

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

Present: Hon'ble Mr. Justice J.C.S.Rawat

----- Chairman

Hon'ble Mr. D.K.Kotia

-----Vice Chairman (A)

**Claim petition No. 47/DB/13**

Brijbhushan Singh Rawat S/o Late Sri Sohan Singh Rawat, Retd. Principal, Govt. Inter College, Saknolikhal, (Garhwal)..

**Claim petition No. 48/DB/13 With**

Gajpal Singh Bisht S/o Late Sri Shankar Singh Bisht, Retd. Principal, Govt. Inter College, Diyusi (Garhwal), Vikaskhand Kaljikhil, (Garhwal) R/o Gram Padampur Motadhak, Kotdwar (Garhwal) Uttarakhand.

**Claim petition No. 49/DB/13 With**

Brijpal Singh S/o Late Sri Darshan Singh Negi, Retd. Lecturer, Govt. Inter College, Kotdwar(Garhwal) presently R/o Gram RAtanpur, P.O. Kumbhichaud, Kotdwar (Garhwal) Uttarakhand..

**Claim petition No. 50/DB/13 With**

Jaswant Singh Negi S/o Late Sri Khyat Singh Negi, Retd. Lecturer, Govt. Inter College, Kotdwar(Garhwal) presently R/o. Gram Shibbunagar, Nr. Jal Nigam Store, Narayan Colony, Devi Road, Kotdwar (Garhwal).

**Claim petition No. 51/DB/13 With**

Dwarika Prasad Dhyani S/o Late Sri Adityaram Dyani, Principal, Govt. Inter College, Sakar Sain (Garhwal). Presently R/o Gram Boregaon, Post Sanglakoti, vaya Satpuli Garhwal, Uttarakhand.

**Claim petition No.52/DB/13 With**

Thakur Singh Rawat S/o Late Sri Balbir Singh Rawat, Retd Principal, Govt. Inter College, Saknolikhal, (Garhwal) presently R/o Gram Sitabpur, Patti Sukhrau, Kotdwar (Garhwal), Uttarakhand.

**Claim petition No. 53/DB/13 With**

Kalika Prasad Naithani S/o Late Sri Adityaram Naithani. , Retd. Principal, Govt. Inter College, Diyusi, (Garhwal)..

.....Petitioners

**VERSUS**

1. State of Uttarakhand through Secretary, (Ministry of Education), Dehradun.
2. Director Lekha Evam Haqdari, 23 Luxmi Road, Dalanwala, Dehradun, Uttarakhand.
3. Principal, Government Inter College, Kotdwar (Garhwal).

.....Respondents.

Present: Sri B.P.Balodi & Sri A.K.Gaur Ld. Counsel  
for the petitioner.  
Sri Umesh Dhaundiyal, Ld. P.O.  
for the respondents.

**JUDGMENT**

**DATED: DECEMBER 12, 2014.**

**(Hon'ble Mr.Justice J.C.S. Rawat, Chairman)**

1. Claim petition Nos. 47/DB/13, 48/DB/13, 49/DB/13, 50/DB/13, 51/DB/13, 52/DB/13 & 53/DB/13 are connected with each other. These petitions are arisen out of same cause of action and the facts of each case are similar to each other and there is a common point of fact and law involved so these petitions are being disposed of by a common judgment. The petitioners have claimed following relief:-

“माननीय न्यायालय से निम्नलिखित अनुतोष प्रार्थनीय है-’

क- सम्बन्धित अधिकारियों को आदेशित/निर्देशित किया जाए कि वे याचिकाकर्ता को वांछित ग्रेड पे का लाभ उसके पेंशन पुनरीक्षण कर भुगतान कर दिया जाए।

ख- शासनादेशानुसार पेंशन का पुनरीक्षण दिनांक 01.01.2006 से परिकल्पित करते हुए उसका वास्तविकता लाभ का भुगतान दिनांक 01.04.2009 से आज की तिथि तक मय ब्याज के किये जाने के आदेश /निर्देश पारित किये जाए।

ग- वाद /दावा याचिका का हर्जा-खर्चा याचिकाकर्ता को विपक्षियों से वसूल कर दिये जाने के आदेश पारित किये जायें।

घ- अन्य कोई भी अनुतोष जो माननीय न्यायालय उचित समझे, वे याचिकाकर्ता को दिये जाए।

2. The petitioners were appointed on the post on different following dates:

i Brij Bhushan Singh Rawat Claim Petition No. 47/DB/2013, was appointed on the post of Assistant Teacher on 29.12.1969 in the Government Normal School, Pauri and retired on 31.07.2007 from the post of Principal, Govt. Inter College, Syoli (Garhwal).

ii. Gajpal Singh Bisht Claim petition No. 48/DB/13 was appointed on 01.10.1972 on the post of Assistant Teacher at Govt. Inter College, Karnavghati, district Pauri Garhwal and Retired on 01.07.2008 from the post of Principal, Govt. Inter College, Diyusi (Garhwal).

- iii Brijpal Singh Negi, Claim petition No. 49/DB/13 was appointed on 03.10.1975 on the post of Assistant Teacher at Govt. Inter College, Talwadi, district Chamoli Garhwal and Retired on 30.09.2007 from the post of Lecturer, Govt. Inter College, Kotdwar(Garhwal).
- iv Jaswant Singh Negi, Claim petition No. 50/DB/13 was appointed on 07.07.1972 on the post of Assistant Teacher at Govt. Inter College, Mawadhar, district Pauri Garhwal and retired on 31.01.2008 from the post of Lecturer, Govt. Inter College, Kotdwar(Garhwal).
- v Dwarika Prasad Dhyani, Claim petition No. 51/DB/13 was appointed on 06.08.1974 on the post of Assistant Teacher at Govt. Inter College, Sakar Sain (Gahrwal) and Retired on 31.03.2008 from the post of Principal, Govt. Inter College, Sakar Sain (Garhwal).
- vi Thakur Singh Rawat, Claim petition No. 52/DB/13 was appointed on 08.07.1973 on the post of Assistant Teacher at Govt. Inter College, Reethakhal, Garhwal and Retired on 30.04. 2008 from the post of Principal, Govt. Inter College, Saknolikhhal, (Garhwal).
- vii Kalika Prasad Naithani, Claim petition No. 53/DB/13 was appointed on 09.07.1968 on the post of Assistant Teacher at Govt. Inter College, Gopeshawar, district Chamoli Garhwal and Retired on 30.04.2008 from the post of Principal, Govt. Inter College, Dabri (Garhwal). R/o Gram Balasaud, Devi Mandir, Kotdwar (Garhwal) Uttarakhand.
3. The Government issued a Government order on 30.9.2007 by which the petitioners were granted the promotional pay scale w.e.f. 1.1.1990 and thereafter all the petitioners were paid the promotional pay scale w.e.f. 1.1.1990. All the petitioners namely, retired on 31.07.2007, 01.07.2008, 30.09.2007, 31.01.2008, 31.03.2008, 30.04.2008 & 30.04.2008 respectively. Thereafter pursuant to the recommendation of the 6<sup>th</sup> Pay Commission dated 1.3.2009, pensions were revised (Annexure-3 to the claim petition) by the State Government w.e.f. 1.1.2006 and the said pension letter of the petitioners is annexed as Annexure-2. The respondents had not granted the petitioners the benefits of the grade pay of Rs.5400/- by adding to their pensionery benefits. Feeling aggrieved by the said act of the respondents, a representation was made by them to the Government and the Government did not pay heed to the representation of the petitioners.

Then the petitioners gave a notice to the respondents to add the grade pay towards the benefits of the pension w.e.f. the year 2006. In reply thereof the necessary papers were processed by the department. No such grade pay was added to the benefits of the petitioners by adding it in the pension. Feeling aggrieved by the omission of the Government, petitioners had brought these claim petitions.

4. Respondents have filed the written submission on behalf of all the respondents. The respondents have refuted all the averments made in the claim petitions. Main thrust of the respondents is on the wording of the Government order dated 1.3.2009, by which it has been provided that the Teachers working in the State Government would be benefited by the higher pay scale equivalent to the pay scale of the Central Government and they will also get the promotional pay scale w.e.f. 1.4.2009 and the said G.O. has been made applicable w.e.f. 1.4.2009. Hence, the petitioners are not entitled to get the said benefit because the petitioners had retired prior to the enforcement of the said G.O. and they are not entitled to get the pensionary grade pay benefits. At the last the respondents have prayed to dismiss the claim petitions.
5. We have heard the learned counsel for the parties and perused the record carefully. Ld. Counsel for the petitioners also wanted to file the written submissions, but they failed to file the same inspite of the time granted to them.
6. Ld. Counsel for the petitioners contended that the Government Order dated 1.3.2009 is applicable to the petitioners also and their grade pay should be added towards the pensionary benefits. Respondents refuted the contention in this regard.
7. Perusal of the claim petition clearly reveals that the pension has been revised pursuant to the notification issued by the Government on 1.3.2009. Only dispute is that their grade pay, as given by the Government, has not been added to their pensions to the benefit of the petitioners. Now we have to analyze as to whether the grade pay is also to be added to their pensionary benefits or not.

8. We have to decide as to whether the petitioners are entitled to get their pension fixed on the grade pay of Rs.5400/- as on 1.1.2006. Para 1 & 2 of the Government order dated 1.3.2009 are very clear, in which it is provided that the Teachers have been classified into three categories for the purposes of the gradation of pay in respect of a post namely; Grade-I Grade-II & Grade-III. It is further provided in the said Government order that the Government has already issued the G.O. No. 395/XXVII(97)/2008 dated 17.10.2008 and G.O. No. 27/XXVII(7)/2009 dated 13.2.2009 with respect to the fixation of the pay band. In Para 2 of the said G.O. Vetan Samiti, 2008 has made the recommendation to allow the Teachers of the State Government equal pay to the Teachers of the Central Government w.e.f. 1.4.2009 and it is further provided in the said G.O. that the Teachers would get the benefit of the new pay scales which have been enumerated in the Annexure-1 to the G.O. dated 1.3.2009. The Government Order provides the 'present pay of the Teachers' and Column-4 prescribes 'the new grade pay for each category of the promotional pay scales, which is to be drawn by the Teachers'. Column-5 shows their 'pay band' and Column 6 denotes the 'grade pay of the Teachers.' It is provided in the said Government order that how the new pay scales would be payable to them and certain conditions have been laid down for the same but it is specifically mentioned that these monetary benefits of the pay scales would be applicable w.e.f. 1.4.2009. The second para of the G.O. runs as under:-

“वेतन समिति(2008) ने अपने चतुर्थ प्रतिवेदन में केन्द्र सरकार के शिक्षकों की भांति राज्य सरकार के शिक्षकों को भी उच्चिकृत वेतनमान दिनांक 1.4.2009 से स्वीकृत किये जाने की संस्तुति की है। वेतन समिति की संस्तुतियों पर लिये गये निर्णय के क्रम में राज्यपाल महोदय शिक्षा विभाग के राजकीय एवं सहायता प्राप्त प्राथमिक एवं माध्यमिक शिक्षण संस्थाओं के शिक्षकों के साधारण वेतनमान चयन वेतनमान एवं प्रोन्नत वेतनमान को केन्द्र सरकार के शिक्षकों के सामान क्रमश ग्रेड -3 ग्रेड 2 ग्रेड 1 के श्रेणी में वर्गीकृत करते हुए संलग्न तालिका के स्तम्भ-3 में उल्लिखित वर्तमान वेतनमान के स्थान पर कॉलम-4 में उल्लिखित वेतनमान के सादृश्य कालम -5 एवं 6 में क्रमश उल्लिखित वेतन बैंड एवं ग्रेड वेतन दिनांक 1 जनवरी,2006 से

प्रकल्पित आधार पर निम्नलिखित शर्तों के अधीन उच्चकृत करते हुए वास्तविक लाभ दिनांक 01.4.2009 से दिये जाने की सहर्ष स्वीकृति प्रदान करते हैं—

1 नियमित रूप से एक निश्चित समय अन्तराल में शिक्षकों की दक्षता एवं कार्यकुशलता का आंकलन किया जाना चाहिए तथा उच्चतर वेतनमान देते समय आंकलन के परिणाम को दृष्टिगत रखा जाना चाहिए राज्य शैक्षिक अनुसंधान परिषद/राष्ट्रीय शैक्षिक अनुसंधान परिषद प्रथम अथवा ऐसी ही किसी संस्था से प्रशिक्षण एवं क्षमता वृद्धि के कार्यक्रम तैयार कराये जाने चाहिए एवं कार्यकुशलता के आंकलन हेतु मानक निर्धारित किये जाने चाहिए । Achievement व Output समरूप नहीं है अतः Incentive/Disincentive के मानक निर्धारित किये जाये ।

(2) शासकीय सहायता प्राप्त अशासकीय केन्द्रीय व नवोदय विद्यालयों के गत तीन वर्षों के दसवीं व बारहवीं कक्षा के बोर्ड परीक्षा के परिणामों का तुलनात्मक अध्ययन कर राज्य के राजकीय/सहायता प्राप्त विद्यालयों के ग्रेडिंग की जाये तथा संबंधित शिक्षकों की कार्यकुशलता का आंकलन किया जाय ।

(3) शिक्षकों को अन्य कर्मचारियों की तुलना में उच्चतर वेतनमान संस्तुत किये जा रहे हैं, कदाचित्त यह राज्य को शिक्षा हब(Education Hub) बनाने की दिशा में एक महत्वपूर्ण कदम हो सके ।

(4) शिक्षा विभाग में शैक्षिक एवं प्रशासनिक संवर्ग अलग-अलग गठित किये जाने चाहिए तथा शैक्षिक संवर्ग के शिक्षकों को प्रशासनिक संवर्ग में तैनात नहीं किया जाना चाहिए ताकि अनुभवी एवं योग्य अध्यापक अध्यापन कार्य संचालित करते रहें एवं राज्य सेवा से सीधी भर्ती द्वारा आने वाले अधिकारियों को प्रशासनिक कार्य में लगाया जाय । इन दोनों संवर्गों की संवर्गीय नियंत्रण की व्यवस्था अलग-अलग की जानी चाहिए ।

(5) सर्वंधान के तिहत्तरवें व चौहत्तरवें संशोधन द्वारा लोकतांत्रिक व्यवस्था को निचले स्तर पर पहुंचाया गया है एवं व्यवस्थाओं में जन सहभागिता बढ़ाई गयी है । समिति का मत है कि शिक्षकों के कार्यों के मूल्यांकन हेतु यथा आवश्यक ग्राम पंचायत / जिला पंचायत का सहयोग लिया जाना चाहिए । इस मूल्यांकन में खरे न उतरने वाले शिक्षकों के विरुद्ध दण्डात्मक कार्यवाही होने चाहिए यदि अशासकीय विद्यालय का प्रबन्ध तंत्र कार्यवाही न करें तो उनका वित्त पोषण समाप्त किया जाना चाहिए तथा मान्यता भी समाप्त की जानी चाहिए ।

(6) प्रथमतः अध्यापकों का स्थानान्तरण सामान्यतः नहीं होना चाहिए । प्राथमिक तथा जूनियर हाईस्कूल के अध्यापकों के लिए जनपदीय संवर्ग होना चाहिए तथा उनके स्थानान्तरण जनपद में ही होने चाहिए । माध्यमिक तथा हाई स्कूल के अध्यापकों की नियुक्ति भले ही प्रदेश स्तर पर हो किन्तु स्थानान्तरण यथा संभव जनपद के अन्तर्गत ही किया जाना चाहिए ।”

9. Thus, the pay scales, which have been shown in Anneuxre-1, reflects entitlement of the Teachers who had already retired prior to the date of the Notification. The 4<sup>th</sup> paragraph of the said Notification is also very important, which reads as under:-

“उपरोक्त उच्चीकृत किये गये वेतनमानों में वेतन का निर्धारण शासनादेश संख्या-395/XXVII(7)/2008 दिनांक 17 अक्टूबर 2008 एवं समदिनांकित शासनादेश संख्या-25/XXVII(7)/2009 तथा संख्या-27/XXVII(7)/2009 दिनांक 13 फरवरी 2009 के अनुसार किया जाएगा । लेकिन रु 8000-13,500 के अपुनरीक्षित वेतनमान का दिनांक 1-1-2006 से वेतन बैण्ड-2 में पुनरीक्षित वेतन बैण्ड तथा ग्रेड पे का निर्धारण संलग्नक-2 के अनुसार किया जाएगा । यदि संलग्नक-2 में उल्लिखित रु 8000-13,500 के अपुनरीक्षित वेतनमान की अनुमन्यता के पदधारकों का वेतन पुनरीक्षण वेतन बैण्ड-3 में किया गया हो, तब उनका वेतन निर्धारण संलग्नक-2 की फिटमेन्ट तालिका अनुसार किया जाना सुनिश्चित किया जाएगा ।”

10. In the said G.O. two notifications dated 17.10.2008 and 13.2.2009 have been referred in which it is stated that the salaries would be fixed according to the said Notification. There is a proviso in the said Notification which starts with the word “लेकिन”, which means that the Government has made a demarcation between the Teachers who had been drawing salary of Rs.8000-13500/- at the time of enforcement of the 6<sup>th</sup> Pay Commission, they would be entitled to get the benefit according to this proviso. The persons, who had been getting the pay scale less than Rs.8000-13500/- prior to the enforcement of the 6<sup>th</sup> Pay Commission, they would be entitled to get the benefit of the grade pay w.e.f. 1.1.2006 as indicated in Para 2 of the G.O.. The said Government Notification clearly provides that the Teachers, who had been receiving Rs.8000-13500/- as unrevised pay scale prior to 1.1.2006, they will get the salary according to Annexure-2 of the said Government Order. Thus, the petitioners had been drawing an unrevised pay scale of Rs.7500-1200/- as enumerated in Annexure-1 of the claim petition before the enforcement of 6<sup>th</sup> Pay Commission, hence they are also entitled to get the benefit of this Government order in view of Para 2 of the G.O.. In view of the above we are of the clear opinion that the benefit of the Notification dated 1.3.2009 would be applicable to the

petitioners also from 1.1.2006 for fixation of the petitioners' grade pay towards the pensionary benefits. Thus, the order of the Government revising their pay scales by not granting them the benefits of Rs. 5400 grade pay from 1.1.2006 to 1.4.2009 is incorrect.

**ORDER**

Claim Petitions are allowed. The petitioners are entitled to get the benefit by adding the grade pay of Rs.5400/- into their pensionary benefits w.e.f. 1.1.2006. The petitioners will not get monetary benefits arising out of fixation of pension till the date of 1.4.2009. The monetary benefits would only be available against the fixation of grade pay of Rs.5400/- from 1.4.2009. Parties shall bear their own cost.

Sd/-

**(D.K.KOTIA)**  
VICE CHAIRMAN (A)

Sd/-

**(JUSTICE J.C.S.RAWAT)**  
CHAIRMAN

DATED: DECEMBER 12, 2014  
DEHRADUN

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