

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
BENCH AT NAINITAL**

(Through audio conferencing).

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

CLAIM PETITION NO. 63/NB/DB/2019

Dr. Ugrasen Prasad Singh s/o Late Sri Brahmdeo Prasad Singh, presently posted as the post of Tutor/demonstrator/Junior Resident (Contract) in the department of Anatomy in Govt. Medical College, Haldwani, District Nainital.

.....Petitioner

vs.

1. State of Uttarakhand through its Principal Secretary, Medical Education, Govt. of Uttarakhand, Dehradun.
2. Principal/Dean, Govt. Medical College, Haldwani, District Nainital.
3. Finance Controller, Government Medical College, Haldwani, District Nainital.

.....Respondents

Present: Sri Rajesh Singh Nagarkoti, Advocate, for the petitioner.
Sri Kishor Kumar, A.P.O., for Respondents.

JUDGMENT

DATED: OCTOBER 27, 2021

Justice U.C.Dhyani (Oral)

RELIEFS PRAYED FOR

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

(i) To quash and set aside the impugned retirement order dated 13 Nov. 2016 (Annexure no. 1) to this claim petition.

(ii) To direct the respondents to pay, the full salary to the petitioner as he was getting in the post of casualty Medical Officer from 13.11.2016 till date.

(iii) To direct the respondents to refix the service length of the applicant and on the basis of the said service length the service benefit be calculated of the applicant.

(iv) To pass any order, writ or direction as this Hon'ble Tribunal deem fit and proper.

PETITIONER'S VERSION

2. Petitioner was engaged as Tutor/Demonstrator on contract basis in Uttarakhand Forest Hospital Trust Medical College, Haldwani from 15.09.2003 to 05.03.2007. His services were regularized on the post of post of Casualty Medical Officer in Uttarakhand Forest Hospital on 23.03.2010. 36th and last meeting of the Trust took place on 6th April 2010. Assets, advances and liabilities of the Trust were transferred to the Department of Medical Education, Govt. of Uttarakhand. Services of the petitioner will therefore be deemed to be with the Govt. Medical College, Haldwani. The age of superannuation of the faculty members (teaching) is 65 years. But the respondent no. 2 overlooked the said aspect and arbitrarily issued the impugned order dated 13.11.2016 and retired the petitioner at the age of 60 years. The action of the respondent no. 2 is malafide, illegal and without any authority of the law. The respondent no. 2, while issuing the impugned order dated 13.11.2016, overlooked the fact that the petitioner is a Casualty Medical Officer; he is Faculty Member (Teaching) in the Govt. Medical College and the age of superannuation of faculty members (Teaching) in Govt. Medical College, Haldwani is 65 years.

Aggrieved with the impugned order dated 13.11.2016, petitioner approached the authorities concerned by moving representations on different dates, *i.e.*, 14.11.2016, 19.05.2017, 04.12.2017, 15.11.2018 and 23.08.2019, but to no avail.

PRAYER RESTRICTED

3. After arguing the claim petition at some length, Ld. Counsel for the petitioner confined his prayer only to the extent that petitioner's representations dated 14.11.2016, 19.05.2017, 04.12.2017, 15.11.2018 and

23.08.2019, may kindly be directed to be decided by the Respondent No. 2, as per law, at an early date, to which learned A.P.O. has no objection.

4. Considering the facts of the case and oral submissions made in this behalf, this Tribunal is of the view that innocuous prayer made by learned Counsel for the petitioner is worth accepting.

ORDER

5. Without prejudice to rival contentions, the claim petition is disposed of by directing Respondent no. 2 to consider petitioner's representation, in accordance with law, at an earliest possible, and without unreasonable delay on presentation of certified copy of this order along with a copy of petitioner's latest representation.

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

7. It is made clear that we have not expressed any opinion on the merits of the case. No order as to costs.

8. Let certified copies of this judgment be supplied free of cost to the petitioner and Ld. A.P.O., within 48 hrs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: OCTOBER 27, 2021
DEHRADUN

KNP