

**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. 67/NB/DB/2023

Shaukat Ali, aged about 61 years 04 months, s/o Late Sri Ninkoo,
Retired District Education Officer (Primary), Pithoragarh, presently
residing at Bharada House, Lalli Mandir, Bhowali, Nainital.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, School Education, Dehradun.
2. Director, Primary Education, Dehradun.
3. Additional Director, Basic Education, Kumaon Mandal, Nainital.
4. Chief Education Officer, Pithoragarh, District Pithoragarh.
5. Senior Treasury Officer/ Treasury Officer, Pithoragarh, District Pithoragarh.
6. District Education Officer, Pithoragarh, District Pithoragarh.

..... Respondents

Present: Sri S.S. Yadav, Advocate, for the Petitioner
Sri Kishore Kumar, A.P.O. for Respondents No. 1 and 2
There was no direction to issue notices to respondents no. 3 to 6

Judgement

Dated: 03rd July, 2023

Justice U.C. Dhyani (Oral)

Hon'ble High Court of Uttarakhand has been
pleased to passed an order on 20.04.2023 in WPSB No. 201 of

2021, Shaukat Ali vs. State of Uttarakhand and others, which (order) reads as under:

- “1. Mr. S.S. Yadav, learned counsel for the petitioner.
2. Mr. Vikas Pandey, learned Standing Counsel for the State of Uttarakhand/respondents.
3. The petitioner is a public servant.
4. The reliefs sought by the petitioner in the present writ petition squarely fall for consideration by the Uttarakhand Public Services Tribunal.
5. Accordingly, considering the fact that this petition has been pending before this Court since 2021 and the pleadings have also been exchanged, we direct the Registry to transfer this petition to the Uttarakhand Public Services Tribunal at Nainital, which shall be dealt with by the Tribunal on its merit. Considering the fact that the petitioner has since long retired, the Tribunal is requested to expedite the disposal of the petition.
6. This petition stands disposed of accordingly.”

2. The original record of the writ petition has been transferred to this Tribunal *vide* letter no. 7248 UHC/ Service Section (S/B) 2023 dated 28.04.2023 of the Deputy Registrar (Judicial) of the Hon'ble High Court of Uttarakhand. The same has been registered as 67/NB/DB/2023.

3. By means of present petition, the petitioner seeks following reliefs:

"(i) Issue a writ, order or direction in the nature of certiorari quashing the order dated 27.01.2020 (contained as Annexure No. 8 to the writ petition) passed by respondent no. 1.

(ii) Issue a writ, order or direction in the nature of mandamus directing the respondent no. 1, 2 and 3 to cancel the suspension order dated 27.01.2020 of the petitioner (contained as Annexure No. 8 to the writ petition) passed by respondent no. 1 and treat the petitioner as general retired District Education Officer, Primary Education.

(iii) Issue a writ, order or direction in the nature of mandamus directing the respondents to release the retiral dues of the petitioner i.e. interim pension which was given till February 2020 to July 2020 and since August 2020 to till date, benefit of group insurance, travelling allowance of Rs. 1800/- and after retirement travelling allowance of Rs. 48418/-. Travelling allowance Rs. Rs. 26000/- and Rs. 10380 total Rs. 3,63,088/- working as Block Education Officer, Ramgarh, Nainital and also encashment leave

of 300 days total Rs. 3,63,088/- and other retiral dues to the petitioner accrued due to retirement.

(iv) Issue any other or further writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case."

4. Petitioner joined as District Education Officer, Primary Education, Pithoragarh, on 16.01.2013. Some of the teachers moved an application before the competent authority to adjust them at suitable vacant places in the primary schools, for which the petitioner sought instructions from the competent authority. The copy of orders adjusting some of the teachers has been brought on record as Annexure No. 2 (*colly*) to the petition. It has been mentioned in para 5 of the petition that the petitioner was not inclined to adjust/ shift the teachers, but on account of some unavoidable circumstances, the petitioner was compelled to adjust or shift some of the teachers.

5. A complaint was made against the petitioner that all the attachments have been made by him without the orders of the department and are against the Rules. Petitioner replied to the same. Respondent No. 1, in a very casual manner, suspended the petitioner on 27.01.2020 (copy Annexure No. 8). On the same day, the charge-sheet was given to the petitioner (copy Annexure No. 9). Petitioner gave a reply to the charge-sheet (copy Annexure No. 10). Petitioner moved a representation to respondents no. 1 and 2 for revocation of suspension order and for releasing his retiral dues, on 15.02.2021 (copy Annexure No. 11). It has been mentioned in para 16 of the petition that the dues including the retiral dues, have not been released to him. He moved representation, but to no avail (copy Annexure No. 13, *colly*).

6. Since grievance of the petitioner was not redressed by the respondent department, therefore, he filed the petition before the Hon'ble High Court of Uttarakhand, who has been pleased to transfer his petition to this Tribunal.

7. Documents have been filed in support of the petition by the petitioner.

8. Respondent Department has contested the petition by filing the written statements. Counter affidavit on behalf of respondent no. 1 has been filed by Sri J.L. Sharma, Joint Secretary, Department of School Education, Govt. of Uttarakhand. Likewise, counter affidavit on behalf of respondent no. 2 has been filed by Sri Ramkrishna Uniyal, Director (In-charge), School Education, Primary, Uttarakhand, Dehradun. Rejoinder thereto has been filed by the petitioner.

9. In the C.A., filed on behalf of respondent no. 1, it has been mentioned that local representatives made certain complaints to the Chief Education Officer and it was found that the attachment of teachers was made by the petitioner without consulting the committee or without the approval of the higher authorities. Therefore, all the attachments so made were cancelled. The letters sent by the Chief Education Officer on 28.05.2019 and 24.01.2020 were not complied with. Acting on the letter dated 25.01.2020, a consolidated cancellation order was passed, whereas the attachment orders were passed separately for all candidates and therefore, a charge-sheet was issued on 27.01.2020 against the petitioner on the basis of documentary proof (copies of letter dated 28.05.2019 and 24.01.2020: Annexure CA2 and CA3). Such letters were duly dispatched and it is incorrect on the part of the petitioner that he has not received such letters.

10. The enquiry was conducted by the Additional Director, Elementary Education, Uttarakhand. A reference of paid dues has been given in para 12 of the counter affidavit of respondent no. 1. The enquiry officer submitted his report on 05.11.2020. The petitioner was given an opportunity by Personnel Department of the Govt. to submit his representation against the enquiry report, which was served upon the petitioner, but the

petitioner has not responded to the enquiry report so far and therefore, this case is still pending consideration.

11. In the C.A., which has been filed on behalf of respondent no. 2, the contents of C.A. filed on behalf of respondent no. 1 have been reiterated. It has been mentioned in para 11 of such C.A. that the State of Uttarakhand *vide* office memorandum dated 17.03.2020 appointed Additional Director, Elementary Education, Uttarakhand, as enquiry officer and such enquiry officer submitted his report to the State Govt. on 05.11.2020. The Director, Elementary Education, *vide* letter dated 18.08.2021 has requested the State Govt. to take action (copy Annexure No. CA3). District Education Officer, Elementary Education, Pithoragarh, *vide* letter dated 09.08.2020 has informed the Director, Elementary Education, Uttarakhand, that the post retiral benefits of the petitioner are being paid.

11.1 It has been mentioned in para 12 of C.A. filed on behalf of respondent no. 2 that the enquiry report has been submitted to the State Govt. on 05.11.2020 and final decision will be taken by the State Govt.

12. It may be noted here that the petitioner has since retired, therefore, the suspension order of the petitioner is now a dead letter inasmuch as master-servant relationship does not exist anymore. That relationship has been severed and therefore, further decision is required to be taken by the State Govt. in the light of these developments.

13. Learned Counsel for the petitioner made a prayer that the State Govt. (respondent no. 1) be directed to expedite the decision in the matter of the petitioner. Disciplinary proceedings should be brought to the logical conclusion at the earliest.

14. The innocuous prayer of learned Counsel for the petitioner is worth accepting. Much will depend on the decision

taken by the State Govt. (respondent no. 1) on the enquiry report of the petitioner. Either the petitioner may be exonerated or may be found guilty. If he is found guilty then either he may be given minor punishment or major punishment. We don't know what will happen in such proceedings.

15. The petition is thus disposed of by directing State Govt. (respondent no. 1) to take a decision on pending disciplinary proceedings of the petitioner by following the procedure prescribed in the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003 (as amended in 2010), without unreasonable delay, preferable within 12 weeks of presentation of certified copy of this order. No order as to costs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: 03rd July, 2023
DEHRADUN
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