

**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. 64//DB/2021

Dr. Ashutosh Bikram, aged about 40 years, S/o Sri Ramesh Chandra Singh, presently posted as Assistant Professor (History), Government Degree College, Chudiyala, Haridwar and others.

.....Petitioners

vs.

1. State of Uttarakhand through Chief Secretary, Govt. of Uttarakhand, Civil Secretariat, Dehradun.
2. State of Uttarakhand through Principal Secretary, Higher Education, Govt. of Uttarakhand, Civil Secretariat, Dehradun.
3. State of Uttarakhand through Secretary, Higher Education, Govt. of Uttarakhand, Civil Secretariat, Dehradun.
4. Director, Higher Education, Govt. of Uttarakhand, Dehradun.
5. University Grants Commission (UGC), Bahadur Shah Zafar Marg, New Delhi 110002.

.....Respondents

Present: Shri S.S.Yadav, Advocate, for the Petitioners.
Sri V.P.Devrani, A.P.O., for the Respondents.

JUDGMENT

DATED: JULY 23, 2021

Justice U.C.Dhyani (Oral)

By means of present claim petition, the petitioners seek the following reliefs:

“(I) Issue an order or direction to the respondents to decide the representation of the applicants within one month in the light of Clause 10 of UGC Notification dated 18.07.2018 (Annexure No.9 (Colly) to the claim petition) which is a subject to UGC Regulation on minimum qualifications for appointment of teachers and other academic staff in universities and colleges and measures for the maintenance of standards in higher education, 2018.

(II) An order or direction which this Hon’ble Tribunal may deem fit and proper under the circumstances of the case, may kindly be passed.

(III) Award the cost of the petition.

2. Briefly put, the facts of the claim petition are as follows:
 - 2.1 Petitioners No. 1 to 6 are presently posted as permanent Assistant Professors in different Govt. Degree Colleges of Uttarakhand.
 - 2.2 Petitioners No. 1 to 6 were selected as Contract Faculty in Higher Education Department, under UGC Regulations, on 19.11.2010, 20.09.2010, 15.10.2010, 05.10.2010, 01.11.2008 and 11.11.2008 respectively. Prior to this, petitioner no. 1 has also worked as Assistant Professor in Awadhoot Bhagwan Ram P.G. College, Anpara, Sonbhadra, U.P. w.e.f. 10.12.2008 to 05.12.2010. Services of all the six petitioners were regularized on their respective posts on different dates in the years 2016 and 2017.
 - 2.3 Notification was issued by Respondent No.5 on 18.07.2021. Notification relates to UGC Regulation on minimum qualifications for appointment of teachers and other academic staff in universities and colleges and measures for the maintenance of standards in higher education, 2018. As per Rule 10(f) of the said notification, the previous *ad-hoc* or temporary or contractual service shall be counted for direct recruitment and for promotion.
 - 2.4 Petitioner No.1 moved representations dated 30.10.2018 and 24.02.2020 Annexure: A 7(Colly) to Respondent No.3 for counting his previous services rendered as contract faculty for the purpose of counting length of service and further promotions on the post of

Associate Professor in the Higher Education Department, which representations have not been decided.

2.5 On 27.02.2020, a letter was sent by the office of Respondent No.5 (Copy: Annexure- A 8) to all the Vice Chancellors of the Universities, whereby a general direction was issued for counting the past services to resolve the delay in promotion.

2.6 All the petitioners moved a joint representation on 23.06.2021 (Copy: Annexure- A 9, *Colly*) to Respondent No.2 for counting the past services of the petitioners, in the light of UGC Regulation, 2018. Such representation of the petitioners is still pending.

2.7 Ld. Counsel for the petitioners stated that respondents are not deciding the representations of the petitioners, which action of the respondents is illegal, arbitrary and violative of fundamental rights of the petitioners under Article 14, 16 and 21 of the Constitution of India.

2.8 Aggrieved with the inaction on the part of the respondents, present claim petition has been filed praying for directions to the respondents to dispose of the pending representations of the petitioners.

3. Ld. A.P.O. opposed the prayer of Ld. Counsel for the petitioners on the ground that, a writ petition being WPSB No. 422/2020, on the same subject and for the same relief, is pending before Hon'ble High Court of Uttarakhand, therefore, prayer of petitioners cannot be accepted. Ld. Counsel for the petitioners denied the objection raised by Ld. A.P.O. He submitted that the writ petition which is under adjudication before Hon'ble High Court, is on different facts and has different cause of action. He, therefore, prayed that Respondent No. 3 may kindly be directed to decide the pending representation of the petitioners dated 23.06.2021 (Annexure: A-9, *Colly*), at an earliest possible, in accordance with law.

4. Considering the facts of the case, this Tribunal is of the view that innocuous prayer made by learned Counsel for the petitioner should be accepted.
5. Without prejudice to rival contentions, claim petition is disposed of, at the admission stage, by directing Respondent No.3, to decide the pending representation dated 23.06.2021 (Annexure: A9, *Colly*) of the petitioners, by a reasoned and speaking order, in accordance with law, at an earliest possible, but not later than ten weeks of presentation of certified copy of this order along with copy of the representation.
6. Needless to say that the decision so taken shall be communicated to the petitioner soon thereafter.
7. No order as to costs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JULY 23, 2021

DEHRADUN