

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

Through Audio Conferencing

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

CLAIM PETITION NO. 111/DB/2020

Dr. Santosh Kumar Dabral (Male) aged about 65 years S/o Late Dr. Shiv Prasad Dabral, retired Associate Professor, Chemistry, Government Post Graduate College, Rishikesh, Dehradun, Uttarakhand presently residing at 43 Ganganagar, Lane-2, Ganesh Vihar, Rishikesh-249201.

.....Petitioner

vs.

1. State of Uttarakhand through Principal Secretary, Higher Education, Government of Uttarakhand, Uttarakhand Secretariat, Dehradun, Uttarakhand.
2. Director, Higher Education, Uttarakhand Nawad Kheda, Gola Par, Haldwani, District Nainital, Uttarakhand-263139.

..... Respondents

Present: Sri Sanjay Bhatt, Advocate, for the Petitioner.

Sri V.P.Devrani, A.P.O., for the Respondents.

JUDGMENT

DATED: DECEMBER 09, 2020

Justice U.C.Dhyani (Oral)

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

“(a). Issue an order or direction commanding the Respondents to grant promotion to the petitioner on the post of Professor in the pay scale of Rs. 37400-67000/- with grade pay of Rs. 10,000/- w.e.f. 01.01.2009 as recommended by the Screening-cum- Evaluation Committee, under the Career Advancement Scheme, as has been given to similarly placed 139 Associate Professors vide order No. 762 dated 11.06.2019.

(b). Issue any other order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

(c) *Award cost of the Petition to the present petitioner.*”

2. Brief facts, giving rise to present Claim Petition, are as follows:

Petitioner was initially appointed as Lecturer in Chemistry in Government Degree College, Rishikesh on 12.02.1975 and was promoted to the post of Reader on 20.06.1988 and thereafter to the post of Associate Professor in Chemistry. As per the recommendations of 6th Pay Commission, Ministry of Human Resource Development, Government of India, formulated a scheme for providing opportunity to the Associate Professors working in Degree Colleges for 03 years or more in the pay scale of Rs. 37400-67000/- with grade pay of Rs. 9000/- to give them promotion to the Professor level in the pay scale of Rs. 37400 to 67000/- with grade pay of Rs. 10,000/- under Career Advancement Scheme (CAS). On 28.06.2010, the University Grants Commission framed Regulations. The qualification and procedure for selection has been set out in the regulations of 2010 and CAS promotion. The State of Uttarakhand adopted the UGC Regulations, 2010 on 28.05.2013 in order to implement the CAS promotion scheme for teachers in universities and colleges. CAS Screening-cum-Evaluation Committee held a meeting, as specified in Clause (C) of the G.O. dated 28.05.2013. On 20.11.2014, Director Higher Education called a meeting in order to finalize guidelines or the CAS. The petitioner was also invited to attend the meeting as he was in active service at that time.

The petitioner demitted office on taking voluntary retirement on 30.06.2016. Since 28.05.2013, till the petitioner demitted the office, CAS promotion process was not initiated or finalized. Thereafter, CAS promotion scheme was initiated in view of direction of Hon'ble High Court dated 11.09.2017, passed in Writ Petition No. 406 of 2017 (S/B) filed by one Dr. S.P.Mittal.

Thereafter, subject-wise interview for promotion under CAS to Professor was held on 12.05.2018 and the petitioner also appeared before the concerned CAS Screening-cum- Evaluation Committee in Chemistry and was found suitable for promotion to the post of Professor by the concerned Committee and recommended for promotion as per G.P. Rs. 10,000/- w.e.f. 01.01.2009. On 01.06.2018, a list of 154 Associate Professors who were

found suitable for promotion to the post of Professor under CAS was submitted to the State Govt. for approval by the Director Higher Education. In the said list, name of the petitioner was mentioned at Sl. No. 30, indicating the date of giving post and pay scale of Professor and Grade Pay of Rs. 10,000/- as 01.01.2009.

On 11.06.2019, the Secretary, Higher Education, Government of Uttarakhand issued a list of 139 Associate Professors, promoted to the post of Professors under CAS in which, name of petitioner was missing.

Petitioner sought information under the provisions of Right to Information Act, 2005, as to why his name is missing from the list. The official Respondents replied on 04.07.2029 that the information as sought is not maintainable.

Thereafter, petitioner filed a writ petition before the Hon'ble High Court seeking the benefit of notional promotion with consequential benefits, which was dismissed by the Hon'ble High Court *vide* order dated 29.11.2019, on the ground of alternative remedy. Hence this petition.

3. Learned Counsel for the petitioner submitted that some benefits were given to similarly placed 139 Associate Professors on 11.06.2019, which have not been given, as yet, to the petitioner. Petitioner moved a representation to the respondent department on 19.06.2019, but the same has not been decided so far. Petitioner also moved for certain information under RTI, but the same has illegally been denied to the petitioner on the technical ground.

4. Although learned A.P.O. opposed the maintainability of the claim petition *inter-alia* on the ground that the same is time barred, but this Tribunal finds that the petitioner has claimed relief in respect of an order passed on 11.06.2019, whereby similarly placed Associate Professors have been granted promotion along with financial benefits although w.e.f. 11.06.2009. The Tribunal finds that parity has been claimed with similarly placed persons on the basis of an order passed on 11.06.2019. The cause of action, therefore, arose to the petitioner only on 11.06.2019. The petitioner approached to Hon'ble High Court by filing a writ petition No. 542 of 2019 (S/B), Santosh Kumar Dabral vs. State of Uttarakhand and another, which

was dismissed by the Hon'ble High Court vide order dated 29.11.2019 on the ground of alternative remedy to approach this Tribunal. The petitioner has filed the present claim petition on 25.11.2020 before this Tribunal.

5. It is also the submission of learned counsel for the petitioner that promotion along with financial benefits have been granted to similarly placed Associate Professors *vide* order dated 11.06.2019, w.e.f. 2009, and such benefits cannot be denied to the petitioner only on the ground that he has retired from service. It is the apprehension of learned Counsel for the petitioner that respondents might take his retirement as the pretext for denying such relief to the petitioner.

6. Since the representation of the petitioner is pending and the same has not been decided as yet, therefore, learned counsel for the petitioner confined his prayer in this claim petition only to the extent that his representation may kindly be directed to be decided by the Respondents No. 1 & 2, at an early date, in accordance with law, to which Learned A.P.O. has no objection.

7. The claim petition is, accordingly disposed of, at the admission stage, by directing Respondents No.1 & 2 to decide pending representation of the petitioner, by a reasoned and speaking order, in accordance with law, at an earliest possible, but not later than 8 weeks of presentation of certified copy of this order, along with a fresh representation.

8. Needless to say that the decision so taken, shall be communicated to the petitioner soon thereafter.

9. It is made clear that we have not expressed any opinion on the merits of the case. Rival contentions of the parties are left open.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: DECEMBER 09, 2020
DEHRADUN

KNP