

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

**WRIT PETITION NO 3537 (S/S) OF 2018
[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 180/SB/2022]**

Veer Singh, aged about 59 years, s/o Sri Ratiram r/o Mohalla Khalsa, Kasba Manglaur, District Haridwar, presently working as Head Master, Government Primary School, Sikandarpur, Block Khanpur, Distt. Haridwar.

.....Petitioner

vs.

1. The State of Uttarakhand through Secretary, School Education, Civil Secretariat, Dehradun.
2. Director General, School Education, Directorate of School Education, Nanoorkhera, Dehradun.
3. Director (Primary Education), Directorate of School Education, Nanoorkhera, Dehradun.
4. Chief Education Officer, Distt. Haridwar.
5. District Basic Education Officer, Distt. Haridwar.
6. Deputy Block Education Officer, Block Khanpur, Distt. Haridwar.

.....Respondents

Present: Ms. Neetu Singh, Advocate, for the petitioner.
Sri V.P.Devrani, A.P.O., for the respondents.

JUDGMENT

DATED: MARCH 07, 2024.

Justice U.C.Dhyani (Oral)

Hon'ble High Court of Uttarakhand at Nainital has transferred the above noted writ petition to this Tribunal *vide* order dated 17.10.2022. Order

passed by Hon'ble Court in WPSS No. 3537 of 2018, on 17.10.2022, is as follows:

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

(i) Issue an appropriate writ, order or direction in the nature of Certiorari to quash the impugned Order No. अर्थ-5 (क)/2129-32/वेतन निर्धारण निर्धारण/2018-19 dated 28.04.2018 (annexed as Annexure No.6 to this writ petition), issued by the respondent No. 3, in the interests of justice to petitioner.

(ii) Issue an appropriate order, Writ or directions in the nature of Mandamus directing the respondents to allow the petitioner to submit his options for fixing his Pay w.e.f. the date of his promotion as per provisions of Uttarakhand Govt. G.O. No. 27/XXVII(7) (स्प-1)/2009 dated 13.02.2009 (annexed herewith as Annexure No. 3) to meet ends of justice to the petitioner.

(iii) Issue an appropriate order, Writ or directions in the nature of Mandamus directing the respondent no. 1 to accept the recommendations of the respondent no. 3, the Director Primary Education of Uttarakhand, submitted vide the Letter No. प्रा0शि0-दो(2)/7177/18(8)/2018-19 dated 11.07.2018 (annexed herewith as Annexure No. 8) in the interests of justice to petitioner.

(iv) Issue an appropriate order, Writ or directions in the nature of Mandamus directing the respondent no. 3 to decide the representation dated 05.03.2018 of petitioner by an speaking order and till such decision on the representation, no recovery should be made from the petitioner.

2. Heard Mrs. Neetu Singh, the learned counsel and Mr. Vinod Joshi, the learned counsel for the petitioners and Mrs. Anjali Bhargava, the learned Additional C.S. C. for the State assisted by Mrs. Indu Sharma, the learned Brief Holder for the State.

3. Counter affidavit, filed by the State, is taken on record.

4. During the arguments, Mrs. Anjali Bhargava, the learned Additional C.S.C. for the State submitted that the present matter relates to the conditions of service of public servants, therefore, the petitioner has an alternate efficacious remedy to raise their grievances before the Uttarakhand Public Services Tribunal.

5. Mrs. Neetu Singh and Mr. Vinod Joshi, the learned counsel for the petitioners, agree to transfer the present matter to the Uttarakhand Public Services Tribunal.

6. As the disputes raised in the present writ petition can be effectively adjudicated by the Uttarakhand Public Services Tribunal, with the consent of 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.

7. 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 four years.

8. The learned counsel appearing for the petitioner requested to extend the interim order dated 10.10.2018.

9. In the facts and circumstances of the case, till the Uttarakhand Public Services Tribunal takes cognizance of the present matter, the impugned order dated 28.04.2018 (Annexure No. 6 to the writ petition) is kept in abeyance.

10. The present Writ Petition (S/S No. 3537 of 2018) stands disposed of accordingly.”

2. 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. Ms. Neetu Singh, Ld. Counsel for the petitioner submitted that the petitioner has passed away on 21.11.2023. Death Certificate issued by the Registrar, Births & Deaths, Nagar Palika Parishad, Manglore, has been placed before the Bench. Such Death Certificate is taken on record. She also submitted that Sri Veer Singh had retired and all the retiral dues were received by him before his death. No cause of action survives to Sri Veer Singh.

4. Rule 18 of the Uttar Pradesh Public Services (Tribunal (Procedure) Rules, 1992 (as applicable to State of Uttarakhand) provides as under:

“18. Substitution of legal representatives.—(1) In the case of death of a party during the pendency of the proceedings before the Tribunal, the legal representatives of the deceased party may apply within ninety days of the date of such death for being brought on record as necessary parties.

(2) Where no application is received from the legal representatives within the period specified in sub-rule (1), the proceedings against the deceased party shall abate:

Provided that the Tribunal may on application and for good and sufficient reasons set aside the order of abatement and substitute the legal representatives.”

5. In the situation, which has been noted above, the proceedings against the deceased party (read: Sri Veer Singh) shall abate. Petition is, accordingly, closed

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MARCH 07,2024
DEHRADUN

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