

**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. 133/NB/DB/2022

Mohan Singh (Male), aged about 58 years, s/o Sri Bishan Singh, r/o Village-Bangora, Almora, District Almora, Uttarakhand, PIN-263664, presently posted as Peon, in the Govt. Inter College, Bangora, Tadikhet, Almora, District Almora.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, School Education, Uttarakhand Secretariat, Dehradun.
2. Director, Uttarakhand, Secondary Education, Mayur Vihar, Sahastradhara Road, Dehradun.
3. Additional Director, Secondary Education, Kumaon Mandal, Nainital.
4. Chief Education Officer, Almora, District Almora.
5. Principal, Government Intermediate College, Bangora, Tadikhet, Almora, District Almora

..... Respondents

Present: Sri Sunder Bhandari, Advocate, for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

Judgement

Dated: 19th May, 2023

Justice U.C. Dhyani (Oral)

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 28.09.2022 in WPSS No. 187 of 2022, Mohan Singh vs. State of Uttarakhand and others, which (order) reads as under:

"There is no representation for the petitioner.

Mr. Narain Dutt, Brief Holder for the State of Uttarakhand.

Heard learned counsel for the parties.

Petitioner is serving as Class-IV employee in Education Department. He is claiming promotion to Group-C post of Junior Assistant.

Since petitioner is a public servant within the meaning of term as defined under the U.P. Public Service (Tribunals) Act, 1976, therefore, this Court is not inclined to entertain this writ petition.

The writ petition is, accordingly, dismissed on the ground of alternate remedy.

Registry is directed to transmit complete record of this case to learned Tribunal, after keeping photocopy thereof on record, to be supplied by learned counsel for the petitioner, in the file."

2. The original record of the writ petition has been transferred to this Tribunal *vide* letter no. 15366/UHC/Service Section (S/S) / PST/ Nainital dated 02.11.2022 of the Registrar (Judicial) of the Hon'ble High Court. The same has been registered as claim petition no. 133/NB/DB/2022.

3. Learned Counsel for the petitioner submitted that petitioner's representation may kindly be directed to be decided by Director, Basic Education, Dehradun and Additional Director, Basic Education, Dehradun, by a reasoned and speaking order in the light of decision rendered by Hon'ble High Court on 04.09.2004 in WPMS No. 658 of 2004, Rajesh Rawat vs. State of Uttaranchal and others, and connected writ petition.

4. Learned A.P.O., on the other hand, submitted that certificate obtained by the petitioner from *Hindi Sahitya*

Sammelan is not a valid High School certificate, as per various pronouncements of Hon'ble High Court of Uttarakhand and other Hon'ble High Courts. Learned A.P.O. has cited decisions rendered by the Hon'ble High Court of Uttarakhand in WPSS No. 1913 of 2011, Pooran Ram vs. State of Uttarakhand and others; Hon'ble High Court of Judicature at Patna in Civil Writ Jurisdiction Case No. 4830 of 2008, Dharmendra Ram and others vs. State of Bihar and others; and Hon'ble High Court of Judicature at Allahabad in Writ Case No. 14338 of 2020, Than Singh vs. Union of India and others, in this regard.

5. This issue can left open to be decided by the competent authority while deciding the representation of the petitioner as per law.

6. Without prejudice to rival contentions, the petition is disposed of by directing Director, Basic Education, Dehradun and Additional Director, Basic Education, Dehradun, to decide the representation of the petitioner by a reasoned and speaking order, in accordance with law, without unreasonable delay, preferably within eight weeks of presentation of certified copy of this order.

7. It is made clear that we have not expressed any opinion on the merits of the case.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: 19th May, 2023
DEHRADUN
RS