

**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)

**Claim Petition No. 80/NB/DB/2020**

Smt. Kamla Joshi, r/o Joshi Cottage 90/1 HNB Colony,  
Mothorowala Road, Ajabpur Khurd, Dehradun, presently posted at  
Principal Government Girls Higher Secondary School, Sunargoan,  
Doiwala, Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Principal Secretary, Education,  
Secretariat, Dehradun.
2. Director, Madhyamik Education, Nanoorkheda, Dehradun.

..... Respondents

Present: Sri H.M. Bhatia, Advocate for the petitioner  
Sri Kishore Kumar, A.P.O., for respondents

**Judgement**

**Dated: 16<sup>th</sup> May, 2023**

**Per: Hon'ble Mr. Rajeev Gupta, Vice Chairman (A)**

This claim petition has been filed seeking the following  
reliefs:

“(i) To direct the respondents to permit the petitioner to join on the post of Principal at pay scale of Rs. 15600-Rs. 39100 grade pay of Rs. 7600/- from the date of issuance of Government Order dated 31.12.2016 (Annexure No. 1) or in the event of her retirement on 30.11.2020 the petitioner may be given notional promotion on the post of Principal at pay scale of Rs. 15600-Rs. 39100 grade pay of Rs. 7600/- from the date of issuance of Government Order dated 31.12.2016.

(ii) To direct the respondents to grant all consequential benefits to the petitioner in view of her promotion on the post of Principal at pay scale of Rs. 15600-Rs. 39100 grade pay of Rs. 7600/- from the date of issuance of Government Order dated 31.12.2016.

(iii) Issue any other relief, which this Hon'ble Court may deem fit and proper in the circumstances of the case.

(iv) Cost of the petition may be awarded in favour of the petitioner.”

2. Brief facts of the case, as mentioned in the claim petition, are as below:

2.1 The petitioner was promoted on the post of Principal vide Government Order dated 31.12.2016 in the pay scale of Rs. 15600-39100 grade pay Rs. 7600/- and she was asked to join on the post of Principal, Govt. Inter College, Lohaghat, Champawat. Immediately after issuing the Government Order dated 31.12.2016, the petitioner made the representation to the Additional Chief Secretary, Madhyamik Shiksha that she may be permitted to be given time up till April, 2017, to join on the said post of Principal at Govt. Inter College, Lohaghat, Champawat. The petitioner again wrote a letter to the Additional Chief Secretary, Madhyamik Shiksha Anubhag and stated therein that her husband is not well and due to two heart attacks he was admitted in the Fortis Hospital, Dehradun and she is the only person to look after her husband and her elder daughter is working in the Indian Air Force and posted at Bagh Dogra West Bengal and her husband also appeared before the State Medical Board on 20.07.2017. Therefore looking into the conditions of her family the extension to join on the promoted post may be given.

2.2 The petitioner moved representation dated 04.08.2017 to the respondent no. 1 for change of her place of posting but the respondent no. 1 did not pay heed to her representation. The petitioner wrote letter dated 24.01.2018 to the respondent no. 2 stating therein that the post of Principal, Govt. Girls Inter College, Lohaghat, has been filled up, therefore, her place of posting may be changed to any other college as due to unavoidable

circumstances of her family, she could not join but the respondent did not pay any heed to her representation.

2.3 On 10.01.2018, the respondent no. 1 issued a letter to respondent no. 2 in which it was stated that all promoted Principals may join on their promoted posts within a week as a last opportunity otherwise their promotion orders will be deemed to be cancelled. On 01.10.2020, again, the petitioner made the representation stating therein that she is going to retire in November, 2020 and the respondent failed to amend her place of posting on the promoted post and it is also stated that due to major heart attack of her husband, she could not join and she made several representations to the respondents but no one paid any heed to change her place of posting, therefore she could not join on her promoted post due to inaction on the part of the respondents and requested that she may be promoted on the post of Principal in view of the Government Order dated 31.12.2016.

2.4 The petitioner has filed the present claim petition on the ground that due to inaction on the part of the respondents on or before 10.01.2018, the petitioner could not join at the promoted place, as the respondents issued the Government Order dated 10.01.2018 stating therein that the incumbents who failed to join at the place of transfer shall join within a week. However, the place of posting of the petitioner was filled by the respondents by another incumbent much before the issuance of letter dated 10.01.2018. Therefore, on the said post at Lohaghat, the petitioner could not be permitted to join and the respondents by their own conduct failed to change the place of posting of the petitioner from Lohaghat to any other place in the State.

3. Counter affidavit has been filed by the Director, Secondary Education, mainly stating that vide Government Order dated 03.10.2016, a decision was taken to fill up the vacant posts of Principals of Government Inter Colleges by way of ad-hoc promotion in the interest of students. Accordingly, the petitioner,

along with others, was promoted on ad-hoc basis under absolutely temporary and stop-gap arrangement and she was deputed in Govt. Girls, Inter College, Lohaghat, Champawat, vide Government Office Memorandum dated 31.12.2016. Para 2 of this Office Memorandum provided one week's time for joining and para 3 of this Office Memorandum states that this arrangement is absolutely temporary and can be put to an end any time. The petitioner at that time did not join at the deputed place. The Government also did not give any extension of time to her for taking charge at that place. The petitioner again after several months requested for extension of time to take charge while she had been given only one week's time, as per the office memorandum dated 31.12.2016.

3.1 According to the provisions of Uttarakhand Educational (General Education Cadre) Service Rules, 2006, the posts of Principals of Government Inter College/ Government Girls Inter College are filled up by promotion from Headmasters/ Headmistresses of Government Higher Secondary Schools (Boys/ Girls), who have completed five years of service on the first day of recruitment year. The petitioner was promoted as Headmistress of Govt. Girls High School on 26.06.2015. The petitioner was not eligible to be promoted to the post of Principal of Govt. Girls Inter College but keeping in view the large number of vacancies of the posts of Principal and in the interest of students, the petitioner and others were promoted by Government Office Memorandum dated 31.12.2016 on ad-hoc basis under absolutely temporary and stop-gap arrangement, when the petitioner had completed only 1<sup>1/2</sup> years of service as Headmistress, but the petitioner due to her personal reasons did not take charge at that time in the deputed inter college keeping the interests of students at bay. Vide Government Order dated 10.01.2018, those Principals, who had not joined after ad-hoc promotion were given the last opportunity to join within a week but at that time also, the petitioner did not get relieved from her present school to join the college of her

promotion. The petitioner has presented misleading facts and the claim petition deserves to be dismissed.

4. Rejoinder-affidavit has been filed by the petitioner denying the averments in the counter affidavit and reiterating the contents of the claim petition. The petitioner has also stated in her rejoinder affidavit that juniors to the petitioner namely Smt. Vineeta Pathak, Smt. Dineshwari Rana, Dr. Sumitra Rana and Smt. Sushila Barthwal, whose names were below the petitioner in promotion order dated 31.12.2016 are getting higher pay scale of Rs. 15600-39100 grade pay Rs. 7600/-. Due to 'no fault' of the petitioner as on 10.01.2018, when the respondent directed all the incumbents to join on the promotional post within one week, the promotional post of Principal, Govt. Inter College, Lohaghat, had already been filled up by another incumbent and when the petitioner made the request for change of the place of posting from Lohaghat to any other place, then the respondents did not pay heed to the request made by the petitioner.

5. After hearing learned Counsel for the parties and perusal of the record, the Tribunal observes the following:

5.1 The promotions made vide Government Office Memorandum dated 31.12.2016 were ad-hoc and were made under absolutely temporary and stop-gap arrangement. The petitioner was called upon to join at the deputed place within a week but due to personal reasons, she did not join for many months. No extension of time for joining was provided to her. Subsequently, vide Government Office Memorandum dated 14.07.2017, another person was promoted on ad-hoc basis and deputed to the post of Principal, Government Girls Inter College, Lohaghat, Champawat.

5.2 There was no impropriety in posting of another person in place of the petitioner as Principal, Government Girls Inter College, Lohaghat, Champawat, as the petitioner had not joined

for a long time and no extension of time for joining was granted to her. The petitioner also could not claim to be shifted to another place of posting as the ad-hoc promotions were made under absolutely temporary and stop-gap arrangement.

5.3 The Government Order dated 10.01.2018 is a letter from Secretary, Secondary Education, Govt. of Uttarakhand to Director, Secondary Education, granting the final opportunity, to join within a week, to those Principals, who had not joined in their deputed colleges till that time. This letter further states that the ad-hoc promotion of the Principals, who do not join within a week, shall be deemed to be cancelled. However, this government letter does not revive the right of the petitioner to be posted after ad-hoc promotion as Principal of another inter college as the Inter College, Lohaghat, had already been filled up by another incumbent due to her not joining there.

5.4 The petitioner vide her letter dated 01.10.2020 had requested the respondents that she is superannuating on 30.11.2020 and that she has worked on the post of Headmistress for five years and she had requested to be promoted to the post of Principal before November, 2020, so that she is not subjected to financial loss and deprived of promotion.

5.5 The contention, that certain juniors to the petitioner, whose names were below the petitioner in the promotion order dated 31.12.2016, are getting higher pay scale than her, does not confer any right on the petitioner to be promoted again on ad-hoc basis under absolutely temporary and stop-gap arrangement. The petitioner could have acquired such right only in the case of regular promotions.

6. The petitioner has completed five years of service as Headmistress before retirement in November, 2020. The respondents may consider her case for regular promotion as

Principal w.e.f. a date prior to her retirement as requested in her letter dated 01.10.2020, in accordance with law.

7. With the above observations, the claim petition is disposed of. No order as to costs.

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

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

*DATE: 16<sup>th</sup> May, 2023*  
*DEHRADUN*  
*RS*