal is also requested to consider entertaining the present matter as a claim petition taking into consideration this fact that the present matter has been pending for past seven years.

7. The present Writ Petition (S/S No. 2543 of 2015) stands disposed of accordingly.”

2. The original record of the writ petition has been transferred to this Tribunal vide Letter No. 13576/UHC/Service Section-II/PST/Nainital dated 22.09.2022 of the Registrar Judicial of the Hon’ble High Court. The writ petition has been registered as Claim Petition No. 93/NB/DB/2022. Since the reference in this Tribunal shall be of the writ petition filed before the Hon’ble High Court, but shall be dealt with as claim petition, therefore, the claim petition shall be referred to as “petition” and

petitioner shall be referred to as “petitioner”, in the body of the judgment.

3. The petitioner prays for promotional pay scale after completing 14 years satisfactory service on the post of Dresser in Animal Husbandry Department, in pursuance of the G.O. dated 12.03.2001, which benefit has been granted to the similarly situated dresser in the Govt. Industrial Institute, Uttarakhand.

4. Counter Affidavit has been filed on behalf of respondent no.2. In such Counter Affidavit, it has been mentioned that Office Memorandum dated 23.10.2013 (Annexure no. 13) has rightly been issued by the respondent no. 1. Basically, the submission of learned A.P.O. which comes from the averments made in the Counter Affidavit, is that as per the Uttarakhand Animal Husbandry Pharmacist Service Rules, 2010 as amended Pharmacist Service Rules, 2011, only those candidates who have passed their intermediate examination in science subject and have diploma in Pharmacy (Allopathy) can be appointed on the post of Veterinary Pharmacist. Before the Rules of 2010 came into force, the educational qualification for the Veterinary Pharmacist was Intermediate with Biology. The Dressers working in the department were appointed on the post of untrained Veterinary Pharmacist and after giving them departmental training, they were appointed to the post of Veterinary Pharmacist. The contention of learned A.P.O., as projected in para 6 is that the petitioner has although passed Intermediate with Science, but without prior permission of the respondent department which is a violation of the Government Servant Conduct Rules. An adverse entry has also been given to the petitioner in past. In para 8 of the C.A., it has been mentioned that the petitioner has not taken any leave from the respondent department to participate in the Intermediate Examination.

5. Be that as it may, the fact remains that the petitioner has passed Intermediate with Science. Whether he has taken permission of the department to appear in the said examination or not, is a different issue.

Whether he was given adverse entry in past or not, has nothing to do with the relief, which he is seeking in the present petition. The intermediate certificate obtained by the petitioner cannot be ignored on the ground that no departmental permission was sought for taking such examination. There is no allegation that the certificate of passing intermediate examination is a forged document. The petitioner may be dealt with appropriately for not taking permission to appear in the examination and for committing another misconduct. The respondent department should consider the educational qualification while considering his prayer which has been sought in the present petition.

6. Learned Counsel for the petitioner submitted that the petitioner's matter should be directed to be re-examined by the respondent department in the light of the judgment dated 16.04.2013, rendered by Hon'ble High Court in W.P. No. 253 of 2011 (S/S), Shiv Dutt Singh Pal and other vs. State of Uttarakhand & others (corrected *vide* order dated 30.05.2013), considering the fact that the petitioner is in possession of the qualification of intermediate with science.

7. The petition is disposed of by directing the respondent department to reconsider the case of the petitioner in the light of the decision rendered by Hon'ble High Court in W.P. No. 253 of 2011 (S/S), Shiv Dutt Singh Pal and other vs. State of Uttarakhand & others (corrected *vide* order dated 30.05.2013), considering the fact that the petitioner is in possession of Intermediate Science qualification, after giving him an opportunity of personal hearing, without unreasonable delay, preferably within 12 weeks, on presentation of certified copy of this order. No order as to costs.

**(RAJEEV GUPTA)**  
VICE CHAIRMAN (A)

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

DATED: JANUARY 09, 2023  
DEHRADUN.  
KNP