

**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 PETITION NO. 23/NB/DB/2019

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CLAIM PETITION NO. 25/NB/DB/2019

1. Dr. Rajender Singh Bhakuni (Male, aged about 50 years), S/o Sri Bache Singh, Associate Professor, Department of Political Science, Government Degree College, Doshapani, Nainital. At present address: R/o Sector- 2, Vikas Nagar, Bithoria No. 1, Haldwani, Nainital.

2. Dr. Rakesh Kumar Pandey (Male), S/o Sri Gyan Shankar Pandey, Associate Professor, Economics, Government Post Graduate Degree College, Rudrapur, District Udham Singh Nagar. At present address: R/o House No. 41, Ganpati Vihar, Haldwani, Nainital. Phase-2, Daheria, Mukhani,

3. Dr. (Mrs.) K. L. Noutiyal (Female), D/o Sri G. L. Noutiyal, Associate Professor, Department of Hindi, Government Post Graduate College, Agastyamuni, (Rudraprayag) At present address: Dhara Road, Pauri.

4. Dr. Bihari Lal (Male), S/o Sri Shiv Shankar Yadav, Associate Professor, Hindi, Govt. P. G. College, Kotdwar, Pauri. At present address: R/o House No. 224/A, Gokul Nagar Colony, Kanchanpur, Varanasi, Uttar Pradesh.

.....**Petitioners**

Versus

1. State of Uttarakhand, through Chief Secretary Uttarakhand Government, Dehradun.

2. Secretary, Higher Education, Uttarakhand Secretariat, Dehradun.

3. Director, Higher Education, Higher Education Directorate, Goula Paar, Haldwani.

4. Deputy Director, Services, Higher Education Directorate, Goula Paar, Haldwani.

5. Chairman, University Grants Commission, Bahadur Shah Zafar Marg, New Delhi - 110002.

6. Smt. Dr. Savita Mohan, W/o Late Bishwa Mohan presently working as Ex-In-charge Director, Higher Education, Uttarakhand, Haldwani (Nainital)
7. Dr. Kamal Kumar Pandey, S/o Sri Bhagwat Prasad Pandey, presently working as Deputy Director, Higher Education Directorate, Haldwani.
8. Dr. Govind Singh Rajwar, S/o Sri Prem Singh Rajawar, presently working as Principal at Government Post Graduate College, Gopeshwar.
9. Dr. B. M. Harbola, S/o Sri Krishnanand Harobla, presently working as Deputy Director in the Higher Education, Directorate, Haldwani-Political Science.
10. Dr. Kuldeep Singh Negi, presently working as Associate Professor (Zoology), Government Degree College, Rishikesh.
11. Dr. Kishan Lal Bisht, presently working as Associate Professor (Zoology), Government Dakpatthar, District Dehradun. Degree College,
12. Dr. Suchita Sah Mehta, presently working as Associate Professor (Zoology), M.B.P.G. College, Haldwani, District Nainital.
13. Dr. Chandra Singh Negi, presently working as Associate Professor Pithoragarh. (Zoology), Government Degree College, Pithoragarh.
14. Dr. Mahesh Kumar, presently working as Associate Professor (Zoology), M.B.P.G. College, Haldwani, District Nainital.
15. Dr. Anita Rawat, presently working as Associate Professor (Zoology), Government Degree College, Rishikesh.
16. Dr. Mahavir Singh Rawat, presently working as Associate Professor (Zoology), Government Degree College, Doiwala, District Dehradun.
17. Dr. Satya Narain Rao, presently working as Associate Professor (Zoology), Government Degree College, Kashipur.
18. Dr. Mrityunjay Kumar Sinha, presently working as Associate Professor (Zoology), Government Degree College, Kashipur.
19. Dr. Rachna Nautiyal, presently working as Associate Professor (Zoology), Government Dakpatthar, Degree College, District Dehradun.
20. Dr. Rakesh Kumar, presently working as Associate Professor (Zoology), Government Degree College, Rishikesh.
21. Dr. Basantika Kashyap, presently working as Associate Professor (Zoology), Government Degree College, Kotdwar.
22. Dr. Rajendra Singh Adhikari, presently working as Associate Professor (Botany), Government Degree College, Baluwakote, District Nainital.
23. Dr. Abdul Rashid Ansari, presently working as Associate Professor (Botany), Government Degree College, Gairsain, District Chamoli.
24. Dr. Sushma Gupta, presently working as Associate Professor (Botany), Government Degree College, Rishikesh.
25. Dr. Gulshan Kumar Dhingra, presently working as Associate Professor (Botany), Government Degree College, Rishikesh.
26. Dr. Ajay Kumar Paliwal, presently working as Associate Professor (Botany), Government Degree College, Rudrapur, District Udham Singh Nagar.
27. Dr. Neeta Pandey, presently working as Associate Professor (Botany), M. B. P.G. College, Haldwani, District Nainital.

28. Dr. Sunil Kumar Katiyar, presently working as Associate Professor (Botany), Government Degree College, Tanakpur.
29. Dr. Vidyadhar Pandey, presently working as Associate Professor (Botany), Government Degree College, Rishikesh.
30. Dr. Murlidhar Kushwaha, presently working as Associate Professor (Botany), Government Degree College, Kotdwar.
31. Dr. Ram Katiyar, presently working as Associate Professor (Botany), Government Degree College, Kotdwar.
32. Dr. Arun Kumar Agrawal, presently working as Associate Professor (Botany), Government Degree College, Uttarkashi.
33. Dr. Anjana Durgapal, presently working as Associate Professor (Botany), M.B.P.G. College, Haldwani, District Nainital.
34. Dr. D. C. Nainwal, presently working as Associate Professor (Bhugarbh), Government Degree College, Pokhari Patti, District Tehri Garhwal.
35. Dr. Girja Shankar Yadav, presently working as Associate Professor (Statistics), Government Degree College, New Tehri.
36. Dr. Vibhesh Kumar Singh, presently working as Associate Professor (Chemistry). Government Degree College, Ranikhet/M.B.P.G. College, Haldwani, Nainital.
37. Dr. Vimal Kukreti, presently working as Associate Professor (Chemistry), Government Degree College, Chaubatta Khal. District Pauri Garhwal.
38. Dr. Shailendra Prakash, presently working as Associate Professor (Chemistry), Government Degree College, Jaihari Khal, District Pauri Garhwal.
39. Dr. Premlata Kumari, presently working as Associate Professor (Chemistry), Government Degree College, Kotdwar.
40. Dr. Neeta Joshi, presently working as Associate Professor (Chemistry), Government Degree College, Ramnagar, District Nainital.
41. Dr. K. K. Pandey, presently working as Associate Professor (Chemistry), Directorate, Haldwani.
42. Dr. Shanti Prakash Sati, presently working as Associate Professor (Chemistry), Government Degree College, Doiwala, District Dehradun.
43. Dr. Lallan Prasad, presently working as Associate Professor (Physics), Government Degree College, Berinag. District Pithoragarh.
44. Dr. Manoj Yadav, presently working as Associate Professor (Physics), Government Degree College, Jaihari Khal, District Pauri Garhwal.
45. Dr. Rajkumar Tyagi, presently working as Associate Professor (Physics), Government Degree College, Kotdwar.
46. Dr. Yogesh Kumar Sharma, presently working as Associate Professor (Physics), Government Degree College, Rudrapur, District Udham Singh Nagar.
47. Dr. Vimal Prakash Bahuguna, presently working as Associate Professor (Physics), Government Degree College, Rishikesh, District Dehradun.
48. Dr. Sumita Srivastava, presently working as Associate Professor (Physics), Government Degree College, Rishikesh District Dehradun.
49. Dr. Devraj Mishra, presently working as Associate Professor (Physics), Government Degree College, Kashipur, District Udham Singh Nagar.

50. Dr. Devesh Prasad Bhatt, presently working as Associate Professor (Physics), Government Degree College, Rishikesh District Dehradun.
51. Dr. Narottam Joshi, presently working as Associate Professor (Mathematics), Government Degree College, Pithoragarh.
52. Dr. Yuvraj, presently working as Associate Professor (Mathematics), Government Degree College, Rishikesh, District Dehradun.
53. Dr. Anita Tomar, presently working as Associate Professor (Mathematics), Government Degree College, Dakpatthar, District Dehradun.
54. Dr. Naveen Bhagat, presently working as Associate Professor (Mathematics), M.B.P.G. College, Haldwani, Nainital.
55. Dr. Harish Singh Nayal, presently working as Associate Professor (Mathematics), M.B.P.G. College, Haldwani, Nainital.
56. Dr. Satpal Singh Sahni, presently working as Associate Professor (Commerce), Government Degree College, Thatyud.
57. Dr. Maam Chandra, presently working as Associate Professor (Commerce), Government Degree College, Kashipur.
58. Dr. Mohan Chandra Pandey, presently working as Associate Professor (Commerce), Government Degree College, Patlot. District Nainital.
59. Dr. Rajesh Kumar Ubhan, presently working as Associate Professor (Commerce), Government Degree College, Rishikesh, District Dehradun.
60. Dr. Vinod Prakash Agrawal, presently working as Associate Professor (Commerce), Government Degree College, Rishikesh, District Dehradun.
61. Dr. Chandra Singh Soontha, presently working as Associate Professor (Commerce), Government Degree College, Ganai Gangoli, District Pithoragarh.
62. Dr. Girish Chandra Pant, presently working as Associate Professor (Commerce), Government Degree College, Pithoragarh.
63. Dr. Chandra Shekhar Joshi, presently working as Associate Professor (Commerce), M.B.P.G.College, Haldwani, Nainital.
64. Dr. Manoj Upreti, presently working as Associate Professor (Commerce), Government Degree College, Tanakpur.
65. Dr. Kanchanlata Sinha, presently working as Associate Professor (Commerce), Government Degree College, Doiwala, District Dehradun.
66. Dr. Rajmani Ram Patel, presently working as Associate Professor (Commerce), Government Degree College, Doiwala, District Dehradun.
67. Dr. Sanjeev Malhotra, presently working as Associate Professor (Commerce), Government Degree College, Kashipur.
68. Dr. Chandra Prakash, presently working as Associate Professor (Commerce), Government Degree College, Bazpur, District Udham Singh Nagar.
69. Dr. Mahima Joshi, presently working as Associate Professor (Geography), M. B. Haldwani, District Nainital.
70. Dr. Dasham Singh Negi, presently working as Associate Professor (Geography). Government Degree College, Rikhnikhal/Chaubatta Khal, District Pauri Garhwal.
71. Dr. Bachi Ram Pant, presently working as Associate Professor (Geography), M. B.P.G. College, Haldwani, District Nainital.

72. Dr. Geeta Srivastava, presently working as Associate Professor (Geography), Government Degree College, Khatima, District Udham Singh Nagar.
73. Dr. Arun Kumar Singh, presently working as Associate Professor (Geography), Government Degree College, New Tehri.
74. Dr. Tej Bahadur Singh, presently working as Associate Professor (Geography), M.B.P.G. College, Haldwani, District Nainital.
75. Dr. Poonam Rautela, presently working as Associate Professor (Geography), M. B.P.G. College, Haldwani, District Nainital.
76. Dr. Santosh Verma, presently working as Associate Professor (Geography), Government Degree College, New Tehri.
77. Dr. Dinesh Chandra Goswami, presently working as Associate Professor (Geography), Government Degree College, Rishikesh.
78. Dr. Rajesh Nautiyal, presently working as Associate Professor (Geography), Government Degree College, Rishikesh.
79. Dr. Bijendra Prasad Uniyal, presently working as Associate Professor (Economics). Government Degree College, Rikhnikhal, District Pauri Garhwal.
80. Dr. Dinesh Chandra Pant, presently working as Associate Professor (Economics), M. B.P.G. College, Haldwani, Nainital
81. Dr. Harshwanti Bisht, presently working as Associate Professor (Economics), RUSA Office, Higher Education, Dehradun.
82. Dr. K. L. Talwad, presently working as Associate Professor (Economics), Government Degree College, Doiwala, District Dehradun.
83. Dr. Bharti Singhal, presently working as Associate Professor (Economics), Government Degree College, Khatima, District Udham Singh Nagar.
84. Dr. Anupma Tiwari, presently working as Associate Professor (Economics), Government Degree College, Kashipur, District Udham Singh Nagar.
85. Dr. Pankaj Kumar, presently working as Associate Professor (Economics), Government Degree College, Khatima, District Udham Singh Nagar.
86. Dr. Daksha Joshi, presently working as Associate Professor (Economics), Government Degree College, Raipur, District Dehradun.
87. Dr. Sangita Gupta, presently working as Associate Professor (Economics), Government Degree College, Bhikiyasain, District Almora.
88. Dr. Priti Kumari, presently working as Associate Professor (Home Science), Government Degree College, Kotdwar Pauri Garhwal.
89. Dr. Navdeshwar Shukla, presently working as Associate Professor (Military Science), Government Degree College, Doiwala, District Dehradun.
90. Dr. Pushpesh Kumar Pandey, presently working as Associate Professor (Political Science), Government Degree College. Ranikhet, District Almora.
91. Dr. Rajendra Kumar Gupta, presently working as Associate Professor (Political Science), Government Degree College, Banbasa, District Champawat.
92. Dr. Jaya Pandey, presently working as Associate Professor (Political Science), Government Degree College, Ranikhet/Masi, District Almora.
93. Dr. Seema Chaudhary, presently working as Associate Professor (Political Science), Government Degree College, Kotdwar, Pauri Garhwal.
94. Dr. Kailash Chandra, presently working as Associate Professor (Political Science), M. B.P.G. College, Haldwani, Nainital.

95. Dr. Sarvajeet Singh, presently working as Associate Professor (Political Science), Government Degree College, Tanakpur, District Champawat.
96. Dr. Hemlata Mishra, presently working as Associate Professor (Political Science), Government Degree College, Ramnagar, District Nainital.
97. Dr. Dinesh Sharma, presently working as Associate Professor (Political Science), Government Degree College, Rudrapur, District Udham Singh Nagar.
98. Dr. Durgakant Prasad Chaudhary, presently working as Associate Professor (Political Science), Government Degree College, Rudrapur, District Udham Singh Nagar.
99. Dr. Asha Rana, presently working as Associate Professor (Political Science), Government Degree College, Kashipur, District Udham Singh Nagar.
100. Dr. Meena Sharma, presently working as Associate Professor (Sociology), Government Degree College, Kashipur, District Udham Singh Nagar.
101. Dr. Anand Prakash Singh, presently working as Associate Professor (Sociology), M. B.P.G. College, Haldwani, District Nainital.
102. Dr. Pushpa Devi, presently working as Associate Professor (Sociology), Government Degree College, Rudrapur, District Udham Singh Nagar.
103. Dr. Kamla Sharma, presently working as Associate Professor (Sociology), Government Degree College, Kashipur, District Udham Singh Nagar.
104. Dr. Prashant Kumar Singh, presently working as Associate Professor (Sociology), Government Degree College, New Tehri.
105. Dr. Akhilesh Kumar Shukla, presently working as Associate Professor (Sociology), Government Degree College, Gopeshwar, District Chamoli.
106. Dr. Praveen Jain, presently working as Associate Professor (Sociology), Government Degree College, Banbasa District Champawat.
107. Dr. Avanindra Kumar Joshi, presently working as Associate Professor (History), Government Degree College, Kapkote, District Bageshwar.
108. Dr. Premlata Kandpal, presently working as Associate Professor (History), Government Degree College, Pithoragarh.
109. Dr. Sangeeta Bahuguna, presently working as Associate Professor (History), Government Degree College, Kotdwar.
110. Dr. Saroj Verma, presently working as Associate Professor (History), Government Degree College, Pithoragarh.
111. Dr. Sangeeta Mishra, presently working as Associate Professor (History), Government Degree College, Rikhnikhal, District Pauri Garhwal.
112. Dr. Santosh Kumar, presently working as Associate Professor (History), M. B.P.G. College, Haldwani, District Nainital.
113. Dr. Sanjay Kumar, presently working as Associate Professor (History), Government Degree College, Jaihari Khal, District Pauri Garhwal.
114. Dr. Siraj Mohammad, presently working as Associate Professor (History), M. B. P.G. College, Haldwani, District Nainital.
115. Dr. Vishwa Mohan Pandey, presently working as Associate Professor (History), Government Degree College, Ramnagar, District Nainital.
116. Dr. Shanti Nayal, presently working as Associate Professor (Education), M. B.P.G. College, Haldwani, District Nainital.

117. Dr. Ramesh Singh Bisht, presently working as Associate Professor (Psychology), Government Degree College, Pithoragarh.
118. Dr. Ritu Mittal, presently working as Associate Professor (Psychology), Government Degree College, Lohaghat, Pithoragarh.
119. Dr. Deepa Verma, presently working as Associate Professor (Psychology). Government Degree College, Doshapani, District Nainital.
120. Dr. Alpana Joshi, presently working as Associate Professor (Hindi). Government Degree College, Rishikesh, District Dehradun.
121. Dr. Chandra Khatri, presently working as Associate Professor (Hindi), Government Degree College, Bageshwar.
122. Dr. Deepa Gobadi, presently working as Associate Professor (Hindi), M. B.P.G. College, Haldwani, District Nainital.
123. Dr. Prabha Pant, presently working as Associate Professor (Hindi), M. B. P.G College, Haldwani, District Nainital
124. Dr. Suresh Chandra, presently working as Associate Professor (Hindi), Government Degree College, Uttarkashi.
125. Dr. Ajeeta Dixit, presently working as Associate Professor (Hindi), Government Degree College, Syalde, District Almora.
126. Dr. Nand Kishore Dhaundiya, presently working as Associate Professor (Hindi), Government Degree College, Rikhni Khal, District Pauri Garhwal.
127. Dr. Prabhat Dwivedi, presently working as Associate Professor (Hindi), Government Degree College, Dakpatthar, District Dehradun.
128. Dr. Satya Prakash Sharma, presently working as Associate Professor (Hindi), Government Degree College, Bazpur, District Udham Singh Nagar.
129. Dr. Kalpana Pant, presently working as Associate Professor (Hindi), Government Degree College, Rishikesh.
130. Dr. Beena Mathela, presently working as Associate Professor (Hindi), M. B.P.G. College, Haldwani, District Nainital.
131. Dr. Mukti Nath Yadav, presently working as Associate Professor (Hindi), Government Degree College, Rishikesh.
132. Dr. Adhir Kumar, presently working as Associate Professor (Hindi), Government Degree College, Betalghat, District Nainital.
133. Dr. Siddheshwar Singh, presently working as Associate Professor (Hindi). Government Degree College, Banbasa, District Champawat.
134. Dr. Sambhu Dutt Pandey, presently working as Associate Professor (Hindi), Government Degree College, Rudrapur, District Udham Singh Nagar.
135. Dr. Devyani Bhatt, presently working as Associate Professor (Hindi), M. B.P.G. College, Haldwani, District Nainital.
136. Dr. Abha Sharma, presently working as Associate Professor (Sanskrit). Government Degree College, Pithoragarh.
137. Dr. Kamla Pant, presently working as Associate Professor (Sanskrit), M. B.P.G. College, Haldwani, District Nainital.
138. Dr. Shalini Shukla, presently working as Associate Professor (Sanskrit), Government Degree College, Kotdwar Bhawar, District Pauri Garhwal,
139. Dr. Vinay Kumar, presently working as Associate Professor (Sanskrit), M. B.P.G. College, Haldwani, District Nainital.

140. Dr. Radheyshyam, presently working as Associate Professor (Sanskrit), Government Degree College, Dakpatthar, District Dehradun.

141. Dr. Mukesh Kumar, presently working as Associate Professor (Sanskrit), Government Degree College, Banbasa, District Champawat.

142. Dr. Vishwanath Khali, presently working as Associate Professor (English), Government Degree College, District Rudraprayag.

143. Dr. Hemwant Kumar Shukla, presently working as Associate Professor (English), M. B.P.G. College, Haldwani, District Nainital.

144. Dr. Sharmila Saxena, presently working as Associate Professor (English), Government Degree College, Sitarganj, District Udham Singh Nagar.

145. Dr. Vidyashankar Sharma, presently working as Associate Professor (English), Government Degree College, Garud, District Bageshwar.

146. Dr. Seema Srivastava, presently working as Associate Professor (Philosophy), Government Degree College, Kotdwar.

.....**Respondents**

Present: Sri S.S.Yadav, Advocate for the Petitioners
Sri Kishore Kumar, A.P.O. for the official respondents no. 1 to 4
Sri Mayank Rajan Joshi, Advocate
for the private respondents no. 6, 7 to 10, 12 to 21, 24 to 27, 29, 30,
31, 32, 33, 35 to 42, 44 to 48, 50, 52, 53 to 56, 58 to 60, 62 to 71, 72, 73
to 83, 85 to 90, 93 to 106, 108 to 124, 126 to 131, 133 to 141, 143, 144,
145 & 146.

JUDGMENT

DATED: JUNE 06, 2023

Mr. Rajeev Gupta, Vice Chairman (A)

Claim petition No. 23/NB/DB/2019 has been filed seeking the following reliefs:

“(i) To set-aside/quash the order dated 11.06.2019 passed by the respondent No. 3 (Annexure No. 1 to the claim petition) and all its related consequential effects.

(ii) To direct the respondent Nos. 1, 2 & 3 to complete the promotion proceeding on the post of professor of each subject strictly according to UGC Regulations, 2010 and its amendments of year 2016 and 2018. After recommendation of the candidates recommended by the committee (thereafter eligible candidate should be called for interview).

(iii) To direct the respondent No. 3 to re-advertise and reprocess as per norms of UGC regulation 2010 and its amendments of year 2016 and 2018.

(iv) To pass any other suitable order as this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.

(v) To award the cost of the petition in favour of the applicants. ”

2. This claim petition came up for the first time before the Bench on 19.06.2019 and on the same date, the respondents passed another order dated 19.06.2019 by which order dated 11.06.2019 has been enforced after making some amendment regarding para-3 of that order. Therefore, petitioners approached this Tribunal again against the order dated 19.06.2019 by filing claim petition no. 25/NB/DB/2019 seeking the following reliefs:

“(i) To set-aside/quash the impugned order dated 19.06.2019 passed by the respondent No. 1 (Annexure No. 1 to the claim petition) and all its related consequential effects.

(ii) To direct the respondent Nos. 1, 2 & 3 to not issue the appointment/posting order in favour of the private respondents situated in different Government Degree Colleges of the State of Uttarakhand.

(iii) To direct the respondent No. 3 to re-advertise and reprocess as per norms of UGC regulation 2010 and its amendments of year 2016 and 2018.

(iv) To pass any other suitable order as this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.

(v) To award the cost of the petition in favour of the applicants. ”

3. The controversy involved in both the claim petitions is the same, therefore, both the petitions have been heard together and are being disposed of by a common judgment. As the claim petition no. 25/NB/DB/2019 challenges the impugned order dated 19.06.2019 as well, the same shall be the leading case for the purpose of the judgment.

4. Both the petitioners and private respondents are/have been Associate Professors in Govt. Degree Colleges/Post Graduate Colleges and respondents no. 6 & 7 have been placed in the Directorate of Higher Education, Uttarakhand as Incharge Director and Deputy Director, during the period of controversy.

5. Brief facts of the case according to the claim petitions are as below:

5.1 Earlier, there were no posts of Professors in the Govt. Degree/Postgraduate Colleges (hereinafter referred to as 'Govt. Colleges'). Ministry of Human Resource Development, Govt. of India *vide* their circular dated 31.12.2008, on the basis of recommendations of the University Grants Commission (U.G.C.), sanctioned revised pay scales for the Professors of Universities and Degree Colleges which was implemented in the State *vide* G.O. dated 11.11.2009. The U.G.C. *vide* Circular Dated 30.06.2010 issued detailed Guidelines for implementation of Career Advancement Scheme (CAS) for the Professors of Universities and Degree Colleges. The Govt. of Uttarakhand took the decision to implement the CAS, 2010 in the Universities and Govt./aided Colleges according to G.O. dated 28.05.2013. According to this G.O., additional posts of Associate Professors/Professors will not be created under this scheme and the posts of Lecturers which have been renamed as Assistant Professor *vide* G.O. dated 11.11.2009 will be designated as Associate Professor/Professor on personal promotion after fulfilling the prescribed eligibility. The seniority will not be affected after getting the designation of Associate Professor/Professors. Para-2 of this G.O. dated 28.05.2013 *provided* that as the post of Professor is not created in Govt. and aided colleges, therefore, under CAS, 2010, out of the total number of posts of Associate Professors in every department, for granting the designation of Professor to one Associate Professor according to the prescribed standard of U.G.C., classification of required number of posts will be done by the Director of Higher Education for which additional posts will not be created. Para 3 of this G.O. states that there is no separate cadre for the administrative work of higher education in the State and in the Directorate of Higher Education and Camp Office, the posts of Joint Director/Deputy Director/Assistant Director are filled from the posts of Lecturers only. The Lecturers appointed on administrative posts cannot be expected to obtain minimum marks under the Academic Performance Indicators (A.P.I.) prescribed by the U.G.C. by participating in the teaching, research and extra-curricular activities. Therefore, for the

period of service rendered on the administrative posts, for awarding minimum marks on notional basis under the A.P.I. prescribed by U.G.C., exemption shall be given to such persons from the condition of evaluation.

5.2 The Director requested *vide* letter dated 30.09.2016 addressed to all Principals of Govt. Colleges asking for applications from candidates having the qualifications according to G.O. dated 28.05.2013 till 15.10.2016. *Vide* letter dated 17.11.2016, this date was extended till December, 2016.

5.3 The U.G.C. on 06.12.2001 had notified Regulations known as Career Advancement Scheme, 2001 whose clause-10 was regarding the promotion to the post of Professor.

5.4 The Director Higher Education *vide* letter dated 14.12.2017 asked the Principals of all the Govt. Colleges in which it was *provided* that Associate Professor who is eligible on 30.06.2010 will be considered on the basis of A.P.I. of one year, the Associate Professors who are eligible on 30.06.2011 and 30.06.2012 will submit the A.P.I. of 2 and 3 years respectively according to the G.O. dated 28.05.2013. It has been further stated that the Associate Professors eligible between 01.01.2009 to 30.06.2010 will submit their applications as per directions of U.G.C. Regulations dated 06.12.2001. Thus the official respondents have two sets of Associate Professors of one cadre-one eligible between 01.01.2009 to 30.06.2010 who shall submit application based on the U.G.C. Regulations 2001 and the other set of all Associate Professors eligible after 30.06.2010 who shall submit applications according to UGC Regulations, 2010. Prior to 30.06.2010, the post of Professors in the Govt. Colleges and the Directorate of Higher Education were not created. The relaxation of A.P.I. given to the teachers working in the department at the office of Secretariat and Directorate was also not fair and liable to be quashed.

5.5 Uttarakhand has 113 Govt. degree Colleges and in Colleges the post of Principal is created. There are so many Principals, who are not Ph.D. degree holders but are promoted to the post of Principal and given the designation of Professor by following U.P. Govt. Order for exemption of

Principals from API for Professorship. Hon'ble Governor of U.P. was pleased to exempt Assistant and Associate Professors from A.P.I. till December 2015 on the basis of problems being faced by the teachers in Govt. Degree Colleges in U.P. The petitioners are also entitled for the same benefit in Uttarakhand, but relaxation from API is being denied to them.

5.6 The U.G.C. in February, 2018 notified UGC Regulations, 2018 which proposes relaxation in API.

5.7 The Incharge Director Higher Education, Dr. Savita Mohan who was herself a candidate in the impugned selection process further passed the order dated 24.04.2018 which gave favour and relaxation to the Associate Professors who are eligible prior to 30.06.2010 but their compulsory publication is completed after 29.06.2010 making them eligible to move applications as per the conditions of G.O. dated 28.05.2013.

5.8 Dr. Savita Mohan as Incharge Director, Higher Education also chaired meeting of the Screening Committee while she was herself a candidate.

5.9 The interviews were scheduled from 11.05.2018 to 16.05.2018 in which there were many lacunae, as mentioned in the body of the claim petition.

5.10 The list prepared by the Directorate for the interview was not placed on the website of the department nor any candidate had been invited individually. While such list should have been published either in newspaper or on the website or the candidates should have been called individually.

5.11 The petitioners are suitable candidates but they could not submit their applications as per U.G.C. guidelines. If the relaxation, as given to certain persons is also given to them, they are fully qualified and deserve to be called for interview.

5.12 A Committee was constituted on 23.04.2018 under the Chairmanship of Dr. Savita Mohan in which Dr. Kamal Pandey, G.S.

Rajwar and Dr. V.N. Sharma and Dr. Govind Pathak were members. Thereafter, the dates for interviews were scheduled and except Dr. Govind Pathak, all other members of this committee appeared as candidates in the interview proceedings between 11.05.2018 to 16.05.2018. Thus, the private respondents on the one hand, participated in the selection committee prior to scheduling date of interview and on the other hand, they participated as candidates for Professorship in the interviews except Dr. G.S. Pathak who is an Assistant Professor. He was made member of the recruitment committee of Professors which is not permissible under law.

5.13 The impugned G.O. dated 11.06.2019 was issued by the respondent no. 2 and on the same date, respondent no. 9 who was himself a candidate, whose name was standing at sl. no. 85, has issued list to all Principals for execution, while the impugned order dated 11.06.2019 had approved the promotions with the condition under para 3 thereof that Director, Higher Education shall again certify/examine that the concerned candidates had fulfilled all qualifications under the existing Rules/G.Os. and for any difference/anomaly, the whole responsibility shall be of Director, Higher Education. This letter of respondent no. 9 was stayed by the Director. However, the Govt. again issued an order on 19.06.2009 in which para 3 of the G.O. dated 11.06.2009 was fully abolished. The order dated 19.06.2019 is silent whether it has been passed after taking approval of His Excellency the Governor.

5.14 There are many Associate Professors whose names figure in the G.O. dated 11.06.2019 who were not fulfilling the requirement of Professorship as per UGC Guidelines, 2010, but even then they are going to be promoted on the post of Professor so the whole exercise is required to be quashed and fresh selection to be done.

5.15 One major requirement for promotion on the post of Professor is to have minimum 03 publications under UGC Regulations 2001 and 05 publications under Regulations, 2010. These publications should be published in the journals bearing ISSN or books bearing ISBN numbers and should be listed in UGC Regulations. Many candidates declared as

successful in the list of the Government do not fulfil the above mentioned qualifications. Some of such candidates like candidate situated at Sl. No. 48 named Dr. Satpal Sahni (Commerce), Sl. No. 61 named as Dr. Mahima Joshi (Geography), Sl. No. 71 named as Bijendra Prasad Uniyal (Economics), Sl. No. 74 named as Dr. K. L Talwad (Economics), Sl. No. 85 named as Dr. Brijmohar Harbola (Political Science), Sl. No. 100 named as Avnindra Kumar Joshi (History), Sl. No. 119 named as Nand Kishor Dhaundiya (Hindi) and Sl. No. 129 named as Dr. Abha Sharma (Sanskrit), who have presented their publications for interview and got selected as successful candidates, however their publications have no ISSN or ISBN numbers.

5.16 The next contention against the promotion order dated 11.06.2019 is that U.G.C. Regulations, 2010 provide the exercise to be started before 06 months and the candidates should submit their research and relevant papers before 06 months so that the research papers should be referred before three subject Experts for evaluation and after positive evaluation of the research papers then only the candidates will be invited for interview, but this exercise has been totally overlooked.

5.17. The petitioners have further contended that during interview between 11.05.2018 to 16.05.2018, some of Associate Professors have made their signatures on the attendance register for interview and some of them have been shown as present and some as absent. In the result dated 11.06.2019, the candidates, who have been shown as present, but have not made their signatures, such act creates a doubt of their presence. If they were present what was the reason that they have not made their signatures on the attendance register.

5.18 The petitioners have also contended that they had challenged the promotion process and had approached Hon'ble High Court and the Hon'ble High Court had directed to complete selection of Professors strictly in accordance with U.G.C. Regulations, 2010 but the same was not done and the result dated 11.06.2019 has been issued. Further, para 3 of the result dated 11.06.2019 has been removed without the approval of the

Hon'ble Governor and *vide* G.O. dated 19.06.2019 the result has been declared.

Hence the claim petitions.

6. Counter Affidavits have been filed on behalf of the official respondents and many private respondents denying the averments of the claim petitions and upholding the selection process, against which, R.As. have been filed on behalf of the petitioners.

7. This Tribunal desired certain clarifications from the parties *vide* its order dated 31.05.2022 which is reproduced as below:

“On perusal of the files (Claim Petition No. 23/NB/DB/2019 and 25/NB/DB/2019), the Tribunal desires clarifications on the following points:

- (i) How was the personal promotion to the post of Professor permissible in Govt. Colleges on 01.01.2009 when the same was not prescribed for Govt. Colleges in UGC Guidelines and Govt. Orders existing prior to the UGC Guidelines of 2010?
- (ii) The Counter Affidavit of Dr. B.R. Pant filed in Claim petition No. 25/NB/DB/2019 filed on behalf of many private respondents states the following:

“12. That the Government *vide* Government Order dated amended the G.O. dated 28/05/2013 bearing number 1479(1)/XXIV(7)/2013-45(4)/11, to the extent that the relaxations provided to the candidates for working at Directorate in various capacity was set aside.

13. That the Director, Higher Education, thereafter invited applications from the Associate Professors for the promotion to the post of Professor on numerous occasions and thereafter the list for the dates of interview was published.”

However, the Govt. Order which amended the G.O. dated 28.05.2013 bearing no. 1479(1) has not been filed/produced nor its date has been mentioned. Copy of this G.O. may be produced.

- (iii) What was the action taken by the Govt./Directorate on the orders of the Hon'ble High Court dated 20.06.2018 in Writ Petition No. 250(S/B) of 2018? Copies of the relevant notings/decisions may also be filed.

- (iv) What was the role of the Screening Committee which held its meeting in April 2018? Who participated in it? Some members of this committee have submitted withdrawal applications from the same on the ground that they are themselves candidates.
- (v) When were the meetings of the Screening Committees held for each subject and what was the composition of those Committees?
- (vi) Were call letters for interviews between 11.05.2018 to 16.05.2018 properly issued as had been done for promotion to the post of Associate Professor?
- (vii) Why clause no. 3 in G.O. date 11.06.2019 which required the Director, Higher Education to ensure/examine the qualifications of selected candidates introduced in this G.O.? Then why this clause was removed *vide* G.O. dated 19.06.2019? Copies of the relevant notings of the concerned file of the Govt. may also be filed.
- (viii) Could Incharge Director, who was of the level of Associate Professor and was herself a candidate for professorship in Hindi, chair the selection committees for Professors of other subjects? Could the Deputy Director, Education chair the selection committee for Professorship in Hindi subject in which the Incharge Director, Dr. Sarita Mohan was herself a candidate?
- (ix) Counter Affidavits filed by the private respondents state that no relaxation of any kind in API was given to the candidates promoted *vide* order dated 11.06.2019 even though they were working in the Directorate. Was this done prior to the Hon'ble High Court's order dated 20.06.2018 or was it done subsequently?
- (x) Arguments for and against the *locus standi* of the petitioners.

Parties may file relevant documents and averments regarding the above along with affidavits on or before 30.06.2022.

List on 30.06.2022.

Let a copy of this order be uploaded on the website of the Tribunal.”

8. The petitioners have filed R.A. on 07.07.2022 stating that U.G.C. Regulations, 2010, was adopted by the State Govt. *vide* G.O. dated

28.05.2013. In para 2 of this G.O., it has been clearly mentioned that the post of Professor did not exist in Govt. and aided colleges prior to adoption of these Regulations. This G.O. requires the concerned authorities to act according to the direction of UGC Regulations, 2010 for promotion to the post of Professor. The Hon'ble High Court in its judgment passed in Writ Petition No. 250 (S/B) of 2016 Rajendra Singh Bhakuni & others vs. State & others has clearly observed that if there is any discrepancy in the G.O. *vis-a-vis* U.G.C. Regulations, the U.G.C. Regulations will prevail. The State Govt. has no power to amend the Regulations of U.G.C.

8.1 It is further submitted that the UGC regulation 2010 was implemented from June 30, 2010. Prior to this regulation there was no provision or regulation for the post of Professor in the government Degree or Aided Colleges. To *provide* advantage to certain candidates the respondent no-2 used UGC Regulation 2001 to evaluate the candidates and *provide* them the post of Professorship from 01-01-2009. It is important to note here that the UGC Regulations 2001 categorically provide regulation for the appointment to the post of Professor in University and not in Degree Colleges.

8.2 The Hon'ble High Court in its order dated 20-06- 2018 passed in Writ Petition No 250 (S/B) of 2018 had set aside the whole selection process and subsequent Government Order passed in the process and had asked the respondent no. no. 2 to start a fresh process. The respondent no. 2 instead of starting fresh selection process and also in the contravention to the spirit of judgement of the Hon'ble High Court, proceeded further on the quashed selection process giving frivolous arguments.

8.3 According the UGC Regulations, 2010, personal call letters should have been issued to the candidates appearing for the interview. It is irresponsible action on the part of the respondent no. 2 not to issue personal letters to eligible candidates. This shows that whole process was held in haste and proper procedures were not followed. Regarding the averments in C.A. of respondent no. 2 that a Professor need not always be the Chairman of Selection Committee and that in A.M.U., a retired Army Personnel who

was Vice Chancellor of the AMU was the Chairman of Selection Committee, this affidavit says that this example does not apply in the present case as in Govt. Colleges, the UGC Regulations are strictly followed according to which, the post of Vice Chancellor can be held only by a person who holds experience of 15 years as Professor.

9. Supplementary C.A. has been filed on 03.08.2022 on behalf of the respondents no. 1 & 2 in response to the clarifications sought in this Tribunal's order dated 31.05.2022. This Supplementary Affidavit briefly states as below:

(a) Regarding the point no. (i), it has been stated that in Higher Education Department, the designations/posts and pay scales are given by the State Govt. on the basis of Notification issued by the Ministry of Human Resource Development, Govt of India (MHRD). The U.G.C. Regulations are meant only for regulation of minimum qualifications for appointments of teachers in Universities and Colleges and measures for the maintenance of standards in higher education and not for the departmental structure/designation of the posts etc. Through these Regulations, U.G.C. just provides procedure of appointment/promotion and qualifications for the posts for direct recruitment/promotion etc.

MHRD *vide* its letter dated 31.12.2008 approved three designations namely, Assistant Professor, Associate Professor and Professor in Universities and Colleges and made this scheme effective from 01.01.2006. Adopting the Notification dated 31.12.2008 of MHRD, the Govt. of Uttarakhand *vide* G.O. dated 11.11.2009 create/approved the posts of Associate Professor from 01.01.2006.

Further, the posts of Professor for Government and Aided Colleges of Uttarakhand State were created /approved by the Uttarakhand Government from 01.01.2009 *vide* G.O. No. 139/XXIV(4)/2016-01(09)/2016 dated 11.08.2016 and 312/XXIV(4)/2016-01(09)/2016 dated 28.09.2016. At Para 5 of G.O. dated 11.08.2016 and para 2 of the G.O. dated 28.09.2016, it is clearly stated that since the Sixth Commission Pay Scale is applicable from 01.01.2006 the Promotion to

the post of Professor could not be given before 01.01.2009. Accordingly, the Government provided the promotion to the post of Professor from 01.01.2009 to the eligible Associate Professors.

(b) In regard to point no. (ii), it is submitted that, *vide* clause 3 of GO dated 28 May 2013 relaxation in API scoring has been given to such Associate Professors who were working in different administrative capacities at Directorate or Camp Office as Joint Director/Deputy Director/ Assistant Director. Further *vide* G.O. dated 28 September 2016 certain amendments has been done through para no 2 to 4 of the said GO. Para 3 of the said GO says that, "since the posts of Professor are limited hence all the Associate Professors cannot be promoted. The promotional exercise may be done in accordance with subject wise seniority and para 3 of the Govt order dated 28 May 2013. If the senior most Associate Professor is not eligible then next senior Associate Professor will be considered for promotion." It is worth mentioning that, due direction has been issued to Manager/Principal of the all Govt. Aided Colleges by Director Higher Education *vide* letter no Degree Arth/ Prof. Pad/ 9338/2017-18 dated 12 October 2017 and letter no Degree- Sewa 1/ 12158-75/2017-18 dated 15 Dec. 2017 for the Career Advancement process for the post of Professor in Govt. Aided Colleges.

Further, *vide* order dated 14 June 2018 in WP 22 (SB)/2018, Dr. Prashant Singh and Others vs State of Uttarakhand and others, Hon'ble High Court quashed and set aside clause 3 of the Government Oder dated 28 September 2016 along with all consequential orders dated 12.10.2017 (Annexure No 5) and 15.12.2017 (Annexure No 8). In due compliance of the said order dated 14 June 2018 of Hon'ble Court in writ petition no 22 (SB)/2018, clause 3 of the GO dated 28 September 2016 has been cancelled *vide* GO dated 03 August 2018.

(c) In regard to point no. (iii), it is submitted that, on 20.06.2018 the Hon'ble High Court disposed off the W.P. No. 250 (S/B) of 2018 in terms of the judgment rendered by the Court in WPSB No.22 of 2018 Dr. Prashant & Ors. v. State & Ors. on 14.06.2018. The said order dated

20 June, 2018 passed in WP-250(SB) of 2018 was intimated to Joint Secretary, Higher Education for needful action *vide* letter no. Vidhi/201/WP-52/2018 dated 06 July, 2018. In pursuance of this, Govt. has taken due course of action to comply with order of Hon'ble Court which reflects in notings. Clause 3 of the Government Order dated 28.09.2016 is quashed and set aside along with all consequential orders. Respondents were directed to initiate and complete the selection process for filling up the post of Professor strictly as per University Grants Commission norms adopted by the Government, within a period of ten weeks.

Accordingly, in response to the Hon'ble High Court's Orders in WPSB No.22 of 2018, dated 14.06.2018 and WP No. 250 SB of 2018 dated 20.06.2018, the Government cancelled/ deleted clause 3 of the G.O. dated 28.09.2016 (as directed by the Hon'ble High Court) *vide* G.O. dated 03.08.2018.

After deleting the clause 3 of G.O. dated 28.09.2016 (as directed by the Hon'ble High Court), the promotional procedure of the Professors was to be carried out under para 6.5.0 of the U.G.C. Regulations, 2010. Clause 6.5.2 provides that in case the number of candidates available is less than three times the number of vacancies, the zone of consideration will be limited to the actual number of candidates available.

After deleting the Clause 3 of the G.O. dated 28.09.2016, on 20.08.2018 a meeting was held at Directorate of Higher Education, to reconsider the proposed Promotion List of Professors dated 01.06.2018 and it was decided that the said order passed by the High Court has not adversely affected the action taken by the Directorate, because the number of applications for promotion to the post of Professor received in various subjects was less than three times the number of available posts.

Thus the process of promotion to the post of Professor was done strictly according to the UGC Regulations, 2010, as directed by the Hon'ble

High Court in WPSB No.22 of 2018, *vide* order dated 14.06.2018 and WPSB No. 250 of 2018, *vide* order dated 20.06.2018.

(d) In regard to point no.(iv), it is submitted that the Committee which held its meeting in April 2018, was not a Screening/Selection Committee. The Directorate of Higher Education framed an internal Committee for scrutinizing the Application forms received for promotion to the post of Professorship *vide* Order no. 88-91 dated 05.04.2018 and Order No. 487-90 dated 18.04.2018. The Committee which held its meeting on 23.04.2018 was a routine departmental committee headed by Dr. Savita Mohan, In-Charge Director Higher Education. The other members of the Committee were, Dr. Kamal Pandey, Deputy Director of Higher Education, Dr. G. S. Rajwar, Principal Govt. P.G. College Agastmuni, Rudraprayag, Dr. V. N. Sharma, Principal Govt. College, Hawki Devi, Tehri, Dr. Govind Pathak, Associate Professor, M.B.P.G. College, Haldwani. In this meeting certain decisions were taken about how to conduct the process of promotion to the post of Professor.

(e) In regard to point no. (v), it is submitted that the G.O. dated 28-05.2013 adopted the UGC Regulation, 2010 for promotion under Career Advancement Scheme, Clause B of the G.O. *provided* the composition of the Screening cum Evaluation Committee for Government Colleges as under:

(1) Director of Higher Education - Chairman

(2) Two experts of the subject to be nominated by the Vice- Chancellor among whom one shall be from the University and one from the Govt. colleges - Member

(3) One nominee of Director of Higher Education (not below the rank of Principal of a Post Graduate College) - Member

(4) Principal of the college - Member

The quorum for above committees in all categories shall be three including the one subject expert.

Further, it is pertinent to mention that the meeting of the Screening cum Evaluation Committee for the post of Professor was held from 11.05.2018 to 16.05.2018 at Directorate of Higher Education, Haldwani, Nainital as follows:

- i. Zoology, Botany, Geology, Statics-on 11.05.2018
- ii. Chemistry, Physics, Math, Commerce - on 12.05.2018
- iii. Geography, Economics, Home Science, B.Ed., Military Science-on 14.05.2018
- iv. Political Science, Sociology, History, Education, Psychology - on 15.05.2018
- v. Hindi, Sanskrit, English, Physical Education, Philosophy - On 16.05.2018

(f) In regard to point no.(vi), it is submitted that, the interviews for the promotion to the post of Professor were held from 11.05.2018 to 16.05.2018 at Directorate of Higher Education. Personal call letters were not issued to the candidates for appearing in the interview, because all the candidates filled their Application Form for the promotion to the post of Professor (API form) through the Principals of the respective Colleges. A common letter bearing No. Degree Seva 1/976/2018-19, dated 07.05.2018, mentioning the subject wise interview date was issued to all Principals of the Govt. Colleges with the direction that they should immediately inform all the subordinate teachers who applied for promotion to the post of Professor.

(g) In regard to the point no.(vii), it is submitted that, Clause 3 of the G.O. dated 11.06.2019 provided that the Director, Higher Education should again ensure that all the qualifications under the existing rules have been fulfilled by the applicant. If any discrepancy is found, all the responsibility will be of the Director.

On 14.06.2019 the Director, Higher Education expressed his objection to Clause 3 of the G.O. dated 11.06.2019 and suggested to delete this provision. The Director of Higher Education informed to the Government that the proposal for promotion has been submitted on the basis of the recommendations of the duly constituted Screening cum Evaluation Committee as per G.O. dated 28-05.2013.

The promotion to the post of Professor is recommended only by Screening cum Evaluation Committee constituted as per G.O. dated 28-05.2013. The power to verify/evaluate the documents and API Score secured by the candidate is vested only in the Screening cum Evaluation Committee. The Director has no power to verify/evaluate again the documents after the recommendations given by the Screening cum Evaluation Committee under the G.O. dated 28-05.2013.

That's why the then Director of Higher Education informed to the Government and suggested to delete this provision. Accordingly, the Government deleted Clause 3 of the G.O. dated 11.06.2019 *vide* G.O. 19.06.2019. A true and typed photocopy of the relevant pages of the G.O. dated 11.06.2019, relevant page of Noting and G.O. No. 898/XXIV(4)/2019-01(09)/2016TC dated 19.06.2019 are being filed and marked as Annexure SCA-8 to this affidavit.

(h) In regard to point no. (viii), it is submitted that, under the UGC Regulation, 2010 or UGC Regulation, 2018 it is not necessary that the Chairman of the Selection Committee will be the professor. Dr. Savita Mohan held the Office of Director, Higher Education from 02.02.2018 to 30.06.2018 being the then in-charge Director of higher Education, she chaired the Selection Committee under Clause 'B' of G.O. dated 28-05.2013. Professorship is not a mandatory requirement for appointment of Director, Joint Director and Principal of Degree Colleges of Higher Education

under the Uttaranchal Higher Education (Group 'A') Service Rule, 2003. Clause B of the G.O. dated 28-05.2013 provided that the Director of Higher Education will be the chairman of the selection committee. Though Dr. Savita Mohan was not designated as Professor but she chaired the selection Committee in capacity of In-charge Director of Higher Education under Clause 'B' of G.O. No. 1479/XXIV(7)/2013-45(4)11 dated 28-05.2013. Even it is not necessary under the UGC Regulations, 2010 or UGC Regulations, 2018 that the chairman of the Selection Committee will be the professor. For example regulation 6.3.5.1 of the UGC Regulations, 2010 provided that for University teachers, the Vice Chancellor is the Chairperson of the Selection Committee for Professor. Regulation 5.0 III and IV of the UGC Regulations, 2018 provided that For University teachers the Vice Chancellor is the Chairperson of the Selection Committee for Professor and Senior Professor. It is well known fact that in many universities, the Vice-Chancellors were not Professors, but from an Administrative department or from any other department. For example during 2012 to 2017 Lt. Gen. Zameer Uddin Shah held the office of Vice Chancellor of Aligarh Muslim University. He is Retired Army Personal, not a Professor. If one can see the list of Vice Chancellors of the AMU (most of the Vice Chancellors of the AMU were not Professor), it can be easily understood that it is not necessary to be a Professor to be the Chairman of the Selection Committee for Career Advancement Scheme under UGC Regulation.

Furthermore, it is pertinent to mention that because Dr. Savita Mohan herself was a candidate for Professor in Hindi, there could be a possibility of bias in her favour. But, if one can look at the list of the promoted candidates, then it will be understood that in what transparent manner the process of promotion was done by the State Government. Because the then Director, Dr. Savita Mohan herself did not fulfil the UGC requirement for promotion

to the post of Professor, she was also not promoted by the State Government. It is a best example of the maxim "*justice must not only be done, but must also be seen to be done*". So it is clear that in the process of promotion there was no favouritism towards Dr. Savita Mohan and the State Government followed all the principles of Administrative law.

- (i) In regard to point no. (ix), it is to be informed that the decision of not giving relaxation in the API, to those who were working in the Directorate of Higher Education, was taken after the Hon'ble High Court's Order Dated 20.06.2018 by the Government. In its meeting held on 26.06.2018 in the chairmanship of Additional Chief Secretary, Higher education, the Government considered the judgment rendered by the Hon'ble High Court in WPSB No.22 of 2018 Dr. Prashant & Ors. v. State & Ors on 14.06.2018 (On 20.06.2018 the Hon'ble High Court disposed off the Writ Petition No. 250 of 2018 in terms of the WPSB No. 22 of 2018) and it was decided that no relaxation will be given in the API rules framed under UGC Regulation, 2010. Accordingly those who were working in the Directorate of Higher Education and who did not fulfil the UGC API were not given promotions.

It is pertinent to mention that the UGC circulated a public notice bearing No. F. No. 9- 1/20109(PS)/(Misc) dated 05.09.2018 in which it is *provided* that for the purpose of calculating API score all such periods of duration which have been spent by the teacher on different kinds of paid leaves and Deputation shall be excluded from the grading assessment. The teacher on such leave or deputation shall not be put to any disadvantage for promotion under CAS due to his/her absence from his/her teaching responsibility. The Uttarakhand Government adopted the UGC Public Notice *vide* G. O. dated 05.11.2020 and G.O. dated 29.09.2021. Accordingly after the clarification and exemption given by the UGC, and by adopting the provision of this exemption, the teachers working in the Directorate of Higher

Education or deputed in other departments have now been promoted by the Government as per public notice bearing No. F. No. 9-1/20109(PS)/(Misc) dated 05.09.2018.

10. Supplementary R.A. has been filed on behalf of the petitioners on 17.09.2022 stating that the U.G.C. Regulations, 2010 were implemented from 30.06.2010 and adopted by the State Govt. *vide* G.O. dated 28.05.2013. Prior to these Regulations, there was no provision for promotion to the post of Professor in Govt. Degree/Aided colleges. Therefore, even if, some candidates were to be given the post of Professor from 01.01.2009 they were to be evaluated on the basis of UGC Regulations, 2010.

10.1 To provide advantage to certain candidates the respondent no. -2 used G.O.-4078/MHRD-2001-2(163) dated 6th Dec, 2001 to evaluate the candidates and provide them the post of professor from 1-1-2009. It is important to note here that the G.O.-4078/MHRD- 2001-2(163) dated 6th Dec. 2001 categorically provided regulation for the appointment to the post of professor in University and not in Degree Colleges.

10.2 The Hon'ble High Court in its order in WP No. 250 S/B of 2018 dated 20-06-2018 had set aside the whole selection process and had asked the respondent No. 2 start a fresh process. The respondent No. 2 instead of quashing the subsequent order and starting fresh selection process and also in contravention to the spirit of Judgment of the Hon'ble High Court, proceeded further on the quashed government orders and selection process giving frivolous arguments. For the sake of clarity, it is necessary to point out that the respondent No. 1 had deleted the clause - 3 of the G.O. dated 28 Sept. 2016. But consequential order dated 12-10-2017 and 15-12-2017 were not cancelled on the basis of the above dated letter the list of candidates that was shortlisted on the basis of the impugned interview was ultimately finalized giving frivolous arguments which was in contravention to the order of the Hon'ble High Court.

10.3 The official respondents are now arguing that the meeting held in April 2018 was not a Screening/Selection Committee but was a routine

meeting. While in the para- 27 of the Counter Affidavit dated 2nd January 2020, the respondent submitted this meeting as Screening Committee (Annexure No. CA 8 of the C.A. dated 2nd January, 2020). Again another Screening Committee was constituted *vide* letter dated Degree Seva/1487-90/2018- 19, dated 18th April 2018. It is submitted in para -27 of the counter affidavit dated 2nd January 2020 that four members of the second committee recused themselves from the responsibility giving the plea that they are themselves the applicants, so it will be improper for them to do the confidential work related to professorship. The meeting that was held was not a similar committee but it was screening evaluation committee. Thus the respondents' statements are contradictory and are trying to mislead the Court.

10.4 According to the U.G.C. Regulations, 2010, personal call letters should have been issued to the candidates appearing for the interview. It is irresponsible action on the part of the respondent no-1 not to issue letters to eligible candidates. This shows that whole process was held in haste and proper procedures were not followed. Due to this many candidates were unable to appear in the process. For example Petitioner No-2 was not communicated as he was on deputation at Uttarakhand Academy of Administration Nainital. The letters were directed only to Principals of Govt. Degree Colleges.

The G.O. dated 11.06.2019 was sanctioned by his Excellency the Governor of Uttarakhand while G.O. dated 19.06.2019 was approved by the Principal Secretary and not by his Excellency, the Governor of Uttarakhand, according to the relevant noting annexed with Supplementary C.A. as SCA-8. Thus it was not approved by the competent authority.

10.5 The case of the retired Army Personnel being Vice Chancellor of AMU had been challenged before the Hon'ble Supreme Court and the Hon'ble Supreme Court made the following observations:

“You (AMU) are a central university. U.G.C. Regulation apply to you as they are mandatory. The V.C. must be an academician and he should be a person who has worked for at least 10 years as a professor in a university. If every other central university follows the Regulation why

can't AMU? why to appoint a former army officer? We are not questioning his abilities. We are on the question whether his appointment is as per the U.G.C. Regulations”.

10.6 This shows that the respondents are trying to prove their case cite examples on dubious credentials which are not sustainable in the eye of law. AMU is an autonomous central university and this example does not apply to this case as in Government Colleges the Regulation of the U.G.C. is strictly followed and in U.G.C. Regulation the post of Vice Chancellor can be held only by the person who holds an experience of 10 years as a Professor. More over there has been no instance to cite where the chairman of the selection committee was himself/herself the candidate for selection process. It is illegal to allow a person who is himself a candidate in the selection process to chair the Selection Committee. The respondent is trying to cover this illegal act by saying that the chairman of the committee could not succeed in the selection process hence the process was transparent. This point cannot hide the illegality of the above act.

10.7 According to U.G.C. Regulation 2010 eligibility criteria for the post of professor was as follows- 1- Minimum 3 year service as Associate Professor 2-Five Publications 3- Minimum A.P.I. U.G.C. public notice letter No. 9-1/20109 (PS)/(MISC) dated 05-09-2018 which is adopted by the Uttarakhand Government through G.O. dated 05-11-2020, relaxed the third eligibility condition i.e. minimum API and not the five publications. Dr. V.N. Sharma and Dr. Y. Prasad (para-4 No.-1043/XXIV-C-4/2021-01(09)/2016 TC) have been promoted in violation of U.G.C. public notice and Uttarakhand adoption G.O. letter No. -9- 1/20109(PS)/(MISC) dated 05-09-2018.

11. During hearing on 18.11.2022, Sri Mayank Rajan Joshi, learned Counsel for the private respondents no. No. 6, 7 to 10, 12 to 21,24 to 27, 29, 30, 31,32, 33, 35 to 42, 44 to 48, 50, 52,53 to 56, 58 to 60, 62 to 71, 72,73 to 83, 85 to 90, 93 to 106, 108 to 124, 126 to 131, 133 to 141, 143, 144, 145 & 146 sought and was granted time to go through the affidavit filed by learned A.P.O. and Supplementary R.A. filed on behalf of the petitioners and to make his submissions. Sri Mayank Rajan Joshi, kept on seeking time

and during hearing on 22.03.2023, he submitted that he has got copy of the Supplementary R.A. only on that day and he will file written arguments within a week, which shall be his final submission and, on that date, judgment was reserved. However, Sri Mayank Rajan Joshi has not filed any written arguments so far, despite many telephonic reminders to him by the Court Assistant.

12. The Tribunal observes the following:

(i) Arguments have been raised against the *locus standi* of the petitioners, inasmuch as, they were not fulfilling the requirement of UGC Regulations 2010 and, therefore, could not apply for personal promotion to the post of Professors in the impugned selection process. The contention of the petitioners is that they were demanding relaxation, as has been given to the Principals of Colleges from API for Professorship and exemption as has been given to their counterparts in API till December 2015 in U.P. by Hon'ble Governor of U.P., on the basis of problems being faced by the teachers in Government Degree Colleges and petitioners' demand is also that since the UGC in February 2018 had notified UGC Regulations 2018, the whole process should have started again after readvertisement as per latest UGC Regulations, more so, when the Hon'ble High Court in its judgment dated 14.06.2018 passed in W.P. (S/B) No. 22 of 2018 had directed the initiation and completion of the selection process of filling up the posts of Professor strictly as per the UGC norms, adopted by the State Govt. W.P. (S/B) No. 250 of 2018 which was filed by the petitioner no.1 of this claim petition was also disposed of by Hon'ble High Court *vide* its order dated 20.06.2018 in terms of the judgment rendered in WP (S/B) No. 22 of 2018. Keeping in view the relief sought in the claim petitions, the Tribunal holds that the petitioners had *locus standi* in the matter.

(ii) The contention of the claim petitioners is that according to the above orders of Hon'ble High Court, the whole process of selection should have been started afresh and the respondents are giving frivolous arguments to uphold the selection on the basis of interviews held between 11.05.2018 to 11.05.2018 and such act has been in contravention of the orders of

Hon'ble High Court. The contention of the official respondents in this regard is mentioned in para 9(c) of this judgment, in which, it has been mentioned that according to the orders of Hon'ble High Court, the Govt. cancelled/deleted Clause-3 of the G.O. dated 28.09.2016 *vide* G.O. dated 03.08.2018 and it has been further mentioned that the promotional procedure of the Professors was to be carried out under para 6.5.0 of the UGC Regulations, 2010. Para 6.5.2 of the UGC Regulations, 2010 provides that in case number of candidates available is less than three times the number of vacancies, the zone of consideration will be limited to the actual number of candidates available. A meeting was held on 20.08.2018 at Directorate of Higher Education, to reconsider the proposed promotion list of Professors dated 01.06.2018 and it was decided that the said order passed by the Hon'ble High Court has not adversely affected the action taken by the Directorate, because the number of applications for promotion to the post of Professor received in various subjects was less than three times the number of available posts. Thus the process of promotion to the post of Professor was done strictly according to the UGC Regulations, 2010 as directed by the Hon'ble High Court.

The Tribunal observes that the Hon'ble High Court in its orders dated 14.06.2018 and 20.06.2018 had quashed the Clause 3 of the G.O. dated 28.09.2016 and set aside the consequential orders dated 12.10.2017 and 15.12.2017 and had directed the respondents to initiate and complete the selection process for filling up the posts of Professors strictly as per the UGC norms adopted by the State Govt. Though, the Hon'ble High Court had not quashed the earlier proceedings of interviews etc., the direction to initiate and complete the selection process required the process to be freshly initiated. If official respondents did not want to initiate a fresh process, then they should have taken care to ensure that there has been no violation of UGC norms in the earlier selection process.

(iii) The Tribunal agrees with the contention of the official respondents that promotions to the posts of Professor in the Govt. Colleges could be made *w.e.f.* 01.01.2009 onwards. However, for persons becoming eligible after 01.01.2009 and before 30.06.2010, the applicants have been given

permission to apply according to the UGC Regulations, 2001. The contention of the petitioners is that these Regulations were applicable for the posts of Professors in the Universities and not for Govt. Colleges. The Tribunal observes that as the UGC Regulations, 2010 were notified on 30.06.2010 only, the respondents were entitled to apply the earlier prevailing norms of the Career Advancement Scheme (CAS) of 2001 notified by UGC. Copy of these norms can be seen from pages no.99 to 115 of the paper book. Though these norms state that the Readers in degree and postgraduate colleges will not be eligible for the post of Professor under CAS in the Colleges, the official respondents have applied these norms to the promotion of Associate Professors of Govt. Colleges who became eligible according to these norms prior to 30.06.2010. The Tribunal observes that the State Govt. in its wisdom could apply these norms, which were applicable for promotion to the post of Professor of University for promotion to the post of Professor in Govt. Colleges to candidates who became eligible before 30.06.2010, as it had decided to promote Associate Professors of Colleges to the post of Professor from 01.01.2009 onwards. Only the strict compliance of these norms was required to have been ensured.

(iv) Para 8 of the Supplementary C.A. on behalf of the respondents no. 1 & 2 filed on 03.08.2022, is as below:

“8. That in regard to point no. (v), it is submitted that the G.O. dated 28-05.2013 adopted the UGC Regulation, 2010 for promotion under Career Advancement Scheme, Clause B of the G.O. provided the composition of the Screening cum Evaluation Committee for Government Colleges as under:

- (1) Director of Higher Education - Chairman
- (2) Two experts of the subject to be nominated by the Vice-Chancellor among whom one shall be from the University and one from the Govt. colleges - Member
- (3) One nominee of Director of Higher Education (not below the rank of Principal of a Post Graduate College) - Member
- (4) Principal of the college - Member

The quorum for above committees in all categories shall be three including the one subject expert.

Further, it is pertinent to mention that the meeting of the Screening cum Evaluation Committee for the post of Professor was held from 11.05.2018 to 16.05.2018 at Directorate of Higher Education, Haldwani, Nainital as follows:

.....

A true and typed photocopy of the subject wise Minutes of Screening sum Evaluation Committee are being filed and marked as Annexure SCA-6 (Colly) to this affidavit.”

According to the above, the Screening-cum-Evaluation Committee for Govt. Colleges was basically to be constituted at each college with Principal of the College as one of its members and Director of Higher Education as Chairman. However, copies of the minutes of the Screening-cum-Evaluation Committee, which have been filed as Annexure No. SCA-6 (colly) to this affidavit show that these meetings have been held at the Directorate of Higher Education subject-wise, in which the Principal of the College has not been included and regarding the Principal who is at point no.4, a note has been typed stating that the meeting of this Screening Committee was held in the Directorate of Higher Education and, therefore, the above sl. No. 4 was not required. The same has been written in all the proceedings of Screening-cum-Evaluation Committee meetings of all subjects. This amounts to changing the basic structure of the Screening-cum-Evaluation Committee, which is against the spirit of UGC Regulations, 2010 for promotion under CAS as adopted *vide* G.O. dated 28.05.2013. Even if, the meetings of the Screening-cum-Evaluation Committee were held at the Directorate level, the Principal of the concerned College should have been made a member of the Committee for consideration of a candidate in which such candidate was working as Associate Professor. Moreover, the process of Screening and interview has been merged together and held in great haste between 11.05.2018 to 16.05.2018.

The individual minutes of the meeting of the Committees filed as SCA-6 (Colly), mention this committee as Screening/*Chayan Samiti* (Selection Committee). The Incharge Director, who was of the level of Associate Professor chaired these Committees’ meetings except for the subject, in which she was a candidate for which committee was headed by her junior (Deputy Director, Higher Education). It is also beyond all norms

of propriety. The respondents have tried to defend it by saying that the Director, according to the UGC Regulations as adopted *vide* G.O. dated 28.05.2013 was the Chairman of the Screening-cum-Evaluation Committee and, therefore, Incharge Director was empowered to chair the Committees does not hold ground as the Director is expected to be a Professor level functionary for consideration of promotion to the posts of Professors and not any Associate Professor's level person who was working as Incharge Director. If a regular Director of Professor level was not available, the Secretary of the Govt. could have assumed the charge of Director to chair the Screening-cum-Evaluation Committee meetings himself. The respondents have further tried to justify the Incharge Director not being Professor level functionary by giving example like AMU where the Vice Chancellors have been former Army Personnel or Administrative Officers but have failed to notice that such personnel have held the pay and status of Professor and above.

(v) In the G.O. dated 11.06.2019 *vide* which result was issued, a condition was imposed in para 3 thereof that Director, Higher Education shall again examine/ensure that all the qualifications required under the existing Rules/G.Os have been fulfilled by the applicants and if any difference/anomaly is found, all the responsibility will be of the Director, Higher Education. Subsequently, this para-3 of the G.O. dated 11.06.2019 was removed *vide* G.O. dated 19.06.2019. The Tribunal *vide* its order dated 31.05.2022 had required the parties, *inter-alia*, to file relevant documents and averments regarding point no.(vii) as below:

‘Why clause no. 3 in G.O. date 11.06.2019 which required the Director, Higher Education to ensure/examine the qualifications of selected candidates introduced in this G.O.? Then why this clause was removed *vide* G.O. dated 19.06.2019? Copies of the relevant notings of the concerned file of the Govt. may also be filed.’

Regarding the above, the submission made in the Supplementary C.A. filed on behalf of the respondents no. 1 & 2, has been mentioned in para 9(g) of this judgment. In the Annexure SCA-8 of this affidavit, only

the office notings of the Govt. file from 17.06.2019 to 19.06.2019 have been given regarding the removal of this para-3 of the G.O. dated 11.06.2019 as approved by the Principal Secretary, Higher Education. The copies of the earlier notings which led to the issue of G.O. dated 11.06.2019 and imposition of the condition in para 3 of that G.O. have not been provided despite the same having been clearly directed by this Tribunal.

It is understandable that since the Screening/Interview/Selection process was all combined and conducted in great haste between 11.05.2018 to 16.05.2018, such re-examination of fulfilment of desired qualifications was essential and the same was provided for in para 3 of the G.O. dated 11.06.2019 but on the objection of the Director, Higher Education, this para 3 of the G.O. dated 11.06.2019 was removed by the orders of the Principal Secretary, Higher Education himself and not from any superior level from which approval might have been obtained before issuing the G.O. dated 11.06.2019.

(vi). The petitioners have cited the examples of some selected persons not fulfilling the requirement of the UGC Regulations as mentioned in para 5.15 of this judgment. In all fairness, after the orders of the Hon'ble High Court dated 14.06.2018 and 20.06.2018, the official respondents should have started the process afresh or atleast should have ensured that all the selected candidates have the desired qualifications under the UGC Regulations. It must have been on these considerations that para 3 in the G.O. dated 11.06.2019 was inserted which was subsequently removed *vide* G.O. dated 19.06.2019.

13. In view of the above, the Tribunal holds that the re-examination/verification at a senior level is required to ensure that each selected candidate fulfilled the eligibility conditions of the relevant UGC Regulations, in the interest of justice and till such re-examination/verification, the personal promotions of the candidates according to the G.O. dated 11.06.2019 and G.O. dated 19.06.2019 should remain in abeyance. The Tribunal directs the Secretary Incharge of Higher Education Department of the Govt. to do such re-examination/verification

at his level with the assistance of the Directorate, Higher Education and other technical experts and issue separate orders for each candidate restoring his/her promotion if the eligibility conditions are met and cancelling his/her promotion if eligibility conditions are not met. However, before cancelling the promotion of any candidate, an opportunity of hearing shall be given to such candidate by the Secretary Incharge of Higher Education Department.

14. The Tribunal directs that the exercise as above be completed by the Secretary Incharge of Department of Higher Education within a period of three months from the date of this order. It is reiterated that the personal promotion to the post of Professor granted to each candidate *vide* G.O. dated 11.06.2019 and G.O. dated 19.06.2019 shall remain in abeyance till it is restored or cancelled by the Secretary, after conducting the exercise as above.

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

16. Let a copy of this order be kept on the file of Claim Petition no. 23/NB/DB/2019 also.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATED: JUNE 06, 2023
DEHRADUN.
KNP