

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

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

CLAIM PETITIONS NO. 41/NB/DB/2019 & 52/NB/DB/2019

1. Smt. Prem Lata Baudai aged about 48 years d/o Sri Krishan Kant Todariya presently working as Principal in Govt. Girls Inter College Rajpur Road, Dehradun, District Dehradun. Permanent address: R/o 15, Ara Ghar, Dharmpur, Dehradun.
2. Nandi Sharma aged about 46 years d/o Sri Krsihna Nand Waliya presently working as Principal in Govt. Inter College Chakhutiya, Almora, District Almora. Permanent address: r/o c/o Sri B. C. Joshi, C-64, Dharanaula, Almora.
3. Awadhesh Kumar Giri aged about 56 years s/o Sri Ram Adhar Giri presently working as Principal since 29.12.2016 in Govt. Inter College Gadkhet, Bageshwar, District Bageshwar. Permanent address: r/o House No. 34, Shatabdi Enclave, Natthanpur, Dehradun.
4. Pranam Sharma aged about 55 years s/o Sri Satyapal SHarma presently working as Principal in Senior Girl Govt. Inter College Jhabreda, Haridwar, District Haridwar. Permanent address: r/o Ashish Villa, Shanti Kunj Marg, Haridwar.
5. Smt Vinita aged about 56 years w/o Sri Haridutt Sharma presently working as Principal in Girls Govt. Inter College Bhauri, Haridwar, District Haridwar. Permanent address: r/o C-25, Ara Ghar, Dharmpur, Dehradun.
6. Archana Gupta aged about 54 years w/o Sri Kailash Chandra Goyal presently working as Principal in Govt. Inter College Sikhreda, SCERT, Dehradun, District Dehradun. Permanent address: R/o House No. 60, Patel Nagar, Yamunotri Road, Dehradun.

..... **Petitioners**

Vs

1. State of Uttarakhand through Secretary, School Education, Dehradun, Uttarakhand.
2. Additional Director Madhyamik Education, Uttarakhand, Dehradun.
3. Director School Education, Uttarakhand, Dehradun.
4. Additional Director, School Education, Garhwal Region, Pauri.
5. Additional Director, School Education, Kumaon Nainital.
6. R. Minakshi Sundram, Secretary School Education, Dehradun.
7. R. K. Kunwar, Director School Education, Dehradun.

8. Radha Krishan Uniyal, Additional Director, Intermediate Education, Dehradun.
9. Mukul Sati, Additional Director, School Education, Kumaon Region, Nainital.
10. Mahavir Singh Bisht, Additional Director, School Education, Garhwal Region, Pauri.
11. Trivikram Singh Kunwar s/o Late Sri Manwar Singh Kunwar presently posted as Assistant Teacher LT Grade (English), Govt. Inter College Maniguh, District Rudraprayag.
12. Dheer Singh Negi s/o Sri Dayal Singh Negi presently posted as Assistant Teacher LT Grade (English), Govt. Inter College Agastyamuni, District Rudraprayag.
13. Sujan Singh Bhandari s/o Sri Shurveer Singh Bhandari presently posted as Assistant Teacher LT Grade (General), Govt. Inter College Agastyamuni, District Rudraprayag.
14. Dr. Shivraj Singh Bhandari s/o Sri Bhim Singh Bhandari presently posted as Assistant Teacher LT Grade (General), Govt. Inter College Budhna, District Rudraprayag.
15. Bhagat Singh Rawat s/o Sri Raghuvir Singh Rawat presently posted as Assistant Teacher LT Grade (English), Govt. Inter College Kamsal, District Rudraprayag.
16. Girish Chandra Vaishnav S/o Sri Ram Prashad Vaishnav presently posted as Assistant Teacher LT Grade (Physics), Govt. Inter College Nagrasun, District Rudraprayag.
17. Ayodhya Prashad Maithani s/o Sri Visheshwar Dutt Maithani presently posted as Assistant Teacher LT Grade (Hindi), Govt. Inter College Makku, District Rudraprayag.
18. Anil Kumar Sharma s/o Sri Ram Singh Sharma presently posted as Assistant Teacher LT Grade (Science/Maths), Govt. Inter College Tilak Nagar, District Rudraprayag.
19. Virendra Dutt Bijlwan s/o Sri Lakshmi Prashad Bijlwan presently posted as Assistant Teacher LT Grade (English), Govt. Inter College Anjanisain, District Tehri Garhwal.
20. Mahendra Dutt Nautiyal S/o Sri Bhola Dutt Nautiyal presently posted as Assistant Teacher LT Grade (English), Govt. Inter College Ranichouri, District Tehri Garhwal.
21. Jabar Singh Negi S/o Sri Indra Singh Negi presently posted as Assistant Teacher LT Grade (English), Govt. Pratap Inter College Burari, New Tehri, District Tehri Garhwal.
22. Krishna Kishor Kothiyal S/o Sri Shiv Ram Kothiyal presently posted as Assistant Teacher LT Grade (Hindi), Govt. Inter College Dhungi Dhar, District Tehri Garhwal.
23. Dhyan Singh S/o Sri Kalam Singh Sajwan presently posted as Assistant Teacher LT Grade (General), Rajkiya Ucchttar Madhyamik Vidhyalaya Galyakhet (Bhadura), District Tehri Garhwal.

24. Chaman Prakash Dikshit S/o Sri Suresh Chandra Dikshit presently posted as Assistant Teacher LT Grade (Science/Maths), Govt. Inter College Ranichouri, District Tehri Garhwal.
25. Rajeev Barthwal S/o Sri Bhagwati Prashad Barthwal presently posted as Assistant Teacher LT Grade (General), Govt. Inter College Kot Sitaunsen, District Pauri Garhwal.
26. Girish Chandra Dimri S/o Sri A.N. Dimri presently posted as Lecturer (Physics), Govt. Inter College Karanprayag, District Chamoli.
27. Om Prakash Semwal S/o Sri Late Sri Pitamber Dutt Semwal presently posted as Lecturer (Physics), Govt. Inter College Ratura, District Rudraprayag.
28. Mahavir Singh Negi S/o Sri Avtar Singh Negi presently posted as Lecturer (English), Govt. Inter College Narayanbagar, District Chamoli.
29. Jot Singh Negi S/o Sri Jaspal Singh Negi presently posted as Lecturer (Maths), Govt. Inter College Maltoli, District Rudraprayag.
30. Dinesh Chandra Uniyal S/o Sri Srinand Uniyal presently posted as Lecturer (Biology), Govt. Inter College Anjanisain, District Tehri Garhwal.
31. Bhagwati Prashad Gaur S/o Late Sri Govind Prashad Gaur presently posted as Lecturer (Civics), Govt. Inter College Ujjwalpur, District Chamoli.
32. Balbir Singh Negi S/o Late Sri Lal Singh Negi presently posted as Assistant Teacher LT Grade (General), Govt. Inter College.
33. Chandra Prakash Dimri S/o Sri Jagdish Prasad Dimri presently posted as Assistant Teacher LT Grade (Science/Maths), Govt. Inter College Naini, District Chamoli.
34. Mukundi Lal S/o Sri Bachhu Lal presently posted as Assistant Teacher LT Grade (Commerce), Govt. Inter College Champeshwar, District Pauri Garhwal.
35. Mahesh Chandra Kimothi S/o Sri Janardan Prasad Kimothi presently posted as Assistant Teacher LT Grade (General), Govt. Inter College Udmand, District Chamoli.
36. Tara Singh Parihar S/o Sri Khushal Singh Parihar presently posted as Assistant Teacher LT Grade (English), Govt. Inter College Gwaldam, District Chamoli.
37. Jugal Kishore Joshi S/o Sri Dhanidhar Joshi presently posted as Lecturer (Chemistry), District Institute of Education and Training Almora, District Almora.
38. Dr. Kewalanand Kandpal S/o Sri Parmanand Kandpal presently posted as Lecturer (Commerce), District Resource Centre Bageshwar, District Bageshwar.
39. Bijender Singh S/o Late Sri Kashi Singh Rana presently posted as Lecturer (Physics), District Co-ordinator Sarva Shiksh Abhiyan, District Project Office, District Uttarkashi.
40. Mangal Singh Rana S/o Sri Kishan Singh Rana presently posted as Lecturer (Biology), Govt. Inter College, Chinyalusaur, District Uttarkashi.

41. Bhagwati Singh Rana S/o Late Sri Teg Singh Rana presently posted as Lecturer (Physics), Govt. Inter College, Chinyalusaur, District Uttarkashi.
42. Suman Rawat S/o Late Sri Surendra Singh Rawat presently posted as Lecturer (Physics), Govt. Inter College, Uttarkashi, District Uttarkashi.
43. Smt. Vijay Lakshmi Rawat W/o Sri Rakesh Kumar Rawat presently posted as Lecturer (Physics), Govt. Girls Inter College, Uttarkashi, District Uttarkashi.
44. Khushi Ram Raturi S/o Late Sri Pushkar Dutt Raturi presently posted as Lecturer (English), Govt. Inter College, Joshiyara, District Uttarkashi.
45. Paripurand Raturi S/o Late Sri Govind Prashad Raturi presently posted as Lecturer (Chemistry), Govt. Inter College, Maneri, District Uttarkashi.
46. Rajendra Prashad Agarwal S/o Late Sri Kishori Lal Agarwal presently posted as Lecturer (Physics), Govt. Inter College, Imli Khera, District Haridwar.
47. Bhajan Singh Gariya S/o Sri Dhanidhar Joshi presently posted as Lecturer (Chemistry), Govt. Inter College Talwadi, District Chamoli.
48. Devi Prashad Dimri S/o Sri Govind Prashad Dimri presently posted as Lecturer (English), Govt. Inter College Jsohimath, District Chamoli.
49. Bala Dutt Kuniyal S/o Sri Shambhu Prasad Kuniyal presently posted as Lecturer (English), Govt. Inter College Talwadi, District Chamoli.
50. Sudarshan Singh S/o Sri Krishan Singh presently posted as Lecturer (Math), Govt. Inter College Tharali, District Chamoli.
51. Dev Dutt Sharma S/o Sri Bhawani Dutt Sharma presently posted as Lecturer (Biology), Govt. Inter College Jaakh, District Chamoli.
52. Akhilesh Chandra Sati S/o Sri Jaya Nand Sati presently posted as Lecturer (Chemistry), Govt. Inter College Langasu, District Chamoli.
53. Rajendra Prasad Kulashri S/o Sri Madan Mohan Shastri presently posted as Lecturer (Mathematics), Govt. Inter College, Dhikuli, Ramnagar, District Nainital.
54. Vinod Kumar Joshi S/o Late Sri Badri Dutt Joshi presently posted as Lecturer (Chemistry), Govt. Inter College, Rajpura, District Nainital.
55. Hemant Kumar Kholiya S/o Sri H.D Kholiya presently posted as Lecturer (Chemistry), Govt. Inter College, Halduchaur, District Nainital.
56. Umed Singh Rawat S/o Late Sri Dulabh Singh Rawat presently posted as Lecturer (Biology), Govt. Inter College, Kausani, District Bageshwar.
57. Mahipal Singh Dhaploa S/o Late Sri Gaur Singh Dhapola presently posted as Lecturer (Mathematics), Govt. Inter College, Patel Nagar, District Dehradun.
58. Khushal Singh Gusain S/o Sri Gabar Singh Gusain presently posted as Lecturer (Maths), Govt. Inter College Karanprayag, District Chamoli.
59. Pramod Kumar Thapliyal S/o Sri Nanda Dutt Thapliyal presently posted as Lecturer (Chemistry), Govt. Inter College Dehelchauri, District Pauri Garhwal.

60. Rakesh Chandra Thapliyal S/o Late Sri Saklanand Thapliyal presently posted as Lecturer (Physics), Govt. Inter College Swarisain, District Chamoli.
61. Dinesh Chandra Thapliyal S/o Sri Ayodhya Prashad Thapliyal presently posted as Lecturer (Biology), Govt. Inter College Swarisain, District Chamoli.
62. Kedar Singh Rawat S/o Sri Shyam Singh Rawat presently posted as Lecturer (Chemistry), Govt. Inter College Gwaldam, District Chamoli.
63. Dr. Khushal Singh Rawat S/o Sri Yashpal Singh Rawat presently posted as Lecturer (Biology), Govt. Inter College Dehelchauri, District Pauri Garhwal.
64. Laxmi Dutt Bhatt S/o Late Sri Purnand Bhatt presently posted as Lecturer (Mathematics), Govt. Inter College Agastyamuni, District Rudraprayag.
65. Devender Singh Rana S/o Sri Avtar Singh Rana presently posted as Lecturer (Biology), Govt. Inter College Tilak Nagar, District Rudraprayag.
66. Dr. Manohar Prasad Benjwal S/o Sri Chakra Dhar Benjwal presently posted as Lecturer (Physics), Govt. Inter College Chandrapuri, District Rudraprayag.
67. Balbir Singh Negi S/o Sri Umrao Singh Negi presently posted as Lecturer (English). Govt. Inter College Chandrapuri, District Bageshwar.
68. Prem Prakash Purohit S/o Sri Govind Prasad Purohit presently posted as Lecturer (Biology), Govt. Inter College Chandrapuri, District Rudraprayag.
69. Subhash Chandra Nautiyal S/o Sri Chakradhar Prashad Nautiyal presently posted as Lecturer (English), Govt. Inter College Jaakhal Bhardar, District Rudraprayag.
70. Bhagwati Prasad Sharma S/o Sri Bachhi Ram Sharma presently posted as Lecturer (English), Govt. Inter College Nagrasu, District Rudraprayag.
71. Chandra Singh Bisht S/o Sri Jitar Singh Bisht presently posted as Lecturer (English), Govt. Inter College Rudraprayag, District Rudraprayag.
72. Gajpal Singh Jagwan S/o Sri Ishwar Singh Jagwan presently posted as Lecturer (English), Govt. Inter College Guptkashi, District Rudraprayag.
73. Vijay Prasad Gairola S/o Sri Narottam Prashad Gairola presently posted as Lecturer (Physics), Govt. Inter College Guptkashi, District Rudraprayag.
74. Rajendra Prashad Semwal S/o Late Sri Shiv Prashad Semwal presently posted as Lecturer (Biology), Govt. Inter College Kaleshwar, District Pauri Garhwal.
75. Kailash Singh Yadav S/o Late Sri Ramker Singh Yadav presently posted as Lecturer (Chemistry), Govt. Inter College Kayark, District Pauri Garhwal.
76. Kunwar Singh Rawat S/o Sri Darban Singh Rawat presently posted as Lecturer (Chemistry), Govt. Inter College Chopta, District Rudraprayag.
77. Bhuwan Chandra Kandpal, S/o Sri B. D. Kandpal, presently working as Principal in Government Inter College, Manan, District Bageshwar.

.....**Respondents**

Present: Sri S.S.Yadav, Advocate, for the petitioners.

Sri Kishor Kumar, A.P.O., for the Respondents No. 1 to 5

Sri K.C.Tiwari, Advocate for the private respondents No. 11 to 19, 21 to 25, 32 to 36.

Sri Pradeep Haria, Advocate for the respondents No. 54 & 55

Sri Lalit Samant, Advocate for the respondent no. 53.

with

CLAIM PETITION NO. 54/NB/DB/2021

Rajendra Prasad Kulashri, aged about 57 years, s/o Late Madan Mohan Shastri, serving as Head Master in Government Higher Secondary School, Narayanpur, Ramnagar, District Nainital.

.....Petitioner

Vs.

1. State of Uttarakhand through Secretary, School Education, Government of Uttarakhand, Dehradun.
2. Director, School Education, Uttarakhand, Dehradun.
3. Additional Director, School Education, Uttarakhand, Dehradun.
4. Smt. Prem Lata Baudai, d/o Sri Krishan Kant Todariya, presently working as Principal in Government Girls Inter College, Rajpur Toad, Dehradun, District Dehradun.
5. Nandi Sharma, d/o Sri Krishnanand Waliya presently working as Principal in Government Inter College, Chakhutiya, Almora, District Almora.
6. Awadesh Kumar Giri, s/o Sri Ram Adhar Giri, presently working as Principal in Government Inter College, Gadkhet, Bageshwar, District Bageshwar.

.....Respondents

Present: Sri Lalit Samant, Advocate for the petitioner
Sri Kishor Kumar, A.P.O., for the Respondents No. 1 to 3
Sri S.S.Yadav, Advocate, for the Caveators [Respondents no. 4, 5 & 6]

with

CLAIM PETITION NO. 59/NB/DB/2021

1. Navin Chandra Mathpal, aged about 56 years, s/o Late Shri Amarnath Mathpal, presently posted as Assistant Teacher, L.T. Grade (English) at Govt. Higher Secondary School, Kumalta, District Almora.
2. Ramesh Chandra Lobiyal, aged about 57 years, s/o Late Shri Mathura Prasad, presently posted as Lecturer (English) at Govt. Inter College, Mangoli, District Nainital.
3. Trivikram Singh Kunwar, aged about 57 years, s/o Shri Manvar Singh Kunwar, presently posted as Assistant Teacher, L.T. Grade (English), at Govt. Inter College, Maniguh, district-Rudraprayag.
4. Virendra Dutt Bijalwan, aged about 59 years, s/o Shri Lakshmi Prasad Bijalwan, presently posted as Assistant Teacher, L.T. Grade (English), at Govt. Inter College, Anjainisain, District Tehri Garhwal.
5. Bhagat Singh Rawat, aged about 58 years, s/o Shri Rabhubir Singh Rawat, presently posted as Assistant Teacher, L.T. Grade (English), at Govt. Inter College, Kamsal, district Rudraprayag.

6. Jabar Singh Negi, aged about 59 years, s/o Shri Indra Singh Negi, presently posted as Assistant Teacher, L.T. Grade (English), at Govt. Inter College, Dubara, District- Tehri Garhwal.
7. Dhyan Singh Sajwan, aged about 56 years, s/o Shri Kalam Singh Sajwan, presently posted as Assistant Teacher, L.T. Grade (General), at Govt. Inter College, Narendra Nagar, district Tehri Garhwal.
8. Girish Chandra Vaishnav, aged about 56 years, s/o Shri Ram Prasad Vaishnav, presently posted as Lecturer (Physics), at Govt. Inter College, Nagrasu, District Rudraprayag.
9. Dheer Singh Negi, aged about 59 years, s/o Shri Dayal Singh Negi, presently posted as Assistant Teacher, L.T. Grade (English), at Govt Inter College, Agastyamuni, District Rudraprayag.
10. Shivraj Singh Bhandari, aged about 59 years, s/o Shri Bhim Singh Bhandari, presently posted as Lecturer (Geography), at Govt. Inter College, Jawari, District Rudraprayag.

.....Petitioners

Vs.

1. State of Uttarakhand through Secretary, School Education, Government of Uttarakhand, Secretariat, Dehradun.
2. Director, Uttarakhand Intermediate Education, Nanoorkhera, Tapovan, Dehradun.
3. Additional Director, Madhyamic Shiksha, Kumaon Mandal, Nainital.
4. Additional Director, Madhyamic Shiksha, Garhwal Mandal, Nainital.
5. Rajendra Singh Aswal, s/o unknown, presently posted as Headmaster, at Govt. Higher Secondary School, Loyal, district Tehri Garhwal.
6. Salik Ram s/o unknown, presently posted as Headmaster, at Govt. Higher Secondary School, Sisaiya, District U.S. Nagar.
7. Govind Singh Panwar, s/o unknown, presently posted as Headmaster, at Govt. Higher Secondary School, Kanderi, District Pauri Garhwal.
8. Bhagwati Prasad Raturi, s/o unknown, presently posted as Headmaster, at Govt. Higher Secondary School, Laidur (Jaunpur), District Tehri Garhwal.
9. Karn Singh Kunwar, s/o unknown, presently posted as Headmaster, at Govt. Higher Secondary School, Pala Kurali (Jakholi), district Rudraprayag.

.....Respondents

Ajay Singh, aged about 54 years, c/o Amar Singh, r/o Kurkawala, Markham Grant, Doiwala, District Dheradun.

.....Intervenor

Present: Sri Kailash Chandra Tiwari, Advocate for the petitioners
 Sri Kishor Kumar, A.P.O., for the Respondents No. 1 to 4
 Sri S.S.Yadav, Advocate, for the respondents No. 5 to 9
 Sri Shailendra Nauriyal, Advocate, for Intervenor

with

CLAIM PETITION NO. 61/NB/DB/2021

1. Laxman Singh Khati, aged about 57 years, s/o Late Bishan Singh Khati, Serving as Head Master in Government Higher Secondary School, Aamthal, District Pithoragarh.
2. Nar Bahadur Chand, aged about 57 years, s/o Late Nar Pati Chand, serving as Head Master in Government Higher Secondary School, Dauda, District Pithoragarh.
3. Rajendra Prasad Joshi, aged about 58 years, s/o Sri J.C. Joshi, Serving as Head in Government High School, Shandev, Kanalichhina, District Pithoragarh.
4. Brij Mohan Joshi, aged about 54 years, s/o Late Kewala Nand Joshi, serving as Head Master in Government Higher Secondary School, Gogana Bin, District Pithoragarh.

.....Petitioners

Vs.

1. State of Uttarakhand through Secretary, School Education, Government of Uttarakhand, Dehradun.
2. Director, School Education, Uttarakhand, Dehradun.
3. Additional Director, School Education, Uttarakhand, Dehradun.

.....Respondents

Present: Sri Lalit Samant, Advocate for the petitioners
Sri Kishor Kumar, A.P.O., for the Respondents

with

CLAIM PETITION NO. 62/NB/DB/2021

1. Jeevan Singh Dhama, aged about 55 years, s/o Late Hosiya Singh Dhama, Serving as Lecturer (Mathematics) in Government Inter College, Mayalekh, District Pithoragarh.
2. Pratap Singh Bisht, aged about 58 years, s/o Late Tej Singh Bisht, Serving as Assistant Teacher, L.T. Grade in Government Adarsh Inter College, Didihat, District Pithoragarh.
3. Prakash Singh Valdiya, aged about 55 years, s/o Sri Hosiya Singh Waldiya, Serving as Assistant Teacher, L.T. Grade in Inter College, Gurana, District Pithoragarh.
4. Mahesh Murari, aged about 58 years, s/o Late Nain Ram, Serving as Lecturer (Hindi) in Government Inter College, Aathgaonshiling, District Pithoragarh.
5. Umesh Chandra Upadhyay aged about 55 years, s/o Late Hansadutt Upadhyay, Serving as Lecturer (Maths) in Government Inter College, Gaurihat, District Pithoragarh.
6. Keshav Dutt Tamta, aged about 58 years, s/o Sri Bhani Ram Tamta, Serving as Assistant Teacher, L.T. Grade in Government Inter College, Jauljibi, District Pithoragarh.
7. Heera Ballabh Joshi, aged about 56 years, s/o Sri Churamani Joshi, Serving as Assistant Teacher, L.T. Grade in Government Inter College, Bastey, District Pithoragarh.

.....Petitioners

Vs.

1. State of Uttarakhand through Secretary, School Education, Government of Uttarakhand, Dehradun.
2. Director, School Education, Uttarakhand, Dehradun.
3. Additional Director, School Education, Kumaon Mandal, Nainital.
4. Sri Hukum Singh Rawat, s/o Not known, Serving as Head Master in Government Higher Secondary School, Kaushal Thauldhar, District Tehri Garhwal.
5. Sri Harpal Singh Yaduvanshi, s/o Not known, Serving as Head Master in Government Higher Secondary School, Majhola, District Udham Singh Nagar.
6. Sri Bagwati Prasad Raturi, s/o Not Known, Serving as Head Master in Government Higher Secondary School, Laidur (Jaunpur), District Tehri Garhwal.
7. Sri Karna Singh Kunwar, s/o Not known, Serving as Head Master in Government Higher Secondary School, Pala Kurali (Jakholi), District Rudraprayag.

.....Respondents

Present: Sri Lalit Samant, Advocate for the petitioners
Sri Kishor Kumar, A.P.O., for the Respondents no. 1 to 3

with

CLAIM PETITION NO. 86/NB/DB/2021

Vinod Kumar Joshi, aged about 60 years, s/o Late Sri Badra Dutt Joshi, presently posted as Principal, Government Inter College, Narainagar, Haldwani, District Nainital.

.....Petitioner

Versus

1. State of Uttarakhand, through Secretary, Department of School Education, Dehradun.
2. Director, School Education, Uttarakhand, Dehradun.
3. Additional Director, School Education, Uttarakhand, Nanoorkheda, Dehradun.
4. Chief Education Officer, Nainital, District Nainital.

.....Respondents

Present: Ms. Pooja Tiwari, Advocate for the petitioner
Sri Kishor Kumar, A.P.O., for the Respondents

with

CLAIM PETITION NO. 03/NB/DB/2022

1. Ravindra Kumar Pal, aged about 56 years, s/o Shri Munna Lal, r/o Block Road, Bhimtal, Nainital.
2. Krishan Singh Karki, aged about 52 years, s/o Shri Raghuv eer Singh Karki, r/o Village & P.O., Chausala, District Pithoragarh.
3. Gopal Singh Kholiya, aged about 58 years, s/o Shri Narsingh, r/o Village Selama, P.O. Banderleema, District Pithoragarh.

4. Umesh Chandra Joshi, aged about 56 years, s/o Shri Ramesh Chandra Joshi, r/o c/o B.C. Bhagat (Bhagat Niwas), Near Satish Banquet Hall, Dugi Estate, Bhowali, Nainital.
5. Rajnish Mani Pandey, aged about 56 years, s/o Shri Ram Mani Pandey, r/o H. No. 8-C Main Raod, Anand Vihar Colony, Fulsunga, Rudrapur, District U.S. Nagar.
6. Tara Singh Parihar, aged about 58 years, s/o Shri Kushal Singh Parihar, r/o 102/2 Navada Heights, Near Nine Palm, Badripur, Dehradun.
7. Ayodhya Prasad Maithani, aged about 57 years, s/o Visheshwar Dutt, r/o Village & P.O. Mukkumath, via Bhiri, District Rudraprayag.
8. Mahesh Chandra Kimothi, aged about 57 years, s/o Shri Janardan Prasad Kimothi, r/o Shrinanda Sadan, Vinayak Dhar, Pokhari, P.O. Pokhari Nagnath, District Chamoli.
9. Balbir Singh Negi, aged about 59 years, s/o Shri Lal Singh Negi, r/o Village & P.O. Tilwara Saud (Pathiyon), District Rudraprayag, presently posted as Assistant Teacher, L.T. Grade (English).
10. Sujan Singh Bhandari, aged about 55 years, s/o Shri Shurvir Singh Bhandari, r/o Village Laluri, P.O. Jakholi, District Rudraprayag.
11. Mukundi Lal, aged about 58 years, s/o Shri Bachu Lal, r/o Mukundi Lal Sainik College, Lane No. 2, P.O. Harawala Balawala, Dehradun.
12. Chandra Prakash Dimri, aged about 58 years, s/o Shri Jagdish Prasad Dimiri, r/o Village Kidduwala, P.O. Ranjhwala, via Raipur, District Dehradun.
13. Anil Kumar Sharma, aged about 55 years, s/o Shri Ram Singh Sharma, r/o Sahpani, P.O. Ismailpur, District Bulandsahar (U.P.).
14. Smt. Manorama Nautiyal, aged about 53 years, w/o Shri Bairav Dutt Nautiyal, r/o 1/227, Foolbagh, Pantnagar, District Udham Singh Nagar.
15. Smt. Renu Mathpal, aged about 56 years, w/o Shri D.C. Mathpal, r/o B-8, Shyam Vihar, near B.J.P. Office, Talli Bamori, Haldwani, District Nainital.

.....Petitioners

Vs.

1. State of Uttarakhand, through Secretary, School (Secondary) Education, Government of Uttarakhand, Secretariat, Dehradun.
2. Director, Uttarakhand Intermediate Education, Nanurkhera, Tapovan, Dehradun.
3. Additional Director, Secondary Education, Nanurkhera, Tapovan, Dehradun.
4. Additional Director, Madhyamic Shiksha, Kumaon Mandal, Nainital.
5. Additional Director, Madhyamic Shiksha, Garhwal Manda, Pauri Garhwal.
6. Rajendra Singh Aswal, s/o Not Known, presently posted as Headmaster, at Govt. Higher Secondary School, Loyal, District- Tehri Garhwal.

7. Salik Ram, s/o Not known, Presently posted as Headmaster at Govt. Higher Secondary School, Sisaiya District-U.S.Nagar.
8. Govind Singh Panwar, s/o Not known, Presently posted as Headmaster, at Govt. Higher Secondary School, Kanderi, District Pauri Garhwal.
9. Bhagwati Prasad Raturi, s/o Not known, presently posted as Headmaster, at Govt. Higher Secondary School, Laidur (Jaunpur), District Tehri Garhwal.
10. Karn Singh Kunwar, s/o Not known, presently posted as Headmaster, at Govt. Higher Secondary School, Pala Kurali (Jakholi), District Rudraprayag.

.....Respondents

Present: Sri Kailash Chandra Tiwari, Advocate for the petitioners
Sri Kishor Kumar, A.P.O., for the State Respondents.

JUDGMENT

DATED: APRIL 21, 2022

Per: Sri Rajeev Gupta, Vice Chairman (A)

This bunch of claim petitions is about the *inter-se* seniority of Lecturers and Assistant Teachers (L.T. Grade) appointed on *ad hoc* basis after 01.10.1986 and before 01.10.1990 (hereinafter called as 'First Set') *vis-à-vis* other Lecturers and Assistant Teachers (L.T. Grade) regularly appointed after 01.10.1990 (hereinafter called as 'Second Set').

2. Petitioners of Claim Petitions No 54/NB/DB/2021, 59/NB/DB/2021, 61/NB/DB/2021, 62/NB/DB/2021, 86/NB/DB/2021 and 03/NB/DB/2022, belong to the First Set and petitioners of Claim Petitions No. 41/NB/DB/2019 and 52/NB/DB/2019 belong to the Second Set of Lecturers/Assistant Teachers (L.T. Grade).

3. As the issues involved in all these claim petitions are the same, they have been heard together and are being disposed of by this common judgment.

4. The pleadings filed in these claim petitions as well as written arguments are part of record and are not being reproduced for the sake of brevity. They will be referred to as and when required.

BRIEF FACTS

5. The Lecturers/Assistant Teachers (L.T. Grade) of the First Set were initially appointed on *ad hoc* basis pursuant to the Govt. Order (G.O.) and advertisement issued in 1989 and a subsequent selection procedure. They were given *ad hoc* appointment and they joined their posts before 01.10.1990.

6. The G.O. dated 21.11.1995 was issued by the State of U.P. as an exception in public interest. According to sub para (1) of para 1 of this G.O., *ad hoc* Lecturers/Assistant Teachers (L.T. Grade) appointed prior to 01.10.1990 were regularized. Sub para (4) of para 1 of this G.O. states that under this G.O. as a result of regularization dated 1st October, 1990, the details of all the Lecturers/Assistant Teachers (L.T. Grade) regularized shall be made available to the Govt. and their *inter-se* seniority shall be determined according to the procedure laid down by the Personnel Department. However, the regularization orders of the petitioners of First Set were issued only in the year 1999 and beyond.

7. Feeling aggrieved by the same, one Shri Bhuwan Chandra Kandpal filed a writ petition being No. 162 (S/B) of 2002 before Hon'ble High Court. Hon'ble High Court allowed the writ petition of Shri Bhuwan Chandra Kandpal on 28.10.2004 and the mandamus was issued that his services be treated to have been regularized in L.T. Grade *w.e.f.* 01.10.1990 and his case for promotion in the lecturer grade shall be considered in the light of the observations given in the body of the judgment considering his due seniority.

8. Against the above order dated 28.10.2004, the State Govt. preferred Special Appeal, which was dismissed on 23.02.2006. The State Govt. then preferred SLP before Hon'ble Supreme Court, which was converted in the Civil Appeal No. 3396 of 2006 and was dismissed by the Hon'ble Apex Court *vide* order dated 20.04.2011.

9. In compliance of the aforementioned orders of Hon'ble Courts, the official respondents regularized the services of Shri Bhuwan Chandra Kandpal from 01.10.1990 in terms of the G.O. dated 21.11.1995 and also

fixed his seniority afresh, treating him as regularly appointed from 01.10.1990.

10. As the benefit given to Shri Bhuwan Chandra Kandpal was not being extended to other Lecturers/Assistant Teachers (L.T. Grade) of the First Set, a number of writ petitions were filed in the Hon'ble High Court. In these writ petitions [writ petition no. 1008(S/S) of 2014, Trivikram Singh Kunwar & others vs. State of Uttarakhand and another and 15 other writ petitions], the Hon'ble High Court passed judgment and order dated 03.01.2019. Certain excerpts of this judgment and order are reproduced below:

"22. The judgment of the learned Single Judge in Bhuwan Chandra Kandpal vs. State of Uttaranchal and other (Civil Writ Petition (S/B) No. 162 of 2002) dated 28.10.2004 is a judgment in rem. This judgment was affirmed by the Supreme Court in its order in Civil Appeal No. 3396 of 2006 dated 20.04.2011, wherein it was held that the learned Single Judge had taken the correct view in directing the services of the respondents to be treated to have been regularized in LT Grade w.e.f. 01.10.1990. The order of learned Single Judge in Civil Writ Petition (S/B) No. 162 of 2002 dated 28.10.2004 has merged in the order of Supreme Court in Civil Appeal No. 3396 of 2006 dated 20.04.2011. Consequently, the State of Uttarakhand was obligated to regularize the services of all those, in whose favour G.O. dated 21.11.1995 was issued, from 01.10.1990, and not subsequent thereto during the years 1999 to 2004.

28. It is no doubt true that, unlike in the present case where the respondents/intervenors are opposing grant of the benefit of regularization w.e.f. 01.10.1990 to the petitioners, no such opposition was made to the regularization of Shri Bhuwan Chandra Kandpal in Civil Writ Petition (S/B) No.162 of 2002 dated 28.10.2004. The grievance of the respondents/ intervenors is with respect to their inter-se seniority vis-a-vis the petitioners herein. As on date, the Government of Uttarakhand has not revised the seniority list prepared in the year 2005. The respondents/intervenors cannot, therefore, be said to have any grievance, as at present, with regards their interse seniority vis-à-vis the petitioners herein.

29. While the petitioners have no doubt sought the benefit of being extended seniority w.e.f. 01.10.1990, we see no reason to grant them such a relief in this writ petition, as that would necessitate this Court having to adjudicate upon the inter-se seniority between the petitioners on the one hand and the private respondents/intervenors on the other. Suffice it, therefore, to permit the petitioners herein to make a representation to the State Government with regards their claim for seniority, consequent upon the order now passed by us treating their services to have been regularized w.e.f. 01.10.1990. On any such representation being made, the Government of Uttarakhand shall, after giving all those affected a reasonable opportunity of being heard, take a decision, regarding revision of the seniority list, in accordance with law. We make it clear that we have not expressed any opinion on the petitioners' claim of seniority, over and above the private respondents/intervenors with effect from 1.10.1990.

30. All the writ petitions are disposed of declaring that, in terms of G.O. dated 21.11.1995, as construed by the learned Single Judge of this Court in Civil Writ Petition (S/B) No. 162 of 2002 dated 28.10.2004 and as affirmed by the Supreme Court in Civil Appeal No. 3396 of 2006 dated 20.04.2011, the services of the petitioners herein stood regularized w.e.f. 01.10.1990. No costs."

[Emphasis supplied]

11. Official respondents complied with the above orders dated 03.01.2019, regularizing the services of the Lecturers/Assistant Teachers (L.T. Grade) of the First Set w.e.f. 01.10.1990 and also re-fixed their seniority accordingly. These orders were issued in August 2019 and September 2019.

12. Some persons adversely affected by the above re-fixation of seniority, filed Claim Petition No. 41/NB/DB/2019 before this Tribunal (First Claim petition of this bunch of petitions). In this claim petition, this Tribunal passed an interim order on 16.10.2019 holding that fixation of seniority from date of regularization in seniority list dated 30.08.2019, is not in consonance with orders passed by Hon'ble High Court because reasonable opportunity of hearing was not given to concerned parties. Hence respondents were restrained from relying upon above part of order dated 30.08.2019 till next date of hearing. Subsequently, claim petitioners of claim petition No. 41/NB/DB/2019 also filed another claim petition No. 52/NB/DB/2019 before this Tribunal on 04.11.2019, in which following order was passed on 10.12.2019:

"Learned counsel for the petitioners has also requested that he should be granted stay against the seniority list issued by the respondents. Without hearing other parties, no such order can be passed as an interim measure and it will be decided after hearing all the parties."

13. The official respondents published a notice *vide* letter dated 16.05.2020 in daily newspapers to all concerned to send their written representations through email/portal by 30.05.2020 and *vide* their order dated 26.09.2020, the revised seniority issued in September, 2019 was stayed.

14. In response to the notification published in daily newspapers, about 950 representations were received which have been disposed of by the Secretary, Secondary Education *vide* his order No. 1587/XXIV-B-1/2021-01(34)/2019 dated 13th July, 2021 (Annexure: 1 to the Claim petition No. 59/NB/DB/2021) whereby no justification has been found to grant seniority from the date of regularization, 01.10.1990. Consequent to this, the *Director*, Secondary Education, *vide* order No. 235 dated 23.07.2021 (Annexure No. 2 to the Claim petition No. 59/NB/DB/2021) has issued promotion orders in respect of 303 teachers. These promotion orders are based on the earlier seniority list which existed before 2019.

15. The above Annexures no. 1 and 2 are in favour of the claim petitioners of Claim Petition No. 41/NB/DB/2019 and 52/NB/DB/2019, Prem Lata Baurai & others vs. State of Uttarakhand & others (claim petitioners of Second Set) and against the claim petitioners of other claim petitions of this bunch (petitioners of First Set). These orders are in the teeth of this bunch of claim petitions.

16. Arguments/submissions on behalf of the petitioners of Second Set are that the settled seniority of the year 2005 could not be resettled. The Lecturers/Assistant Teachers (L.T. Grade) of the First Set have been given the amended regularization order since 01.10.1990, without there having challenged their earlier regularization orders issued between 1999 and 2003. They had hardly rendered only 2 to 8 months' service before 01.10.1990 while statute provides that 3 years service as *ad hoc* is compulsory for regularization. The order dated 28.10.2004 was obtained by Sri Bhuwan Chandra Kandpal by misleading the Hon'ble Court and on that basis, the regularization has been done since 01.10.1990. The Regularization Rules of 1979 and its amendment of 1989, the G.O. dated 26.12.2001 and Regularization Rules of 2002, which were framed under Article 309 of the Constitution of India, were not brought before the Hon'ble Court. While the G.O. dated 21.11.1995 was an Executive instruction issued under Article 162 of the Constitution of India and such executive instruction cannot be in contravention of the Rules. In these

various rules and also in the G.O. dated 26.12.2001 for regularization, as per Rule 4, an incumbent is qualified to be regularized after putting in three years of *ad hoc* service and as per Rule 7, such regularized incumbents will be placed below the incumbents who have been appointed substantively after adopting due process of law. The seniority list of 2005 was prepared after considering these aspects and the order dated 13.07.2021 (Annexure No. 1 to the Claim petition No. 59/NB/DB/2021) has also been passed considering all these facts.

16.1 The Hon'ble Apex Court in its judgment dated 14.08.2019, passed in Civil Appeal No. 6296 of 2019, Kum. C. Yamini vs. The State of Andhra Pradesh & Anr., has held that *ad hoc* services would be counted for other benefits like pension, gratuity etc. and not for seniority. No one can claim seniority from the date of regularization. The same view was taken in the latest judgment of Hon'ble Apex Court dated 21.07.2021, passed in Civil Appeal No. 7088 of 2016, Rashimani vs. State of U.P. and others.

16.2 Similar controversy was decided by this Tribunal in Claim Petition nos.80/DB/2018, Gauri Shankar Joshi vs. State of Uttarakhand and Claim Petition No. 81/DB/2018, Smt. Kalawati Martolia vs. State of Uttarakhand, which was challenged before the Hon'ble High Court of Uttarakhand at Nainital. The case was titled as State of Uttarakhand & another vs. Gauri Shankar Joshi & others with Writ Petition No. 387(S/B)of 2010 State of Uttarakhand & another vs. Smt. Kalawati Martolia & others. Their Lordships have dismissed the writ petition filed by the State of Uttarakhand and relied on a plethora of Judgments of Supreme Court and quoted in Para 32 of the judgment dated 20.08.2019, as below:

"32. Seniority is a facet of interest. In Rabindra Nath Bose and others Vs. Union of India and others, AIR 1970 SC 470, the Hon'ble Apex Court has observed that it will be neither just or equitable to deprive person who have been promoted many years ago, of the rights that have accrued to them regarding their rank and seniority by purporting to conduct a review of promotion after the lapse of many years. In Maloon Lawrence Cecil D' Souza Vs. Union of India, AIR 1975 SC 1269, the Hon'ble Apex Court has held that the settled seniority cannot be unsettled after a long period. In Shiba Shankar

Mohapatra and others Vs. State of Orissa, AIR 2010 SC 706, the question whether a belated challenge against the seniority list can be entertained was considered. The Hon'ble Apex Court observed, "The question of entertaining the petition disputing the long standing seniority filed at a belated stage is no more res-integra. A Constitution Bench of this Court, in Ram Chandra Shanker Deodhar and others Vs. State of Maharashtra and others, AIR 1974 SC 259, considered the effect of delay in challenging the promotions and seniority list and held that any claim for seniority at a belated stage should be rejected inasmuch as it seeks to disturb the vested rights of other persons regarding seniority, rank and promotions which have accrued to them during the intervening period." In Union of India and another Vs. S.K. Goel and others, (2007)14 SCC 641, the Hon'ble Apex Court observed, ".Since the matter of seniority has been well settled and this Court in a plethora of cases has held that the seniority/promotions granted on the strength of D.P.C. selection should not be unsettled after a lapse of time." In Rajendra Pratap Singh Yadav Vs. State of U.P. and others, (2011)7 SCC 743, the Hon'ble Apex Court has held, "We deem it appropriate to reiterate that in service jurisprudence there is immense sanctity of a final seniority list. The seniority list once published cannot be disturbed at the behest of person who choose not to challenge it for four years. The sanctity of the seniority list must be maintained unless there are very compelling reasons to do so in order to do substantial justice. This is imperative to avoid avoidable litigation and unrest and chaos in the services." The petitioners could not able to show any compelling reason to unsettle the settled seniority of the respondents-claim petitioners at the behest of the private persons after a long period of six years."

17. Arguments /submissions on behalf of the petitioners of the First Set are as below:

17.1 In para 22 of the judgment dated 03.01.2019 passed in writ petition no. 1008(S/S) of 2014, Trivikram Singh Kunwar & others vs. State of Uttarakhand and another, the order of the Hon'ble Single Bench in the case of Bhuwan Chandra Kandpal, in Civil Writ Petition No. 176 of 2002 has been held to be judgment in 'rem'. About this order of the Hon'ble High Court dated 03.01.2019, the Law Department of the State advised Secretary, Education to implement the same and Personnel Department also gave advise that only the option of its compliance is available with the administrative department. Accordingly, the Secretary *vide* his order dated 23.07.2019 directed for immediate compliance of this order. Consequently, the date of regularization was fixed as 01.10.1990 and the seniority list of

2005 was also amended as in the case of Bhuwan Chandra Kandpal.

- 17.2 In catena of judgments, it has been held by Hon'ble Supreme Court that when a particular set of employees are given relief by the Court, all other identically situated persons need to be treated alike by extending them that benefit. The Secretary, Education has passed the order dated 13.07.2021 without application of mind. In this order, it has been directed that the date of regularization of 01.10.1990 may be used only to grant pensionary and other retiral benefits but no seniority can be granted from this date. This order is against the Rule 8(1) of the Uttaranchal Govt. Servants Seniority Rules, 2002, which states that seniority of a public servant is to be calculated from the date of substantive appointment. The reasoning given in para 5(4) of the order dated 13.07.2021 is in direct contravention of the reasoning given in paras 6 and 7 of the judgment of Hon'ble Single Bench of Hon'ble High Court in Bhuwan Chandra Kandpal's case which was affirmed by the Hon'ble Apex Court. Thus, this order amounts to administrative review of a judicial order and is not sustainable in the eyes of law.
- 17.3 Paras No. 21,22,23,24,25,30,31,37 and 38 of the Claim petition No. 59/NB/DB/2021 are reproduced below:

"21. That it is also pertinent to mention here that to give rest to the dispute the teachers who were appointed prior to 01.10.1986 were given the date of substantive appointment/regularization from 07.08.1989 vide order dated 19.03.2020 issued by the Deputy Secretary of Govt. of Uttarakhand.

22. That after giving the seniority and promotion to Shri Bhuwan Chandra Kandpal in view of the order of Hon'ble High court and Supreme court in terms of G.O. dated 21.11.1995, the dispute relating the regularization/seniority has been finally decided and no disputed question of fact regarding the same is left, therefore, only a legal question needs to be decided in the case as to from when the seniority of the petitioners will be fixed i.e. from the date of substantive appointment/ date of regularization i.e. 01.10.1990 under the G.O. dated 21.11.1995 or from the date of earlier regularization as given by the respondents on 31.12.1999, which has already been stuck down by the Hon'ble this court as well as the Supreme court.

23. That the respondent No.1 on trivial reasons decided the representation of the petitioners and the objections filed by the persons who alleged themselves to be affected. The amended seniority list which was issued on 20.09.2019 was issued on the same way as it was issued in the case of Shri Bhuwan Chandra Kandpal but vide order dated 13.07.2021 it seems like the respondent No.1 have left the matter of the seniority untouched and has maintained the status quo as it was during the time when the petitioners were considered being regularized from 1999 (Now struck down). There is no clarity as to the position of the seniority of the petitioners till so far, whereas, it is an obligation on the state to grant the seniority to the petitioners from the date of substantive appointment/date of regularization i.e. 01.10.1990 as the controversy was already settled by the supreme court and is binding on the respondent No, 1 as it is the law of the land. Therefore, without looking these aspects there was no occasion to issue the promotion list whereby the juniors to the petitioner have been promoted.

Further it has again been clarified here that it cannot be said that the seniority list was revised but only amended and therefore there is no question to hear the affected person/ interveners, which was only to be done when the seniority list was to be revised and finalized, but, the respondent no.1 is intentionally and deliberately ignoring the directions of the Hon'ble high court and the apex court and the provisions of the G.O. dated 21.11.1995. The petitioners are not sure with regard to the position of their seniority till date. Thus, the respondent nos 1 & 2 deprived the petitioners to get the promotion to higher post i.e. headmaster and they are again doing an illegal exercise to issue a new promotion list for which they have sought the CR from the department to make such illegal further promotions.

24 That the judgment and order dated 03.01.2019 itself clear that the respondents have left no option except to take a decision regarding revision of the seniority list, and determine the seniority of the petitioners in accordance with law but the order dated 13.07.2021 clearly shows that the respondent No. 1 has failed to discharge his duty in accordance with law because after hearing the parties he was not able to reach any conclusion in respect to the revision of the seniority amongst the petitioners and the affected persons including other teachers and the grounds taken by the respondent No. 1 are based on fictitious grounds and not at all related to the legal positions, while, the seniority of the petitioners should have been fixed after considering the established position of law as per the order passed by the apex court and the prevailing service rules which the respondent no. 1 has completely disregarded.

25. That the basic question which arises out of the action of the respondent No. 1 as per the order dated 13.07.2021 is whether the date of substantive Appointment/ date of regularization and the seniority of the petitioner could arbitrarily be segregated from each other as per the established principles of the service law? Also as per the order of the Hon'ble courts when the services of the petitioners are regularized from 01.10.1990, the respondent no. 1 still consider the seniority of the petitioners from 1999, which is no more in existence and if so on what grounds and reason? The reasons for the same are nowhere mentioned in the order dated 13.07.2021. And the action of the respondent is contrary to the law declared by the Hon'ble Apex Court and this court as well as the G.O. dated 21.11.1995 and also against the prevailing Government Servants Seniority Rules, 2002.

30. That the respondent No.1 is not clear regarding the determination of the seniority as to how the question of seniority of the petitioner is to be settled. The respondent No. 1 also ignored the Para No. 7 of the judgment passed by the Hon'ble single judge whereby Shri Kandpal has been given the seniority and next promotion determining his date of regularization 01.10.1990.

31. That the reason for denying the seniority to the petitioners as given in the order dated 13.07.2021 is not sustainable under law as the grounds taken in their objections filed before the respondent no. 1 has already been decided by the Hon'ble High court in various matters viz. WPSS No. 1181 of 2011 Rajiv Kala & others Vs. State and others which has been decided on 12.10.2012 wherein the interveners filed their intervene application and they sought the review of the judgement and order dated 12.10.2012 which has already been dismissed vide order dated 16.04.2015 and thereafter the special appeal of the same was filed by the state government in special appeal no. 402 of 2015 and the intervener's special appeal no. 207 of 2015 Dr. Atul Kumar Srivastava and others Vs State and others, the special appeal no. 402 of 2015 has connected with SPA no. 207 of 2015 and dismissed vide judgement and order dated 26.10.2018 by the Hon'ble Rajiv Sharma A.C.J. and Hon'ble Manoj Kumar Tiwari J. It is further submitted that Dr. Atul Kumar Srivastava and Dr. Bharti Narayan Bhatt have already filed the separate writ petitions before the Hon'ble High court being no. 199 (S/S) of 2013 Dr. Atul Kumar Srivastava and others Vs State and others and writ petition no. 542 (S/S) of 2013 Dr. Bharti Narayan Bhatt & others Vs State and others wherein Shri Bhuwan Chandra Kandpal was arrayed as a party as respondent with other respondents and prayed for declaring the G.O. dated 21.11.1995 contrary to statutory rules and also prayed to not disturb the settled seniority list and consider the promotion of the petitioners ignoring the provision of G.O. dated 21.11.1995, doing so they raised the same questions of regularization and seniority of the petitioners vis-à-vis the affected persons who are admittedly appointed after 01.10.1990 these writ petitions have been dismissed vide Judgement and orders dated 19.07.2016 and 16.11.2018 passed by the Hon'ble Justice Sudhanshu Dhulia J. and Hon'ble Justice Alok Singh J. Thereafter, Dr. Atul Kumar Srivastava and others challenged the judgement and order dated 19.07.2016 in special appeal no. 211 of 2016 and in this appeal the appellants filed the review application for reviewing the judgement and order dated 26.10.2018 passed in special appeal no. 402 of 2015 and 207 of 2015, later on the special appeal no. 211 of 2016 has already been dismissed on 25.09.2020 by the Division Bench of Hon'ble Ravi Malimath A.C.J. and Hon'ble Manoj K. Tiwari J.

Thereafter they raised the same issue, as raised in aforementioned writ petitions and special appeals, by concealing the aforementioned legal aspects by not producing the true and real facts of seniority with the petitioners before the Hon'ble High Court in writ petition no. 430 (SB) of 2019 Premiata Baudai and others Vs State and others and withdrew the writ petition very cleverly and sought the permission from the Hon'ble court to approach the Public Service Tribunal and filed a claim petition No 41/NB/DB 2019 and obtained the stay order after which they raised the same issue before the respondent no. 1 i.e. Secretary Education but the same issues cannot be taken/raised again and again as the same is already decided by the Hon'ble High court and the controversy has already been upheld by the Hon'ble Supreme court but the secretary education overlooked all aforementioned judgements and issued the illegal order on 13.07.2021 and consequently the respondent no. 2 issued the illegal

order/list of promotion ignoring the seniority of the petitioners as he fixed on 20.09.2019, Thus, they intentionally and deliberately violated the Hon'ble court's orders and settled position of law as also declared by Hon'ble Apex court in Civil Appeal no. 7130 of 2002 decided on December, 8, 2014 and reported in (2015) 2 SCC 727. For the kind perusal of this Hon'ble tribunal the copies of the judgements and orders dated 16.04.2015, 26.10.2018, 19.07.2016, 16.11.2018, 25.09.2020 and 08.12.2014 (reported in (2015) 2 SCC 727) are respectively being annexed herewith and marked as Annexure No. 14 to this claim petition collectively.

32. That as per the aforesaid discussion, it has been cleared that the aforementioned judgment and order attained finality and its validity cannot be challenged again and again before the tribunal or any other subordinate court and it is the considered view of the Hon'ble supreme court in a catena of judgment that when a Higher court has rendered a particular decision, it must be followed by the subordinate or lower court, unless it is distinguished or overruled or set aside and if the litigants or lawyers are permitted to argue that something what was correct but was not argued earlier before the higher court and on that ground if the courts below are permitted to take a different view in a matter, possibly the entire law in relation to the precedents and ratio decidendi will have to be rewritten and there would be a total chaos in this country because in that case there would be no finality to any order passed by this court. Therefore it has a binding effect to the other lower and subordinate courts under article 141 of the constitution.

37. That while deciding the representation of the petitioners and the objections of the affected persons the respondent No.1 mentions the case of Kum C Yamini vs the state of Andhra Pradesh and Anr. However he failed to appreciate the fact that the facts of the case are entirely different from the case of petitioners, and the law with regards to the case of the petitioners' has already been declared by the Hon'ble apex court in the case of Shri Bhuwan Chandra Kandpal.

38. That the petitioners were regularized w.e.f. 01.10.1990 through the G.O. dated 21.11.1995 after having 5 years of uninterrupted services as the appointment of the petitioner was made prior to 01.10.1990. The contention of the respondent No. 1 as to the fact that the affected persons will become junior to the petitioners is void ab-initio as these persons were appointed after 01.10.1990 i.e. the date of substantive appointment/ date of regularization of the petitioners, hence they does not have any right over the said seniority above the petitioners....."

17.4 In Civil Appeal No. 6296 of 2019 (Arising out of SLP (c) No. 20990 of 2017), there is a big difference between *adhoc* appointments of district judge for Fast Track Court, which was dealt with in the judgment of Hon'ble Supreme Court dated 14.08.2019 in Kum. C. Yamini's case (*supra*) and the present case which is briefly as below:

SN	Facts	Fast Track Court (District Judge)	(Teachers)
1	2	3	4
1	Creation of Posts	Sanctioned under the	Substantively

		central scheme of 11 th finance commission on Temporary basis for only 5 years for the disposal of pending cases in lower courts	created
2	Cadre of Posts	Ex cadre	Regular cadre
3.	<i>Adhoc</i> posting	In the Ex cadre and Temporary vacancies	In Regular cadre and Substantive vacancies
4.	Regularization of <i>adhoc</i> service	-	by Government order dated 21.11.1995 w.e.f. 01.10.1990

The appellant in aforesaid SLP No. 20990 of 2017 was appointed on *adhoc* basis as District Judge in Fast Track Court (FTC) under ex cadre Temporary vacancies and was claiming seniority from initial date of appointment of FTC in a regular cadre permanent post of District Judge after joining that cadre through a separate selection process.

The Apex Court observed the fact that if a person is not appointed to any post in the cadre, such person cannot claim any seniority over the person who are appointed in vacant posts in the cadre and claim of seniority will depend upon several factors, nature of appointments made, were such appointments to the cadre posts or not etc.

17.5 Seniority is consequential benefit of regularization in service jurisprudence, seniority is to be given from date of regularization. Secretary, School Education has committed manifest error of law in not providing seniority from the date of regularization.

18. The Counter Affidavit filed by Director, Secondary Education in Claim Petition No. 59/NB/DB/2021 states that *Uttar Pradesh (Lok Sewa Aayog Ke Kshetrantargat/Bahar) Ke Padon Par Tadarth Niyuktiyon Ka Viniyamitikan Niyamawali, 1979* (hereinafter called 'Rules of 1979'), provided for regularization of *adhoc* appointments

made prior to 01.01.1977 which *inter-alia* required that such persons should have completed three years of continuous service. This Niyamawali was amended in 1989 to provide for regularization of *ad hoc* appointments made upto 01.10.1986. Subsequently, the Uttaranchal (*Lok Sewa Aayog Ke Kshetrantargat/Bahar*) Ke Padon Par Tadarth Niyuktiyon Ka Viniyamitikan Niyamawali, 2002 was promulgated to provide regularization of *ad hoc* appointments made prior to 30.06.1998. The Rules 4 and 7 of this Niyamawali were similar, *inter-alia* requiring three years' continuous service before regularization.

U.P. Government Order No. 3179 dated 21.11.1995 was issued for regularization of Lecturers/Assistant Teachers (L.T. Grade) appointed on *ad hoc* basis before 01.10.1990. Subsequent to this G.O. dated 21.11.1995 such *ad hoc* teachers were regularized from 1999 onwards, taking cognizance of the provisions for regularization made in the Rules of 1979.

Ad hoc Lecturers and Assistant Teachers (L.T. Grade) appointed after 01.10.1990 upto 07.08.1993 have been regularized according to the G.O. No. 176 dated 26.12.2001. This G.O. has the same provisions for regularization as were made in the Rules of 1979.

This Counter Affidavit further states that for the *ad hoc* Lecturers appointed between 02.05.1983 to 01.10.1986, the first regularization order was issued on 07.03.1995 and this date is the cutoff date for determination of seniority and for the Assistant Teachers (L.T. Grade) appointed on *ad hoc* basis during this period, the first regularization order was issued on 03.03.1991 and this date is the cutoff date for determination of seniority. For the lecturers appointed on *ad hoc* basis between 02.10.1986 and 30.09.1990, the first regularization order in the male branch was issued on 14.10.1999 and for female branch was issued on 26.10.1999 and these dates are the cutoff dates for the fixation of seniority. For the Assistant Teachers (L.T. Grade) appointed on *ad hoc* basis during this period, first regularization order was issued

on 28.12.1999 and this date is the cutoff date for determination of seniority.

18.1. The date of regularization for Assistant Teachers (L.T. Grade) and Lecturers appointed prior to 01.10.1990 has been subsequently changed to 01.10.1990. The Counter Affidavit further states that the provisions of the G.O. dated 21.11.1995 cannot go against the provisions of the Rules of 1979 which provide that a person is eligible for regularization when he has completed minimum three years' continuous service and for regular appointment, vacant post should be available in the department. Petitioners have been appointed in the year 1990 and only after merely one month's service, they are demanding regularization, which is not possible according to the provisions of the Service Rules. Granting seniority to the petitioners from 01.10.1990 is not according to the Rules. They are entitled to pension and other retiral benefits after regularization from 01.10.1990.

18.2. According to para 16 of this Counter Affidavit, in the erstwhile State of U.P., the services of Assistant Teachers (L.T. Grade) were dealt with by the Uttar Pradesh *Adhinasth Shiksha (Prashikshit Snatak Shreni) Sewa Niyamawali, 1983* as amended in 1992 and Lecturers were dealt with by the *Uttar Pradesh Vishesh Adhinasth (Pravakta Samvarg) Sewa Niyamawali, 1992*, which provided for seniority to be fixed on the basis of the U.P. Govt. Servants Seniority Rules, 1991. The Seniority Rules provided for fixation of seniority from the order of substantive appointment. Rule 4 (*Ja*) defines substantive appointment as such appointment on a post in the cadre of the service which is not an *ad hoc* appointment and it has been made after the selection according to the Rules relating to the

service. The petitioners have not been selected/appointed under the relevant Service Rules.

18.3. Para 4 of the G.O. No. 3179 dated 21.11.1995 states that the inter-se seniority of the regularized Lecturers/Assistant Teachers (L.T. Grade) shall be determined under the procedure prescribed by the Personnel Department. The Rules of 1979 and further Rules for regularization have similar Rule 4 and Rule 7 which prescribe constitution of selection committee for regularization etc. on the basis of which regularization orders of *ad hoc* Lecturers/Assistant Teachers (L.T. Grade) appointed before 01.10.1990 were issued in 1999 and according to Rule 7, such persons were placed below the persons appointed earlier according to the relevant Service Rules.

18.4. Pursuant to the orders of the Hon'ble High Court dated 03.01.2019, passed in Writ Petition No. 1008(S/S) of 2014 and other connected writ petitions, the orders regarding regularization and fixation of seniority were issued for the petitioners which have been stayed vide Directorate's order dated 26.09.2020. According to the G.O. dated 13.07.2021, no justification has been found to grant seniority from the date of regularization, 01.10.1990. In such disposal of the representations, the Govt. has taken cognizance of the decision dated 14.08.2019 of the Hon'ble Supreme Court in Special Leave Petition of Km. C. Yamini vs. Andhra Pradesh State & others (*supra*).

19. As stated earlier, the G.O. No.1587/XXIV-B-1/2021-01(34)/2019 dated 13.07.2021 is in the teeth of this bunch of claim petitions. *Vide* this order, about 950 representations regarding grant of seniority to regularized employees of the First Set *w.e.f.* 01.10.1990 instead of 14.10.1999 (for Lecturers)/28.12.1999 (for Assistant Teachers, L.T. Grade), received after public notice, have been disposed of. According to this order, the main points mentioned in these

representations in favour and against granting seniority w.e.f. 01.10.1990 to the regularized employees are as below:

POINTS IN FAVOUR:

- (i) Rules of 1979 provide for grant of seniority from the date of regularization and the same has been done earlier also.
- (ii) In Bhuwan Chandra Kandpal's case also in compliance of Hon'ble Courts' orders, the seniority was given from the date of regularization *vide* G.O. dated 15.10.2011.

POINTS AGAINST:

- (i) *Adhoc* appointed teachers are not regular teachers and therefore they cannot be senior to the teachers appointed through direct recruitment. Teachers appointed through direct recruitment from 1990 to 1995/1997 have already been given seniority and changing the same is not justified. According to the Rules of 1979, substantive appointment is provided after three years of continuous service as *adhoc*.
- (ii) In the petition of Bhuwan Chandra Kandpal, all the facts have not been examined in accordance with law and many facts have not been presented before the Hon'ble Court.
- (iii) The Hon'ble High court in the judgment dated 03.01.2019, has only ordered the regularization of the *adhoc* teachers. There is no mention of seniority to be given from the date of regularization.

20. It is further observed in para 5 of the G.O. dated 13.07.2021 that according to the Rules of 1979 as amended, three years' continuous service is necessary for regularization. Sub para (4) of para 5 states that mention of regularization dated 01.10.1990 in para 4 of the G.O. No. 3179 dated 21.11.1995 implies that in the earlier paras of this G.O., the date of regularization has been prescribed as 01.10.1990 while a perusal of the earlier paras 1,2 and 3 of this G.O. make it clear that

nowhere the date 01.10.1990 has been prescribed as the date of regularization. In para 1 of this G.O., mention is made of regularization of teachers appointed prior to 01.10.1990 and not of the date of regularization to be 01.10.1990. The *ad hoc* teachers appointed before 01.01.1977, 01.05.1983, 01.10.1986, 01.10.1990 and 07.08.1993 were respectively regularized on 10.10.1980(lecturers)/ 08.04.1981 (L.T. Grade), 06.03.1986 (lecturers)/31.01.1986 (L.T. Grade), 07.03.1995 (lecturers)/ 03.03.1991 (L.T. Grade), 14.10.1999 (Lecturers)/ 28.12.1999 (L.T. Grade) and 09.05.2002 (Lecturers)/05.03.2002 (L.T. Grade) according to the provisions of the Rules. Shri Bhuwan Chandra Kandpal was given seniority *w.e.f.* 01.10.1990 after the Special Appeal and SLP filed by the State Govt. against the Hon'ble High Court's order had been dismissed.

21. In para 6 of the order dated 13.07.2021, the following effects of granting seniority *w.e.f.* 01.10.1990, instead of 1999, have been mentioned:

- (i) Certain teachers appointed on *ad hoc* basis before 01.10.1990 have joined posts after 01.10.1990 which makes it clear that they were not in service on 01.10.1990. In these circumstances, granting seniority from an earlier date before the date of joining in service is not justified.
- (ii) *Ad hoc* teachers appointed before 01.10.1986 have been regularized on 07.03.1995 (Lecturers)/03.03.1991 (L.T. Grade). They were senior to the teachers of the First Set but will become junior to such teachers if they are given seniority *w.e.f.* 01.10.1990. Persons directly recruited through Public Service Commission between 1990 to 1999 who were senior to the teachers of the First Set, regularized in 1999 will also be junior to them.
- (iii) *Ad hoc* teachers appointed before 01.01.1977, 01.05.1983, 01.10.1986 and 07.08.1993 who have been regularized on later

dates and other regularized employees of other departments will also demand regularization and seniority from the date of *ad hoc* appointment which will become an endless matter. All such personnel who were earlier senior but who become junior after changing the date of regularization will demand all benefits given to the juniors on actual/notional basis which will create wide-spread financial burden on the State.

- (iv) Referring to the judgment date 14.08.2019 of Hon'ble High Court in *Km. C. Yamini vs. Andhra Pradesh State & others*, it is clear that the pensionary and retiral benefits can be given from the date of *ad hoc* appointment but seniority cannot be given from the date of *ad hoc* appointment.

In the light of the above facts and effects it has been decided that no justification has been found to grant seniority from the date of regularization, 01.10.1990 and all the representations have accordingly been disposed of.

DISCUSSION

22. After careful examination of all the documents, this Tribunal observes the following:

- (i) The G.O. dated 13.07.2021 states that there is no justification for granting seniority from 01.10.1990 but does not explicitly specify from which date the grant of seniority is justified and on what grounds.
- (ii) The issuance of this G.O. dated 13.07.2021 implicitly upholds the earlier seniority given from 1999 to the teachers of the First Set.
- (iii) The Rules of 1979 and further amendment in 1989 were not applicable to the teachers of the First Set as they prescribed regularization of *ad hoc* teachers appointed before 01.10.1986 and not for *ad hoc* teachers appointed subsequently. These Rules also could not be technically treated to be some sort of guidelines for regularization of *ad hoc* teachers appointed subsequently.

- (iv) The G.O. No. 3179 dated 21.11.1995 was the sole provision for regularization of teachers of the First Set. According to Hon'ble High Court's interpretation of this G.O., the date of regularization of such teachers is 01.10.1990 which has been affirmed by Hon'ble Apex Court while dismissing the SLP filed by the State Govt. in Bhuwan Chandra Kandpal's case (*supra*).
- (v) Hon'ble High Court in its judgment dated 03.01.2019, passed in Writ Petition No. 1008(S/S) of 2014, Trivikram Singh Kunwar & others vs. State of Uttarakhand and another and other connected writ petitions, has held the judgment dated 28.02.2004 passed in Bhuwan Chandra Kandpal's case to be judgment in '*rem*' and declared that the services of the petitioners of the writ petition stood regularized *w.e.f.* 01.10.1990. The State Govt. has decided to comply with this judgment and order dated 03.01.2019 and accordingly fixed the date of regularization of the teachers of the First Set as 01.10.1990.
- (vi) The Hon'ble High Court in the above judgment has separated the issue of seniority from the issue of regularization and has directed the Govt. to take decision regarding revision of seniority list in accordance with law after giving all affected parties a reasonable opportunity of hearing.
- (vii) The facts of the K.C. Yamini's case (*supra*) are different from the present case and the Tribunal agrees with the distinction between them as stated in para 17.4 of this judgment. Moreover, in the G.O. dated 13.07.2021 while relying on this judgment of Hon'ble Supreme Court, 01.10.1990 has been assumed to be the date of *ad hoc* appointment while it is the date of regularization. The dates of *ad hoc* appointments of teachers of the First Set are before 01.10.1990. Though they have not completed three years' of service on 01.10.1990 but their date of regularization is 01.10.1990 and no contrary interpretation is acceptable after the judicial pronouncement in this regard. Therefore, stating that

from this date, pensionary and retiral benefits can be given but not seniority, is a clear manifest error.

- (viii) As explained above, the Govt. is wrongly treating 01.10.1990 as the date of *ad hoc* appointment of the teachers of the First Set. Similarly, they are wrongly treating such teachers to have been regularized in 1999. The earlier regularization of 1999 is not in existence after the same has been held to be *w.e.f.* 01.10.1990 in view of the judicial pronouncement and acceptance of the same by the State Govt.
- (ix) Para 6(1) of the G.O. dated 13.07.2021 mentions the names of certain teachers who had joined after 01.10.1990 and were not in service on 01.10.1990. The Tribunal holds that such teachers need not be regularized from 01.10.1990 as they came into service after such date. This does not appear to be the intention of any judicial pronouncement that such people be regularized *w.e.f.* 01.10.1990.
- (x) Para 21 of the Claim Petition No. 59/NB/DB/2021 as reproduced earlier in this judgment, is reiterated below:

"21. That it is also pertinent to mention here that to give rest to the dispute the teachers who were appointed prior to 01.10.1986 were given the date of substantive appointment/regularization from 07.08.1989 vide order dated 19.03.2020 issued by the Deputy Secretary of Govt. of Uttarakhand."

The same is neither expressly admitted nor expressly denied in the Counter Affidavit of the Director, Secondary Education. However, this Counter Affidavit and the G.O. dated 13.07.2021 state their dates of regularization to be 07.03.1995 (Lecturers)/03.03.1991 (L.T. Grade). Probably, the subsequent order dated 19.03.2020 of the Govt. as mentioned in para 21 of the claim petition has been overlooked in the Counter Affidavit as well as in the G.O. dated 13.07.2021. Even if the averment of para 21 of the claim petition is not correct, the dates of regularization of earlier

appointees can be fixed to be before 01.10.1990, so that teachers appointed on *ad hoc* basis earlier also get regularized earlier.

- (xi) The persons appointed on regular basis between 1990 and 1999 have no inherent right to claim seniority over persons appointed on *ad hoc* basis and regularized earlier than the date of their appointment. Keeping these later appointees below the teachers of the First Set who have been regularized on 01.10.1990 in seniority is not bad in law.
- (xii) The apprehension expressed in para 6(3) of the G.O. dated 13.07.2021, is uncalled for. The provision for regularization of teachers of the First Set was made *vide* G.O. No. 3179 dated 21.11.1995 and in the absence of a similar G.O. in other departments, it cannot be presumed that demands will be raised for regularization from the date of *ad hoc* appointments. In this para, the Govt. has again confused 01.10.1990 to be the date of *ad hoc* appointment of the teachers of the First Set. It is reiterated that their dates of appointment are earlier and 01.10.1990 is their date of regularization according to the G.O. No. 3179 dated 21.11.1995 and its judicial interpretation by the Hon'ble Courts.
- (xiii) The Tribunal does not intend to grant seniority to the teachers of the First Set from the date of regularization and the two can be segregated if there are justifiable reasons for the same.
- (xiv) Normally, the date of regularization should be treated as the date of substantive appointment unless there are justifiable reasons against the same.

23. In view of the above, the G.O. dated 13.07.2021 (Annexure No. 1 to the Claim Petition No. 59/NB/DB/2021) is not in accordance with law and is hereby set aside. The respondent State is required to consider the issue of fixation of *inter-se* seniority after getting rid of its earlier prejudices like treating the date of *ad hoc* appointment to be 01.10.1990, regularization to be done in 1999 etc. and take a well-considered justified

decision in accordance with law after verifying the averments made in para 21 of the claim petition No. 59/NB/DB/2021 and keeping in view our observations made above and clearly decide from which date(s) seniority is to be given to the teachers of the First Set. The Govt. in the Secondary Education Department may complete this exercise in consultation with the Law Department and Personnel Department, within a period of three months henceforth. Till the time such exercise is completed, the promotions made *vide* Directorate's order no. 235 dated 23.07.2021 (Annexure No. 2 to the claim petition no. 59/NB/DB/2021) shall remain in abeyance and no further promotions of the Lecturers/Assistant Teachers (L.T. Grade) regularized/appointed on 01.10.1990 and afterwards shall be made.

24. The claim petitions are, accordingly, disposed of. No order as to costs.

25. Let copies of this order be placed in the files of Claim Petitions No. 41/NB/DB/2019,52/NB/DB/2019,54/NB/DB/2021, 59/NB/DB/2021, 61/NB/DB/2021,62/NB/DB/2021, 86/NB/DB/2021 and 03/NB/DB/2022.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: APRIL 21, 2022

DEHRADUN

KNP