

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

Present: Hon'ble Mr. Rajendra Singh

----- Vice Chairman (J)

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

CLAIM PETITION NO. 55/NB/DB/2021

Dr. Mrityunjay Kumar Sinha (Male, aged about 54 years), S/o Sri Kalendra Prasad Sinha, presently working as Professor (Zoology) in Government Post Graduate College, Kashipur, District Udham Singh Nagar.

.....Petitioner

VERSUS

1. State of Uttarakhand, through Chief Secretary, Uttarakhand Government, Dehradun.
2. Principal Secretary, Higher Education, Uttarakhand Secretariat, Dehradun
3. Director, Higher Education, Higher Education Directorate, Goula Paar, Haldwani.
4. Principal, Government Post Graduate College, Kashipur, District Udham Singh Nagar.

.....Respondents

Present: Sri S. S. Yadav, Advocate, for the petitioner  
Sri Kishore Kumar, A.P.O. for respondents

**JUDGMENT**

**DATE: JUNE 21, 2023**

**HON'BLE MR. RAJEEV GUPTA, VICE CHAIRMAN (A) (Oral)**

This claim petition has been filed seeking the following reliefs:-

- “(i) To set-aside/quash the impugned information/order dated 21.01.2021 (Annexure No. 1 to compilation-I of this claim petition).
- (ii). To direct the respondent No. 2 to review the annual confidential entry of the year 2015-2016 and 2016-2017 in the place of “Good/Satisfactory” and provide as “Very Good” or “Outstanding” annual confidential entry in the tune of case of Dr. P. C. Pandey dated 29.08.2014 (Annexure No. 5 to the Compilation-II of this claim petition) on the basis of which the petitioner’s candidature for the next coming promotion of the post of Principal can be examined by the Selection Committee without any remark and he can get success in the other coming Career Advancement Scheme.
- (iii) To direct the respondent Nos. 2 & 3 to provide the annual confidential entry of the year 2017-2018 to the petitioner or treat it as “Very Good or Outstanding” annual confidential entry on the basis of examining the previous annual records of the petitioner.
- (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 applicant.”

2. The facts of the case in brief are that the Annual Confidential Report (ACR) of the petitioner for the period of 2017-18 has not been written and the ACRs for 2015-16 & 2016-17 have been written with category (Grading) as “Good/Satisfactory”. According to para 4 of G. O. dated 30.09.2010 (Annexure No. 4 to the claim petition) such grading could not be given and grading should have been given according to para-5 of this G.O. ACRs for 2015-16 & 2016-17 have not been communicated to the petitioner and the petitioner has come to know about the category (Grading) of these ACRs through reply to his application under the Right to Information Act, 2005 (RTI).

3. We have heard learned Counsel for the petitioner and learned A.P.O. and perused the record.

4. Learned Counsel for the petitioner submitted that the controversy about uncommunicated ACRs is squarely covered by the decision rendered

by the Hon'ble Apex Court in the case of Dev Dutt vs. Union of India, 2008 (8) SCC, which was relied upon by the Full Bench of the Hon'ble Apex Court in the case of Sukhdev Singh vs. Union of India and other reported in (2013) 9 Supreme Court Cases page 566. Learned A.P.O. agreed to the same.

5. Both the parties agree that in view of above judgments of the Hon'ble Apex Court, the ACRs for 2015-16 & 2016-17 should be communicated to the petitioner and opportunity of representation for upgradation of the same should be provided to him. The Tribunal, accordingly, directs that these ACR entries shall be communicated to the petitioner within one month from the date of this order and the petitioner may make a representation for upgradation of these entries within two weeks thereafter. On receipt of such representation, the respondents shall take suitable decision on the same within three months thereafter.

6. Learned Counsel for the petitioner further submitted DPC was held in the year 2021 for promotion to the post of Principal in which the petitioner was considered, but was not promoted due to entries of the years 2015-16, 2016-17 and 2017-18.

7. As far as the unrecorded entry of 2017-18 is concerned, there are clear provisions regarding missing entries in the notification dated 09.01.2013 of the Personnel Department of the Uttarakhand Government (Annexure: C.A.-6 to the C.A. of the respondents No. 1 & 2) which state that if some entries are not available for the period of five years preceding the year of selection, then earlier entries for such years/period shall be seen by the Departmental Promotion Committee (DPC) which are necessary to complete 05 years.

8. In view of the above, the respondents are directed to conduct a review DPC for considering promotion of the petitioner from the date his juniors have been promoted after suitable decision on upgradation of his entries for the year 2015-16 & 2016-17 has been taken according to para 5 above and treating the entry of 2017-18 as a missing entry for which action according to para 7 above shall be taken.

9. With the above directions, the claim petition is disposed of. No order as to costs.

**(RAJENDRA SINGH)**  
VICE CHAIRMAN (J)

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

*DATE: JUNE 21, 2023*

*NAINITAL*

*BK*