

**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. 151/DB/2022**

R.K. Yadav, s/o late Sri R.S. Yadav, r/o 10 B Patel Road,  
Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Transport, Dehradun.
2. Uttarakhand Road Transport Corporation, Dehradun, through its Managing Director office at 01 Raj Vihar, Chakrata Road, Dehradun.
3. Uttar Pradesh State Road Transport Corporation, Lucknow through its Managing Director, Tehri Kothi, Lucknow.

..... Respondents

Present: Sri M.C. Pant (*online*) and Sri Abhishek Chamoli,  
Advocates, for the Petitioner  
Sri V.P. Devrani, A.P.O. for the Respondent No. 1  
Sri Vaibhav Jain, Advocate,  
for the Uttarakhand Transport Corporation

**Judgement**

**Dated: 22<sup>nd</sup> September, 2023**

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

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 24.09.2022 in WPSB No. 77/2014, R.K. Yadav vs. State of Uttarakhand and others, which reads as under:

“Mr. M.C. Pant, learned counsel for the petitioner.

Mr. Pradeep Joshi, learned Additional Standing Counsel for the State.

Mr. Ashish Joshi, learned counsel for respondent no.2.

Ms. Monika Pant, learned counsel for respondent no. 3.

The petitioner has preferred the present writ-petition for the following relief:-

“i) Issue a writ, rule or direction in nature of certiorari quashing the impugned order dated 21-02-2014 (contained as Annexure No.1) after calling entire record along with its effect and operation also. ii) Issue a writ, rule or direction in nature of mandamus directing the respondents to treat the petitioner in service and allow him all consequential benefits of service had it been the impugned order were never in existence.

iii) Issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.”

The petitioner was a public servant. The Uttarakhand Public Service Tribunal has the jurisdiction to deal with the issue raised in this writ-petition.

Relief sought in the writ petition relates to the disciplinary proceedings taken against him by the Respondent Uttarakhand Road Transport Corporation, Dehradun.

Considering the fact that the petition is pending since 2014 and pleadings have been completed, we direct the Registry to transfer the complete records of the case to the Tribunal, which shall be registered as a claim petition and be dealt with by the Tribunal, in accordance with law.

We request the Tribunal to endeavor to dispose of the petition at an early date, considering that the writ-petition is pending since 2014.

The petition stands disposed of accordingly.”

2. The original record of the writ petition has been transferred to this Tribunal *vide* letter no. 14788/UHC/Service (S/B) 2022 dated 17.10.2022 of the Deputy Registrar (Judicial) of the Hon'ble High Court. The writ petition has been registered as claim petition no. 151/DB/2022.

3. Order dated 21.02.2014 (Annexure No. 1) is in the teeth of present petition. The petitioner has been dismissed from the service on the ground that the degree, which he was holding at the

time of appointment was not a valid degree and therefore, the appointment of the petitioner is illegal.

4. Various documents have been filed in support of the petition.

5. The petition has been contested by the State and the respondent Corporation. An application was moved on behalf of respondent no. 3 to strike off the answering respondent from the array of respondents and direct the petitioner to delete the answering respondent from the array of parties. Sri Neeraj Agarwal, Assistant Regional Manager (Personnel), U.P. State Road Transport Corporation, U.P. had filed such an application. No orders were although passed on the same, but it appears that presence (impleadment) of respondent no. 3 is not required for the decision of present petition. Hence, the application filed on his behalf is allowed and name of such respondent shall be deemed to have been deleted from the array of respondents.

6. Separate counter affidavits have been filed on behalf of respondents no. 1 and 2. Whereas Dr. Umakant Panwar, Secretary, Transport, Govt. of Uttarakhand, has filed C.A. on behalf of respondent no. 1, Sri S.C. Joshi, Assistant General Manager (Law), Uttarakhand Transport Corporation, has filed C.A. on behalf of respondent no. 2. Various reasons have been assigned in such counter affidavits to hold that the petitioner was not having a valid degree at the time of entering into service and therefore, his initial appointment was illegal.

7. A miscellaneous application being CLMA/13657/2018 has been filed on behalf of the petitioner to direct the respondents to release all the legal and admissible dues of the petitioner along with interest. The averments as stated in the application are as under:

7.1 The leave encashment, arrears of sixth pay commission, D.A. and arrears on the remaining installment, benefit of group insurance, EPF/GPF payments and other pending pay dues and also the revision of pay scale as per seventh pay commission and its arrears and other dues have not been paid due to pendency of this writ petition.

7.2 Since the respondents have not conducted any enquiry before passing the impugned order as prescribed by the Regulations of 1998, thus the impugned order is bad and has also lost its significance when the respondents have retired the petitioner from service. Due to non-settling of his service dues as mentioned above, the petitioner is facing grave financial crisis.

7.3 A prayer has been made to direct the respondents to release all the legal and admissible dues of the petitioner as mentioned above, forthwith, along with interest and to decide the above noted writ petition as early as possible otherwise the petitioner shall suffer irreparable loss and injury.

8. It will be most appropriate to reproduce the interim order passed by the Hon'ble High Court on 06.03.2014 in WPSB No. 77/2014 herein below for convenience:

“Mr. M.C. Pant, Advocate for the petitioner.

Ms. Puja Banga, Brief Holder for the State of Uttarakhand / respondent no. 1.

Mr. Ashish Joshi, Advocate for respondent no. 2.

Mr. Arvind Vashisth, Advocate for respondent no. 3.

At the time of joining, petitioner held out that he has got Post Graduate Diploma in Business Administration. There is no dispute that a certificate to that effect issued by Institute of Management Soft Computer & Industrial Engineering, Dehradun was made over to the respondent employer. On the basis thereof, petitioner was recognized as a holder of Post Graduate Diploma in Business Administration. On the basis thereof, an appointment was made. By the impugned order, the appointment has been cancelled on the ground that the said Diploma was not recognized at the time of

entrance. It does not appear that at the time of entrance, petitioner made any misrepresentation. It was obligatory, prima facie, for the respondent employer to verify, before giving the appointment to the petitioner, that the Diploma relied by him is a recognized Diploma. Twenty eight years after permitting the petitioner to work, on the ground that the said Diploma was not a recognized Diploma at the time of entrance of the petitioner in service, prima facie it does not appear that it is permissible to cancel the appointment of the petitioner.

We, accordingly, admit the writ petition, stay the impugned order and direct the respondents to file their counter affidavits as quickly as possible, but not later than eight weeks from today.

Rejoinder affidavit, if any, be filed within four weeks thereafter.

List thereafter.”

*[emphasis supplied]*

9. Justifying the impugned order whereby the petitioner was dismissed from service, Sri Vaibhav Jain, learned Counsel for the respondent no. 2 submitted that if the petitioner was not having valid degree, his appointment *per se* in the respondent-corporation was illegal. Sri Vaibhav Jain vehemently argued that the petitioner had undertaken while joining the service that if any fact is found incorrect, his appointment may be cancelled.

10. Considering the facts of the case, the Tribunal observes that the petitioner was not at fault, he did not make any misrepresentation when his degree, at the time of his initial appointment, was considered by the respondent department and it was noticed only after 28 years that he was not having a valid educational qualification. The petitioner survived on the strength of interim order of the Hon'ble High Court. He has retired after completing his service. The interim order passed by the Hon'ble High Court on 06.03.2014 in WPSB No. 77/2014 is therefore made absolute.

11. As has been noted above, the petitioner has already been reinstated under the orders of the Hon'ble High Court. He has retired after completing the age of superannuation. It has been informed to the Bench that the petitioner has even received half

gratuity after his superannuation. A miscellaneous application was filed on his behalf, a reference of which has been given by the Tribunal in para 7 of the judgement. It appears that the post retiral dues have not been released in favour of the petitioner because of the pendency of present petition. There is no departmental or judicial proceeding pending against him. Hence, the petition is disposed of by directing the respondents that the retiral dues of the petitioner alongwith admissible interest shall be released to him without any unreasonable delay. No order as to costs. CLMA/13657/2018 also stands disposed of.

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

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

*DATE: 22<sup>nd</sup> September, 2023*  
*DEHRADUN*  
*RS*