

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
AT DEHRADUN**

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

**Claim Petition No. 45/DB/2022**

Basant Ballabh Pant, aged about 61 years, s/o late Sri Bhairav Dutt Pant, retired as Principal, Government Inter College, Pathri, District Haridwar.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Department of School Education, Dehradun.
2. Director, School Education, Uttarakhand Nanoorkheda, Dehradun.
3. Chief Education Officer, Haridwar, District Haridwar.

..... Respondents

Present: Ms. Devika Tiwari, Advocate, for the Petitioner  
Sri V.P. Devrani, A.P.O. for the Respondents

**Judgement**

**Dated: 01<sup>st</sup> September, 2023**

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

By means of present claim petition, the petitioner seeks to quash point no. 2 of the impugned order dated 04.01.2019 (Annexure No. 1 of the claim petition) passed by respondent no. 1, insofar as it states that salary of the post of Headmaster, instead of the salary of Principal, will be payable to the petitioner. Petitioner also seeks a direction commanding the respondents to pay to petitioner his rightful arrears of salary for his service as

Principal, Govt. Inter College. Pathri, Haridwar, from the date of his joining i.e. 19.01.2019 till the date of his retirement i.e. 31.03.2021. Petitioner also seeks relief commanding respondents to provide all consequential benefits to the petitioner on pay scale of petitioner including increment and pension as already given to junior persons.

2. Facts giving rise to present claim petition are as follows:

2.1 The petitioner was regularly appointed as Assistant Teacher in Govt. High School, Sallachingri, District Pithoragarh, in the erstwhile State of Uttar Pradesh on 16.09.1985. *Vide* order dated 27.05.1996, services of the petitioner were regularized. Petitioner had been continuously working in the department since his appointment. Petitioner was eligible as per service rules for promotion to the post of Principal, Govt. Inter College. So, in accordance with the prescribed procedure, a selection committee was constituted, which recommended the name of the petitioner for promotion. On 29.12.2016, petitioner was promoted as Officiating Principal of Govt. Inter College, Saindhar, Pauri, by the competent authority. In this letter, it was clearly mentioned that such promotions were made to the post of Principal with salary of Rs. 15600-39100, grade pay Rs. 7600. Petitioner could not join the said place of posting as his wife was suffering from serious heart ailment and was under medical supervision. On 30.12.2016, petitioner moved a representation to Additional Chief Secretary requesting him to change his place of posting to Haridwar in view of his wife's ailment (copy of representation dated 30.12.2016: Annexure No. 5).

2.2 On 22.08.2017, respondent no. 2 sent a proposal to Additional Secretary, Intermediate Education, Dehradun, on the basis of similar representations of various other headmasters, who were unable to join their respective place of posting as Principal due to some inevitable circumstances. However, respondent no. 1 *vide* order dated 02.01.2018 rejected the proposal dated

22.08.2017 of respondent no. 3 in cursory manner, thereby refusing to change place of posting of the petitioner (copies Annexures: 6 & 7).

2.3 Petitioner filed writ petition being no. WPSB No. 71/2018 before the Hon'ble High Court of Uttarakhand praying for quashing the order dated 02.01.2018. Petitioner prayed for mandamus directing respondents to amend order dated 29.12.2016 and place petitioner at Govt. Inter College, Pathri, Haridwar, or any vacant Govt. College in Haridwar to the post of Principal (relevant extract of writ petition: Annexure No. 8).

2.4 *Vide* order dated 11.04.2018, WPSB No. 71/2018 was disposed of in terms of order dated 26.03.2018 passed in WPSB No. 84/2018 by the Hon'ble High Court. The respondents were directed to transfer the petitioner to Govt. Inter College, Pathri, Haridwar within two weeks from the date of order (copies of orders dated 11.04.2018 and 26.03.2018: Annexures No. 9 & 10). In clear violation of the Hon'ble Court's order dated 11.04.2018, passed in WPSB No. 71/2018, no action was taken by the respondents regarding change of place of posting of petitioner. Therefore, the petitioner filed contempt petition no. 413/2018 praying for compliance of Court's order dated 11.04.2018.

2.5 Respondent No. 1, vide order dated 04.01.2019, changed the place of posting of petitioner to Govt. Inter College, Pathri, Haridwar, on the post of Principal.

3. It is the submission of learned Counsel for the petitioner that the order clearly stated that in compliance of Hon'ble High Court's order dated 11.04.2018 passed in WPSB No. 71/2018, petitioner was transferred on the post of Principal in-charge, Govt. Inter College, Pathri, Haridwar. However, in point no. 2 of this order, it was stated that the petitioner on his posting in the aforesaid Inter College will be paid pay scale of the post of Headmaster. The condition indicated in point no. 2 could never be

imposed by respondent no. 1 on petitioner. The same is unreasonable, arbitrary and discriminatory and is violative of Article 14 of the Constitution of India.

3.1 Learned Counsel for the petitioner further submitted that such a condition is against Rule 24 of the Uttarakhand Educational (General Service Cadre) Service Rules, 2006 (hereinafter referred to as 'Service Rules of 2006'), which clearly states that salary payable to Principal will be as determined by the Govt. from time to time. It is submitted that salary payable to the petitioner is a condition of his service governed by his Service Rules and the same cannot be altered to his detriment by means of administrative order i.e. impugned order dated 04.01.2019 as passed by respondent no. 1 (copy of Uttarakhand Educational (General Service Cadre) Service Rules, 2006: Annexure No. 11).

3.2 In compliance of order dated 04.01.2019, petitioner joined his service at the place of posting on 19.01.2019. After his promotion as Principal, petitioner assumed higher responsibility of Principal than that of Headmaster. However, it is pertinent to mention that while working on the post of Principal, instead of Rs. 7600 of the post of Principal, he was paid grade pay of Rs. 5400 of the post of Headmaster by the respondents in clear violation of his promotion order dated 29.12.2016.

3.3 Review Application No. 1112/2018 was filed by the State before Hon'ble High Court of Uttarakhand against order dated 11.04.2018 passed in WPSB No. 71/2018. *Vide* order dated 01.03.2019, the said review application was disposed of by the Hon'ble Court. Order under review i.e. order dated 11.04.2018 was set aside and WPSB No. 71/2018 was restored by the Hon'ble High Court. The reasoning given was that since any transfer order contrary to the provisions of Uttarakhand Annual Transfer for Public Servants Act, 2017, could have been quashed, the Hon'ble Court in proceedings under Article 226 of Constitution of India would not determine the place to which the Govt. Servant

should be posted, for these are all the matters for the competent authorities to consider in exigency of the administration. After the review order dated 01.03.2019, respondents never passed any order changing the place of posting of the petitioner and petitioner continued in his service to the post of Principal, Govt. Inter College, Pathri, Haridwar, till the date of his retirement on 31.03.2021.

3.4 Petitioner was promoted to the post of Principal by the respondents and continued as such till his retirement as can be seen from his retirement order dated 31.03.2021. Learned Counsel for the petitioner submitted that after his promotion as Principal, the petitioner assumed higher responsibility of Principal than that of Headmaster. Thus, the petitioner is entitled to the grade pay of Rs. 7600 of the post of Principal irrespective of his place of posting. The respondents have consistently been paying him grade pay Rs. 5400 of the post of Headmaster in clear contravention of his promotion order and relevant provisions of law (copy of order dated 31.03.2021: Annexure No. 13). The petitioner applied for extension of his service which was denied, against which the petitioner moved WPSB No. 339/2020 before the Hon'ble High Court, who *vide* order dated 31.10.2020 directed respondent no. 3 to consider application of the petitioner along with medical certificate. Further, it was also directed that the petitioner would continue till such order is passed by respondent no. 3 in that petition (copy Annexure No. 14). In compliance of Hon'ble Court's order dated 31.10.2020, respondent no. 2 *vide* order dated 17.12.2020 extended services of the petitioner till the end of the academic session i.e. 31.03.2021 (copy Annexure No. 15).

3.5 Persons junior to the petitioner namely Sri Bansidhar Andola and Sri Mahesh Chandra Pant, who were also promoted *vide* order dated 29.12.2016 along with petitioner to the post of Principal have already been paid salary of grade pay Rs. 7600 by

the respondents. Only petitioner has been denied the same. As per regularization order dated 27.05.1996, it can be seen that the petitioner appears at serial no. 22, which mentions his date of appointment as 17.09.1985. In the same order at serial no. 24, name of Sri Bansidhar Andola appears and it mentions his date of appointment as 12.10.1985. Further, at serial no. 29, name of Sri Mahesh Chandra Pant appears with date of appointment as 29.07.1986. It is submitted by learned Counsel for the petitioner that both Sri Bansidhar Andola and Sri Mahesh Chandra Pant were juniors to the petitioner and were still paid the grade pay of Rs. 7600/- of principal whereas the petitioner was denied the same. Petitioner moved representations on several dates on 02.07.2020, 10.10.2020, 22.03.2021 and 30.06.2021 but no action has been taken by the respondents in this regard (copy of one of the representations: Annexure No. 16). When nothing was done by the respondents, the petitioner was compelled to file present claim petition for redressal of his grievances.

4. The claim petition is supported by the documents, which are available on record.

5. The claim petition is contested by the respondents. W.S. has been filed on behalf of the respondents. Objections against the maintainability of the claim petition have been filed with the affidavit of Sri Bharat Pal Singh Rawat, Principal, Govt. Inter College, Pathri, Bahadrabad, Haridwar. Claim Petition has been contested on merits also. C.A. has been filed by Sri Kamlesh Kumar, Chief Education Officer, Haridwar, Uttarakhand, on behalf of the respondents.

6. It has been mentioned in the C.A. that the petitioner was promoted on the post of Principal G.I.C., Saindhar, Pauri in the pay scale of Rs. 15600-39100 with grade pay Rs. 7600 purely on stop gap arrangement or on *ad-hoc* basis *vide* G.O. dated 29.12.2016 (copy Annexure No. 4 of the claim petition). The promotion order clearly stipulates that the pay scale of Rs. 15600-

39100 with grade pay Rs. 7600 was admissible to the Principal when the *ad-hoc* promotee Principal will take over charge on *ad-hoc* promotion and join the place of posting within a week from the date of promotion order.

6.1 Petitioner did not take charge and did not join on *ad-hoc* promotion to the post of Principal G.I.C., Saindhar, Pauri Garhwal. Instead, he moved an application/ representation to the Additional Secretary, Education, Govt. of Uttarakhand, on 30.12.2016 to amend the place of posting on any vacant post of Principal in G.I.C., Haridwar. Hence, the petitioner is not legally entitled to salary and emoluments of post of Principal.

6.2 The Govt. of Uttarakhand *vide* order dated 02.07.2018 rejected the representation of the petitioner with a speaking order as such the petitioner should have joined as an *ad-hoc* Principal, G.I.C. Saindhar, Pauri, but the petitioner failed to join and take the charge of his *ad-hoc* promotion on the post of Principal. Petitioner is not legally entitled to get the benefit of pay scale Rs. 15600-39100 with grade pay Rs. 7600 and emoluments as *ad-hoc* Principal, G.I.C., Haridwar. In paras 10, 11, 12 and 13, the same developments, which have been narrated by the petitioner in his claim petition have been mentioned in the counter affidavit.

7. Necessary documents have been filed in support of the counter affidavit.

8. It is the submission of learned A.P.O. that Hon'ble High Court did not provide anywhere in its order dated 11.04.2018 that the petitioner will be entitled to the pay scale of Rs. 15600-39100 with grade pay Rs. 7600 to the post of Principal, Govt. Inter College. *[Note: It has not been denied either. Further, without amending the pay scale, place of posting has been changed by the Hon'ble Court.]*

9. Learned A.P.O. further pointed out that the claim petition is devoid of merits and should be dismissed.

10. Rejoinder affidavit thereto has been filed by the petitioner.

11. Learned Counsel for the petitioner drew attention of this Tribunal towards para 6.2 of the R.A. filed on 23.07.2023 to indicate the following:

“..... The petitioner on rejection of his representation pursued his legal remedies and had filed a writ petition before the Hon'ble High Court. Furthermore, it is again misleading to state that the petitioner did not join his place of posting in Government Inter College, Saindhar, Pauri. The Hon'ble Court vide order dated 11.04.2018 directed the respondent to change the place of posting of petitioner to Government Inter College, Saindhar, Pathri, Haridwar. In compliance, the respondent changed the place of posting of petitioner ..... and the petitioner joined his place of posting as Principal, Government Inter College, Pathri, Haridwar. Furthermore, as admitted by respondents, the Hon'ble High Court vide order dated 11.04.2018 only changed the place of posting and the promotion order dated 29.12.2016 was otherwise not interfered with. The Hon'ble Court maintained the promotion order dated 29.12.2016 and promoted the petitioner to the post Principal. .....

12. Learned Counsel for the petitioner further pointed out that when the review application was allowed, the respondents did not change the place of posting of the petitioner. He was allowed to remain at Govt. Inter College. Pathri, Haridwar, wherefrom he finally retired.

13. It is the submission of learned Counsel for the petitioner that Sri Bansidhar Andola and Sri Mahesh Chandra Pant, who were junior to the petitioner, were granted the pay scale of the petitioner. In reply, learned A.P.O. submitted that they were given the pay scale of the Principal as they joined at the places where they were promoted as in-charge Principal.



14. Office Memorandum dated 04.01.2019 issued by the Govt. of Uttarakhand in Secondary Education Department (Annexure No. 1) is in the teeth of present claim petition. It has been issued by the Secretary under intimation to the P.S. to Hon'ble Education Minister and others. Director, Secondary Education, has supplied a copy of this office memorandum to the petitioner also.

15. The office memorandum dated 04.01.2019 speaks about the compliance of order dated 11.04.2018, passed by the Hon'ble High Court of Uttarakhand at Nainital in WPSB No. 71/2018. It states that the office memorandum is being issued in compliance of order dated 11.04.2018. It further states that Sri Basant Ballabh Pant, Headmaster, Higher Secondary School, Balawali, Haridwar, is being posted at Govt. Inter College, Pathri, Haridwar. The language of the office memorandum is important. On the one hand, it states that Sri Basant Ballabh Pant, Officiating Principal, is posted at Govt. Inter College, Pathri, Haridwar, while on the other hand, it states that Sri Basant Ballabh Pant will be entitled to the pay scale of Headmaster only. Whereas in the upper portion of the impugned office memorandum, it depicts Sri Basant Ballabh Pant as in-charge Principal, while at the bottom of the order, it has been mentioned that Sri Basant Ballabh Pant, Headmaster, will be entitled to the pay scale of Headmaster only. There is anomaly in the impugned order itself especially in the backdrop of the order dated 11.04.2018, passed by the Hon'ble High Court in WPSB No. 71/2018 and other judicial decisions, which will be dealt with by the Tribunal in subsequent paragraphs of this judgement.

16. A notification was issued for promotion of the teachers by the erstwhile State of Uttar Pradesh on 27.05.1996. The name of Sri Basant Ballabh Pant has been put at serial no. 22 of the office memorandum dated 27.05.1996. The office memorandum mentions that the teachers are being promoted by this order. Their *inter se* seniority will be fixed later on. The name of the petitioner is

at serial no. 22. The name of Sri Bansidhar Andola is at serial no. 24. The name of Sri Mahesh Chandra Pant is at serial no. 29. Sri Bansidhar Andola and Sri Mahesh Chandra Pant are stated to be getting higher pay scale than the petitioner. Subsequently, by the Govt. of Uttarakhand, *vide* office memorandum dated 29.12.2016, the Headmasters were promoted on purely temporary basis and on *ad-hoc* arrangement as Principals, which office memorandum was issued by the Govt. of Uttarakhand in Secondary Education Department. In such office memorandum, there is no mention of the fact that the *inter se* seniority of the Headmasters/ in-charge Principals/ Principals will be fixed later on. The petitioner has been placed at serial no. 442 and *vide* such office memorandum, the petitioner has been transferred from Govt. Higher Secondary School, Balawali, Haridwar, to Govt. Inter College, Saindhar, Pauri. It was directed that the persons named therein shall take over charge within a week. To make it clear, it was mentioned in such office memorandum dated 29.12.2016 that the Principals mentioned in such order shall take over charge at the place of posting within a week. It is also mentioned there that the seniority in the cadre shall be subject to writ petitions, if any, filed before the Hon'ble Courts. It also says that the arrangement is purely temporary and can be terminated at any time.

17. After this order was issued, the petitioner moved a representation to Additional Chief Secretary (Secondary Education) on 30.12.2016 for change of place of posting/ change of place of institution. In such representation, the petitioner submitted that his wife was suffering from serious heart ailment. His mother is also under medical supervision and therefore, the place of posting should be amended and he should be shown as Principal in the orders passed by the department in future. He prayed that he should be posted at Govt. Inter College, Nizampur, Haridwar. Such representation of the petitioner was strongly recommended by Block Development Officer, Khanpur, Haridwar. Thereafter, in a correspondence by the Director, School

Education, made to the Additional Secretary, Secondary Education, on 22.08.2017, (Director) gave information to the Secretary to the Govt. about the number of Principals/ *ad-hoc* Principals, whose age is more than 58 years and whose spouses are suffering from serious ailments alongwith other desired information. The papers attached to such letter are important. The name of the petitioner has been shown in the column whose wife was suffering from serious heart ailment. The certificate of State Medical Board was also attached with the same. He was shown to be posted in Govt. Inter College, Saindhar, Pauri, and it was recommended that he should be posted in Govt. Inter College, Kasampur, Haridwar. It was probably on the recommendation of the then Hon'ble Education Minister that the petitioner was accommodated in Govt. Inter College, Kasampur, Haridwar. Then, Sri Vinod Kumar Joshi and others filed writ petition being no. WPSB No. 589/2017 before the Hon'ble High Court of Uttarakhand. The writ petition as disposed of by the Hon'ble Court *vide* order dated 22.12.2017 (Annexure No. 7) by directing the respondent no. 1 to take appropriate decision as per the proposal dated 22.08.2017 submitted by the respondent no. 2 regarding those employees, who or their spouses or their dependent children are suffering from serious ailments. It may be noted here that the letter dated 22.08.2017 is the same, which was sent by the Director, Secondary Education, to the Additional Secretary to the Govt. in Secondary Education, in the enclosure of which the name of the petitioner was recommended for accommodating him in Govt. Inter College, Kasampur, Haridwar, in the vacant post. Such proposal of the Directorate was rejected by the Secretary to the Govt. in newly created Secondary Education Department *vide* office memorandum dated 02.01.2018. The proposal of the Directorate was dismissed, citing reasons. The petitioner filed writ petition before the Hon'ble High Court for quashing the impugned order dated 02.01.2018, passed by respondent no. 1 contained in Annexure No. 12 of that writ petition, so far as it relates to the petitioner. It may be noted here that the office memorandum dated

02.01.2018 is the same *vide* which the proposal of the Directorate was rejected by the Secretary to the Govt. in Secondary Education Department (newly created). A prayer was also made, in such writ petition, by the petitioner, that the office memorandum dated 29.12.2016 be amended and the petitioner should be posted in Govt. Inter College, Pathri, Haridwar, or any Govt. Inter College in Haridwar on the vacant post of Principal, instead of Govt. Higher Secondary School, Saindhar, Pauri. The writ petition, being WPSB No. 71/2018, was decided by the Hon'ble High Court *vide* order dated 11.04.2018. The respondents were directed to transfer the petitioner from present place of posting to Govt. Inter College, Pathri, Haridwar, considering ailment (of petitioner's wife) (Annexure No. 9).

18. The Tribunal has observed earlier that Sri Vinod Kumar Joshi filed another writ petition being WPSB No. 84/2018 before the Hon'ble High Court, in which the respondents were directed to transfer the petitioner (Sri Vinod Kumar Joshi and not present petitioner) from his present place of posting to Narayan Nagar *vide* order dated 26.03.2018. The Uttarakhand Educational (General Education Cadre) Service Rules, 2006 (copy Annexure No. 17), *inter alia*, provide for the *inter se* seniority of persons appointed by promotion. Rule 23 provides that the *inter se* seniority of persons appointed by the promotion shall be the same as it was in the cadre from which they were promoted. The petitioner has been able to depict that his juniors are getting higher pay scale than him and are posted as Principal, whereas he is although working as Principal and discharging the responsibilities of Principal, has been shown as Headmaster. Subsequently, a miscellaneous application was filed in WPSB No. 71/2018, in which the Hon'ble High Court observed in its order dated 01.03.2019 that "while any transfer order, contrary to the provisions of the Uttarakhand Annual Transfer for Public Servants Act, 2017, could have been quashed, this Court, in proceedings in Article 226 of the Constitution of India, would not determine the place to which a

Govt. Servant should be posted, for these are all the matters for the competent authorities to consider in the exigency of administration.” The order under review was set aside and WPSB No. 71/2018 was restored (to its original number). But the petitioner continued to be posted at the same place where he was posted before passing the order in review application.

19. When present petitioner was not given benefit of G.O. dated 01.06.2012, he moved an application, which was rejected on the ground that the medical certificate, which ought to have been submitted with the application, was submitted later on. The benefit of G.O. dated 01.06.2012 was not given to the petitioner, therefore, he filed writ petition being WPSB No. 339/2020 before the Hon’ble High Court of Uttarakhand at Nainital. Such writ petition was decided *vide* order dated 31.10.2020. The following observations of the Hon’ble High Court are important in the context of present claim petition. These observations weigh heavily in favour of the petitioner, and as against the versions of the respondents in their counter affidavit, which has been highlighted by learned A.P.O. in his arguments. The observations of the Hon’ble Court, while deciding WPSB No. 339/2020 in its order dated 31.10.2020 are as below:

“ .....

2. The petitioner was working as the officiating Principal in the Govt. Inter College, Pathri District Haridwar. His date of superannuation is 31.10.2020.....”

.....

6. In view of the fact that the petitioner is said to retire today, he shall continue on the said post till the orders are passed by the third respondent.....

.....”

20. Thereafter, *vide* office order dated 17.12.2020 (copy Annexure No. 15), the petitioner was given the benefit of G.O. dated 10.12.2020 in compliance of Hon’ble Court’s order dated 31.10.2020 till the end of academic session dated 2020-21 (till

31.03.2021). It may be noted here that in the office memorandum dated 17.12.2020 (copy Annexure No. 15), the petitioner has been shown as Principal, Govt. Inter College, Pathri, Haridwar (original post Headmaster). In this way when the department itself is depicting the petitioner as Principal and the Hon'ble High Court has also mentioned, in its order that the petitioner is working as officiating Principal in the Govt. Inter College and the petitioner shall continue on the said post till the orders are passed by the third respondent (which orders have been passed), there appears to be no hesitation in arriving at a conclusion that the petitioner is entitled to the pay scale of the Principal, and not of the post of Headmaster. The Tribunal has already observed that there is lacuna in the impugned order, in the beginning of this narration (of the judgement). The petitioner ought to have been given grade pay Rs. 7600 in pay scale of Rs. 15600-39100. It may also be pointed out that nowhere the Hon'ble High Court has observed that the petitioner shall be deemed to be continuing on the post of Headmaster and not of the Principal in the promotional pay scale. Rather, the respondent department has acquiesced the fact that the petitioner is working as Principal and therefore, in the humble opinion of this Tribunal, the petitioner is entitled to grade pay Rs. 7600 in pay scale of Rs. 15600-39100.

21. Much emphasis has been laid by learned A.P.O. on the fact that the petitioner ought to have joined his promotional post within a week, which he did not do. Learned A.P.O. has advanced this argument on the basis of the conditions given in the impugned order. The Tribunal observes that there is dichotomy or contradiction in the impugned order itself. The litigation between the petitioner and the respondent State was decided by the Hon'ble High Court on a number of occasions. Nowhere it was observed that the petitioner is not entitled to the pay scale of grade of the Principal. On the other hand, this Tribunal has mentioned earlier that the Hon'ble High Court has directed that the petitioner shall continue to be posted as officiating Principal till he attains the

age of superannuation while giving him the benefit of G.O. dated 10.12.2020 until 31.03.2021.

22. So far as the maintainability of this claim petition is concerned, the Tribunal observes that the claim petition was, on the strength of a few rulings, found to be within limitation but while admitting the claim petition, the issue of limitation was still left open, as an abundant caution, to be decided by the Tribunal at the time of final hearing. The Tribunal observes that right from the beginning, the petitioner has been pursuing legal remedy before the Hon'ble High Court, on one pretext or another, and therefore, the Tribunal is unable to hold, in the backdrop of peculiar facts of the case, that the petition is barred by limitation. The petitioner has been able to establish his case.

23. A strong case for granting the petitioner the pay scale of Rs. 15600-39100 in the grade pay Rs. 7600 is made out on the basis of documents brought on record. Whenever the petitioner was denied his service oriented relief by the respondent department, he was granted relief(s) with the intervention of the Hon'ble High Court of Uttarakhand. In this claim petition, the petitioner has succeeded in making out a case for pay scale of Rs. 15600-39100 with grade pay Rs. 7600 from the date he was promoted. The petitioner was able to get his place of posting changed with the intervention of the Hon'ble Court, who did not say anywhere that the petitioner will be posted in District Haridwar on the post of Headmaster and not on the post of Principal. Petitioner has been discharging the duties of Principal till the date of his retirement. His juniors have been granted pay scale of Rs. 15600-39100 with grade pay Rs. 7600 since the day they were promoted alongwith the petitioner. Whereas they are getting pay scale of Rs. 15600-39100 with grade pay Rs. 7600, the petitioner has been denied the same only because he did not join at Saindhar, Pauri Garhwal and instead moved a representation for change of place of posting. He got the relief, finally, from the

Hon'ble High Court, who was pleased to change petitioner's place of posting and not the pay scale. It has not within the competence of the respondent department to lower down the pay scale/ grade pay of the petitioner against a particular post. Service jurisprudence does not create a distinction between the pay scales of a person, who is either promoted temporarily or is promoted on *ad-hoc* basis or, is promoted on stop gap arrangement.

24. Point No. 2 of the impugned order dated 04.01.2019 (Annexure No. 1), passed by respondent no. 1, insofar as it states that salary of the post of Headmaster will be payable to the petitioner, is hereby set aside. The respondents are directed to consider granting pay scale/ grade pay and arrears of salary to the petitioner for the duration he performed the duties of Principal till the date of his retirement. The respondents are also directed to consider granting all consequential benefits to the petitioner including increment and pension as have been given to his juniors in the light of the above.

25. The claim petition is disposed of with the aforesaid directions. No order as to costs.

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

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

*DATE: 01<sup>st</sup> September, 2023*  
*DEHRADUN*  
*RS*