

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

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

**Claim Petition No. 52/DB/2023**

Santoshi Kumari, w/o Sri Naresh Chandra, r/o 586, Block 1<sup>st</sup> Dharampur,  
Haridwar Road, Dehradun, Assistant Teacher, Government Primary  
School, Kairad, Block-Chakrata, District Dehradun.

.....Petitioner

versus

1. State of Uttarakhand, through Secretary, Education, Dehradun.
2. Director General, School Education, Uttarakhand, Dehradun.
3. Director, Basic Education, Uttarakhand, Dehradun.
4. Additional Director, Primary Education, Garhwal Mandal, Pauri.
5. District Education Officer (Basic Education), Dehradun.

..... Respondents

Present: Dr. N.K. Pant, Advocate, for the Petitioner (online)  
Sri V.P. Devrani, A.P.O., for the Respondents

**Judgement**

**Dated: 16<sup>th</sup> MARCH, 2023**

**Justice U.C. Dhyani (Oral)**

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

“(i) Issue an order of direction to set aside/ quash the impugned order 08-02-2023 passed by the District Education Officer, Primary Education, Dehradun.

(ii) Issue and order or direction to grant the salary from the date of termination dated 19-11-2015 to 30-06-2021 in the light of decision made by the Hon'ble High Court vide its order dated 17-05-2017.

(iii) To award the cost of the petition in favour of the applicant.”

2. At the very outset, learned A.P.O. objected to the maintainability of the claim petition, *inter alia*, on the ground that the same is pre-mature, inasmuch as the petitioner has not preferred appeal against the impugned order dated 08.02.2023 to the Chief Education Officer, Dehradun.

3. Learned A.P.O. further submitted that as per Sub-Rule (1) of Rule 11 of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 (as amended in 2010), the petitioner is entitled to file appeal. Such Rule reads as below:

“**11. Appeal** (1) Except the orders passed under these rules by the Governor, the Government Servant shall be entitled to appeal to the next higher authority from an order passed by the Disciplinary Authority.

.....”

4. Learned A.P.O. also drew attention of this tribunal towards Section 4(5) of the U.P. Public Services (Tribunal) Act, 1976, which reads as under:

“**4. Reference of claim to Tribunal** — .....

(5) The Tribunal shall not ordinarily admit a reference unless it is satisfied that the public servant has availed of all remedies available to him under the relevant service rules, regulations or contract as to redressal of grievances.

.....”

5. Learned Counsel for the petitioner, therefore, prayed that the petitioner may be granted liberty to file the departmental appeal against

the impugned order dated 08.02.2023 to Chief Education Officer, Dehradun.

5. Learned A.P.O. has no objection to such innocuous prayer.

6. The claim petition is disposed of, at the admission stage, by granting liberty to the petitioner to file departmental appeal against the impugned order dated 08.02.2023, passed by District Education Officer, Primary Education, Dehradun, to the Appellate Authority *i.e.* Chief Education Officer, Dehradun, in accordance with law.

7. Liberty is granted to the petitioner for filing fresh claim petition, in case petitioner's grievance survives.

No order as to costs.

**(RAJEEV GUPTA)**  
VICE CHAIRMAN (A)

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: 16<sup>th</sup> March, 2023*

*DEHRADUN*

*RS*