

**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. 104/NB/DB/2022

Ramesh Chandra Joshi, s/o Sri Manorath Joshi, r/o House No. 325
Gali No. 11, Singh Colony, Rudrapur Tehsil Kiccha, Udham Singh
Nagar.

.....Petitioner

versus

1. State of Uttarakhand through Principal Secretary, School Education, Government of Uttarakhand, Dehradun.
2. Secretary, School Education, Govt. of Uttarakhand, Dehradun.
3. Director General, School Education, Govt. of Uttarakhand, Dehradun.
4. Director, School Education, Uttarakhand, Dehradun.
5. Chief Education Officer, Almora.

..... Respondents

Present: Sri Rajeev Sharma, Advocate, for the Petitioner
Sri Kishore Kumar, A.P.O. for the Respondents

Judgement

Dated: 28th March, 2023

Justice U.C. Dhyani (Oral)

Hon'ble High Court of Uttarakhand has been
pleased to pass an order on 20.09.2022 in WPSB No. 474 of

2014, Ramesh Chandra Joshi vs. State of Uttarakhand and others, which (order) reads as under:

“The petitioner has preferred the present writ petition to seek the following relief:

“Issue a writ, order or direction in the nature of mandamus directing the respondents to include the petitioner in DPC of post of Principal and to sanction grade pay of Rs.7600/- to petitioner and accordingly the petitioner may be granted all consequential benefits of the said grade pay.”

2) The petitioner is a public servant. The relief sought by the petitioner squarely falls for consideration within the jurisdiction of the Uttarakhand Public Services Tribunal.

3) Considering the fact that the petition is pending since the year 2014, we direct the Registry to transmit the complete record of the case to the Tribunal, which shall be registered as a claim petition by the Tribunal, and be dealt with accordingly. Considering the age of the case, the Tribunal is requested to expedite its hearing.

4) Writ petition stands disposed of accordingly.”

2. The original record of the writ petition has been transferred to this tribunal *vide* letter no. 13837/UHC/Service (S/B) 2022 dated 26.09.2022 of the Deputy Registrar (Judicial) of the Hon'ble High Court. The same has been registered as claim petition no. 104/NB/DB/2022.

3. Brief facts giving rise to present petition are as follows:

3.1 The petitioner was appointed as Assistant Teacher Language (Hindi/ Sanskrit) on 07.11.1975 at Govt. Higher Secondary School, Banchora, District Uttarkashi. He was promoted as Lecturer on 05.05.1998. He joined as Lecturer (Hindi) in Govt. Inter College, Dineshpur, Nainital, on 21.07.1998. The petitioner was then transferred to G.I.C. Baghwala, Udham Singh Nagar. He was promoted as Principal *vide* order dated 30.12.2009. He joined on the said post on

06.01.2010 in Govt. Higher Secondary School, Birora, District Almora.

3.2 Respondent No. 1 issued an order on 28.05.2010 whereby the petitioner was promoted as Principal (downgrade) at Govt. Inter College, Bhanoli, District Almora, where he joined as Principal (downgrade) on 03.06.2010.

3.3 The respondent department, in the year 2012-13 and 2013-14, for the purpose of DPC for grade pay Rs. 7600/- called for confidential reports, which were made available to the Chief Education Officer, Almora, twice but no DPC was convened due to which the petitioner was deprived of grade pay Rs. 7600/-

3.4 On 31.12.2013, petitioner moved a representation, to the respondent highlighting irregularity in the pay scale. On 27.12.2013, he moved a representation under RTI. No information was given by the respondents. Petitioner again moved a representation on 14.09.2014 to the respondent requesting the authority concerned to include his name in the DPC for the post of Principal and to sanction him grade pay of Rs. 7600/-.

3.5 For the purpose of promotion, relaxation of 50 % in length of service is given only once in entire service tenure. As such if in the year 2012-13 and 2013-14 the respondents would have convened DPC for grade pay Rs. 7600/-, the petitioner would have certainly got the pay scale but due to inaction on the part of respondents, the petitioner was deprived of the said benefit.

3.6 The petitioner has retired on 30.04.2014.

3.7 According to the petition, due to inaction on the part of respondent by not convening DPC in due time, petitioner was deprived of grade pay Rs. 7600/-.

4. Counter affidavit has been filed by Sri Ashok Kumar Singh, the then Chief Education Officer, Almora, denying the material averments of the petition.

4.1 It has been mentioned in the CA that relaxation was given for promotion to the post of Principals *vide* order dated 26.07.2013 (for recruitment year upto 2008-09) and *vide* order dated 24.11.2014 (for recruitment year upto 2010-11) but the petitioner retired on 30.04.2014. DPC for promotion of the post of Principal was held on 26.07.2013 in which 96 candidates from the feeding cadre were considered and were given promotion.

5. Rejoinder affidavit has been filed by the petitioner reiterating the facts contained in the petition. It has been mentioned in the RA that S/Sri Mahesh Chandra Tiwari, Sumant Ram and Ms. Rajni Joshi were given promotion prior to completion of 5 years of service on the feeding post. The names of these persons were initially sent along with petitioner through list dated 10.10.2013 and 23.10.2013 and they were given promotion on 24.11.2014 but the petitioner could not get the promotion as he had retired on 30.04.2014.

6. In response to the query of the Bench, learned A.P.O. informed the Tribunal that no junior was promoted during the service tenure of the petitioner. Junior was promoted when the petitioner had retired.

7. Learned Counsel for the petitioner submitted that he suffered because no DPC was convened on time before the retirement of the petitioner.

8. Learned Counsel for the petitioner, therefore, submitted that the petitioner will move a representation to respondent no. 2, who may kindly be directed to decide petitioner's representation, sympathetically, in a time bound manner, in accordance with law.

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

10. The petition is disposed of by directing respondent no. 2 to decide the representation of the petitioner by a reasoned and speaking order, in accordance with law, without unreasonable delay, preferably within 10 weeks of presentation of certified copy of this order along with representation of the petitioner.

No order as to costs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: 28th March, 2023
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RS