

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

EXECUTION PETITION NO. 17/SB/2024

*(Arising out of judgment dated 13.06.2023,
passed in Claim Petition No. 19/DB/2023)*

Dr. Abha Singh, aged about 40 years, d/o Sri Jai Prakash Singh, r/o S-1/4
-25A, Raj Rajeshwari Nagar, Gilat Bazar, Varanasi, Uttar Pradesh.

.....Petitioner-Executioner

versus

1. State of Uttarakhand through Secretary, Ayush and Ayush Education, Secretariat, Dehradun, District Dehradun.
2. Additional Secretary, Ayush and Ayush Education, Secretariat, Dehradun, District Dehradun.
3. Director, Ayurvedic and Unani Services Danda Lakhond Post Office Gujrara, Near I.T. Park, Sahastradhara Road, Dehradun, District Dehradun.
4. District Ayurvedic and Unani Officer, District Chamoli.

..... Respondents

Present: Sri L.K. Maithani, Advocate, for the Petitioner-Executioner
Sri V.P. Devrani, A.P.O., for the Respondents (*online*)

JUDGEMENT

Dated: 04th June, 2024

Justice U.C.Dhyani (Oral)

By means of present execution application, petitioner seeks to enforce order dated 13.06.2023, passed by this Tribunal in

Claim Petition No. 19/DB/2023, Dr. Abha Singh vs. State of Uttarakhand & others.

2. The execution application is supported by the affidavit of Dr. Abha Singh, petitioner.

3. The decision rendered by this Tribunal on 13.06.2023, is reproduced herein below for convenience.

Hon'ble High Court has been pleased to pass an order on 30.11.2022 in WPSB No. 425 of 2020, Abha Singh vs. State of Uttarakhand and others, which (order) reads as below:

"The petitioner is a public servant.

2. The reliefs sought in the writ petition are the following:-
 "(i) issue writ order or direction in the nature of quashing the part of the order dated 29.03.2019 (Annexure no. 18) passed by respondent no. 1 so far as it relates to sanction of leave without pay from 14.08.2015 to 03.08.2016 (total 356 days).

(ii) issue writ order or direction in the nature of mandamus directing the respondents to release the salary of the petitioner for a period of 14 Aug 2015 to 3 Aug, 2016 during which the petitioner was kept in waiting by the respondent no. 4 despite of the fact that she reported for joining in the Office of D.A.U.O. District Chamoli i.e. respondent no. 4 on 14-8-2015.

(iii) issue writ order or direction in nature of mandamus directing the respondents to grant the increment on the salary of the petitioner and other consequential benefit which was stopped due none payment of salary for a period of 14 Aug 2015 to 3 Aug, 2016."

3. The reliefs sought by the petitioner in the writ petition squarely fall for consideration within the jurisdiction of the Uttarakhand Public Services Tribunal.

4. Considering the fact that the Writ Petition has been pending since 2020, and a counter-affidavit on behalf of respondent No. 3 and rejoinder thereto have been filed, we are inclined to direct the Registry to transfer the complete record of this Writ Petition to the Uttarakhand Public Services Tribunal, Nainital Bench. The Tribunal shall register the same as a Claim Petition, and deal with the same accordingly. The Tribunal is requested to expedite the hearing of the Claim Petition, provided the petitioner does not seek any adjournment.

5. The Writ Petition stands disposed of accordingly."

2. The original record of the writ petition has been transferred to this Tribunal *vide* letter no. 18014/UHC/Service Section (S/B)/ PST/ Nainital dated 22.11.2022 of the Deputy Registrar, (Judicial) of the Hon'ble High Court. The same has been registered as Claim Petition No. 19/DB/2023.

3. Facts of the case are as follows:

3.1 Petitioner seeks a direction against the respondent authorities to pay her salary for the post of medical officer for a period of twelve months during which the petitioner was kept in waiting despite the fact that she gave her joining in the office of District Ayurvedic and Unani Officer (D.A.U.O.), District Chamoli (respondent no. 4) on 14.08.2015.

3.2 Petitioner filed two writ petitions earlier. First writ petition was withdrawn with liberty to file the same afresh. Second writ petition was filed with the same cause of action but again due to some mistake in the same, the petitioner made a request to withdraw the second writ petition with liberty to file the same afresh. She filed the third petition before the Hon'ble High Court of Uttarakhand, which writ petition has been transferred to this Tribunal *vide* order dated 30.11.2022 for disposal according to law.

3.3 Petitioner was appointed as Medical Officer through Uttarakhand Public Service Commission *vide* letter dated 27.07.2013 (copy Annexure No. 1). Since then the petitioner was pursuing her post graduation course (Master of Surgery in Ayurveda) from Rajiv Gandhi Govt. Post Graduate Ayurvedic College and Hospital, Kangra (Himachal Pradesh), therefore, she could not join on the post of Medical Officer, Ayush and Unani Services in Uttarakhand. She requested the Govt. of Uttarakhand to extend her date of joining so that she may join in her place of posting after completion of her post graduate medical course pursuant to appointment letter dated 27.07.2013. The request was accepted by the Govt. The Govt. of Uttarakhand permitted her to join her place of posting as Medical Officer *vide* order dated 29.01.2015, which was issued by respondent no. 3. She was permitted to join her place of posting at Govt. Allopathic Hospital, Talwari, District Chamoli (copy Annexure No. 2). Petitioner gave her joining on 12.02.2015 before the D.A.U.O., District Chamoli. Respondent No. 4 thereafter sent her to take charge of Government Allopathic Hospital Talwari District Chamoli (copy of Joining Report: Annexure No. 3). Petitioner gave her joining at Talwari. Since she was pursuing her post graduate Medical Course, the petitioner left her job for completing the course, therefore, on 17.02.2015, she made an application to respondent no. 3 to grant her leave without pay to complete her post Graduation Medical Course. She joined her Medical Course subject to the approval of leave without pay (copy of application dated 17.02.2015: Annexure No. 4). On 17.03.2015, her application dated 17.02.2015 was duly forwarded by the respondent no. 4 to respondent no. 3 for necessary action (copy Annexure No. 5). On completion of her Post Graduate Medical Course, the Principal of Rajiv Gandhi Post Graduate Ayurvedic College and Hospital, Kangra (Himanchal Pradesh) relieved the petitioner and also issued 'No Objection Certificate' in her favour *vide* letter dated 04.08.2015 (copy Annexure No. 6).

3.4 When the petitioner applied for leave without pay before the respondent no. 4, the petitioner had almost completed her Post Graduate Medical Course in Ayurveda. On 14.08.2015, after getting the 'No Objection Certificate' from college, as the petitioner was pursuing her Post Graduate Medical Course, she gave her joining before the D.A.U.O., Chamoli. Instead of sending the petitioner in place of her posting as Medical Officer, her matter was forwarded to the Directorate (respondent no. 3) for necessary action by the respondent no. 4 (copy Annexure No. 7). On the self same day, respondent no. 4 wrote a letter to respondent no. 3 for seeking a direction

apprising respondent no. 3 that the petitioner had left her place of posting on 17.02.2015 by submitting the application for leave without pay, on which no decision has been received by the respondent no. 4 till date and the petitioner has reported for joining on the post of Medical Officer, therefore the respondent no. 3 may be given instructions about the joining to the petitioner in her place of posting as Medical Officer (copy Annexure No. 8).

3.5 Petitioner is being deprived of her salary for the period of 14.08.2015 to 03.08.2016 during which she was compelled to wait for her joining on the post of Medical Officer by the respondent no. 4. According to the petition, she duly reported her joining on 14.08.2015. As per para 21 of the petition, the petitioner is entitled for all consequential benefits like increments, deduction of GPF and Grade pay etc.

3.6 Leave without pay was sanctioned by the Govt. of Uttarakhand for the Medical Officers, who were pursuing their post graduate Medical Course in Ayurveda *vide* Government order dated 27.07.2016, as such the leave without pay shall deemed to be sanctioned in view of such G.O. Sanction has also been given to her *vide* order dated 29.03.2019 (copy of G.O. dated 27.07.2016: Annexure No. 16).

3.7 In para 28 of the petition, it has been mentioned that *vide* order dated 29.03.2019, respondent no. 1 has taken decision that she was absent from duty from 14.08.2015 to 03.08.2016, as such leave of 177 days (study leave) and 356 days for which the respondent authority observed that she did not give her joining (total 533 days) have been granted without pay. While passing the order, respondent no. 1 did not consider the fact that on 14.08.2015, a letter was written by the respondent no. 4 to respondent no. 3, in which it was specifically stated that the petitioner has come to his office for joining on the post of Medical Officer and sought immediate instructions from the higher authorities. The petitioner was not at fault, as she reported in the office of respondent no. 4 on 14.08.2015, but she was not given joining. Due to the inaction on the part of the respondent authorities, the petitioner is being punished as she was compelled to remain out of job for a period of 11 months and 20 days. As such the part of the order dated 29.03.2019 so far as it relates to sanctioning of leave without pay for a period (14.08.2015 to 03.08.2016, total 356 days) during which she reported for joining but she was not given joining and she was compelled to wait for instructions is liable to be set aside, with a direction to respondent authorities to pay full salary for a period of 11 months 20 days with increments, GPF and grade pay (copy of order dated 29.03.2019: Annexure No. 18).

4. Documents have been brought on record by the petitioner in support of her petition.

COUNTER-VERSION

5. W.S. has been filed on behalf of respondent no. 3. Counter affidavit has been filed by Dr. Mahendra Pal, Director, Ayurvedic and Unani Services, Uttarakhand.

6. In the counter affidavit, it has been stated that the petitioner, despite having knowledge of provisions regarding leave of gazetted officer under Section 2 Part 2 to 4, Rule 36 of Financial Handbook, without seeking

the permission and without prior sanction of leave, went on leave. Petitioner gave her joining on 12.02.2015 and soon after six days on 18.02.2015, she, against the provisions of applicable Rules, without obtaining the permission and sanction of her leave went for so called study leave for 177 days. It has been stated in para 3 of the counter affidavit that on 14.08.2015, the petitioner did not give her joining in the office of D.A.U.O., Chamoli. She was not personally present before Director, Ayurvedic and Unani Services either. As such she was absent from the office from 18.02.2015 to 03.08.2016. In para 6 of the counter affidavit, it has been mentioned that without giving any intimation to the concerned officer i.e. D.A.U.O., Chamoli, the petitioner went on leave on 18.02.2015. The petitioner did not give the application dated 17.02.2015 herself in the concerned office but sent the same by post, which application was received in the office of D.A.U.O., Chamoli on 11.03.2015 i.e. nearly after 23 days, which was later on forwarded by the concerned office to the Director, Ayurvedic and Unani, Uttarakhand.

6.1 In para 9 of the counter affidavit, it has been mentioned that the petitioner, after giving her joining on 12.02.2015, without approval of leave and without obtaining the permission, went on leave from 18.02.2015 till 13.08.2016, which is against the provisions of Rule 36 Section 2 Part 2 to 4 of Financial Handbook. In para 11 of the counter affidavit, it has been mentioned that the petitioner, only after six days of her joining went on leave from 18.02.2015 till 13.08.2015 (177 days). For the said leave, the petitioner did not obtain permission nor the said leave was sanctioned. She did not give her presence in the office of D.A.U.O., Chamoli. She did not mark her presence even in Directorate, Ayurvedic and Unani Services, Dehradun, from 14.08.2015 to 03.08.2016, which is evident from letter dated 15.02.2019 and 21.02.2019 (copies Annexure No. C1).

6.2 In para 13 of the C.A., it has been mentioned that the petitioner is projecting the period between 14.08.2015 to 03.08.2016 as compulsory waiting period is not so inasmuch as she never registered her presence either in the office of D.A.U.O., Chamoli or Directorate, Ayurvedic and Unani Services, Dehradun. She was not physically present in either of the offices. The salary cannot be granted to her by presuming that it is a compulsory waiting period. However, under the provisions of G.O. dated 27.07.2016, the same was sanctioned unpaid, which is clear from Annexure No. 18 of the petition.

6.3 During the period mentioned above, the petitioner neither discharged her duties of a Medical Officer and therefore, there is no scope paying her salary even on the basis of principle of 'no work no pay'. The petitioner is not entitled to any relief.

7. Documents have also been filed in support of counter affidavit. Rejoinder affidavit thereto has been filed by the petitioner on 20.03.2022 reiterating the facts contained in the petition.

DISCUSSION

8. Annexure No.1 is the copy of appointment letter dated 16.07.2013 of the petitioner. *Vide* Annexure No. 2, order dated 29.01.2015, she was posted at Govt. Allopathic Hospital, Talwari, District Chamoli. *Vide* Annexure No. 3, letter dated 12.02.2015, she was directed by the District Ayurvedic and Unani Officer to give her joining in Govt. Allopathic Hospital,

Talwari, Chamoli, in response to her joining in the Directorate on 12.02.2015. Annexure No. 4 is a letter written by the petitioner on 17.02.2015 informing the Director, Ayurvedic and Unani Services, that she was pursuing PG degree and has moved an extension but in absence of any reply to such letter, she joined Govt. Allopathic Hospital, Talwari, on 12.02.2015. She made a request to sanction her leave without pay till 31.05.2015. Such application was forwarded by of D.A.U.O., Chamoli to the Director, Ayurvedic and Unani Services, Uttarakhand, on 17.03.2015 (Annexure No. 5). Copy of such forwarding was endorsed to the petitioner. Annexure No. 6 is copy of relieving order-cum-NOC dated 04.08.2015 from the Principal, Rajiv Gandhi Govt. Post Graduate Ayurvedic College and Hospital, Paprola, District Kangra (Himachal Pradesh). Annexure No. 7 is the copy of letter written by the petitioner to D.A.U.O., Chamoli, informing the District Officer that she is present in such office on 14.08.2015. She made a request to the D.A.U.O., to accord her permission for joining. D.A.U.O., Chamoli, made an endorsement on such letter. The office was directed to seek approval of the Director, Ayurvedic and Unani Services, Uttarakhand. D.A.U.O., Chamoli, forwarded the letter of the petitioner to the Director, Ayurvedic and Unani Services, on the self same day i.e. 14.08.2015 (copy Annexure No. 8). In such letter, the instruction of the higher authority was sought regarding joining of the petitioner. On 14.08.2015 itself, the petitioner again wrote a letter to D.A.U.O., Chamoli, informing the said authority that since she was not permitted to join by the District Authority, therefore, she may be granted permission to leave the headquarters (copy Annexure No. 9). *Vide* letter dated 17.08.2015, the Director, Ayurvedic and Unani Services, sought directions from Principal Secretary, Ayush and Ayush Education, Uttarakhand (copy Annexure No. 10). Director, Ayurvedic and Unani Services, again, *vide* letter dated 20.01.2016 forwarded all the applications of the petitioner to Additional Secretary, Ayush and Ayush Education (copy Annexure No. 11). The father of the petitioner wrote a letter to Principal Secretary, Ayush, Uttarakhand, that two similarly situated persons namely Dr. Vijay Kumar Gangwar and Dr. Savita Sonkar were given joining after sanctioning leave without pay to them whereas his daughter, whose case is similar to Dr. Vijay Kumar Gangwar and Dr. Savita Sonkar has been denied joining at Talwari, Chamoli. D.A.U.O., Chamoli, again, sought directions of the Director, Ayurvedic and Unani Services, *vide* letter dated 25.08.2015 (copy Annexure No. 11 *colly*). Petitioner's letter dated 17.08.2015 addressed to the Director, Ayurvedic and Unani Services has been brought on record as Annexure No. 11 *colly*. A request was made by her to accept her joining. D.A.U.O., Chamoli, informed District Magistrate, Chamoli, regarding the petitioner *vide* letter dated 24.08.2015 (copy Annexure No. 11 *colly*). The petitioner's application sent to Principal Secretary, Medical Health and Family Welfare, on 18.08.2015 has also been brought on record as Annexure No. 11 *colly*. The Director, Ayurvedic and Unani Services sought directions from Additional Secretary, Ayush and Ayush Education on 20.10.2015 (copy Annexure No. 11 *colly*). The Director, Ayurvedic and Unani Services *vide* letter dated 17.12.2015 sought guidance from Additional Secretary, Ayush and Ayush Education, in the matter of the petitioner (copy Annexure No. 11 *colly*). Petitioner wrote a letter to the Director, Ayurvedic and Unani Services, on 17.12.2015 (copy Annexure No. 11 *colly*). Petitioner wrote a letter to Principal Secretary, Ayush and Ayush Education, on 18.11.2015 (copy Annexure No. 11 *colly*). Copy of the order passed in respect of Dr. Vijay Kumar Gangwar, Medical Officer, Bhingari, Pithoragarh, has been brought on record as Annexure No. 12. The letter addressed to Dr. Savita Sonkar, Medial Officer, Algara, Pithoragarh, has also been brought on record as Annexure No. 12 *colly*.

9. The petitioner was permitted to join as Medical Officer in Chamoli *vide* letter dated 02.08.2016. It was mentioned in letter dated 02.08.2016 (Annexure No. 13) that she is permitted to join as Medical Officer in Talwari, Chamoli after completing her Post Graduation, as per G.O. dated 27.07.2016. D.A.U.O. informed the petitioner that the Director, Ayurvedic and Unani Services, has accorded permission for her joining. He gave her joining in Chamoli on 03.08.2016. She was directed to go to District Allopathic Hospital, Talwari, Chamoli, and take charge there (at Talwari). The petitioner gave her joining at Talwari on 04.08.2016 (copy Annexure 14 *colly*).

10. She moved a representation to Director, Ayurvedic and Unani Services, for sanctioning leave without pay from 17.02.2015 to 13.08.2015 and pay her salary when she gave her joining on 14.08.2015 till 03.08.2016, the period for which she was kept waiting (for her joining).

11. G.O. dated 27.07.2016 (copy Annexure No. 16) provides that those Medical Officers, who are undergoing post graduation are sanctioned extraordinary leave without pay for only those who have given their joining after completing such post graduation course. Such leave without pay will not adversely affect their seniority but such medical officers will not be given other service related benefits like increment etc. Leave without pay was granted to the petitioner *vide* order dated 29.03.2019. The same is evident from the order issued by the Principal Secretary, Ayush, which order has been addressed to the Director, Ayurvedic and Unani Services, Uttarakhand (copy Annexure No. 18). *Vide* such letter the petitioner was granted 533 days extraordinary leave without pay from 18.02.2015 to 13.08.2015 (177 days) and in continuation of the same, from 14.08.2015 to 03.08.2016 (total 356 days), during which period the petitioner, allegedly, remained absent. She, according to such G.O., gave her joining on 04.08.2016. She was, therefore, given extraordinary leave without pay for 533 days.

12. Documents which have been filed with the counter affidavit are – letter dated 15.02.2019, sent by Director, Ayurvedic and Unani Services, Uttarakhand to Additional Secretary, Ayush and Ayush Education, informing the said authority that there is no document on record to suggest the whereabouts of the petitioner from 14.08.2015 till 03.08.2016. Such information is, atleast, not available on record. She was not present either in the office of D.A.U.O., Chamoli or Directorate, Ayurvedic and Unani Services, Dehradun, during the period from 14.08.2015 to 03.08.2016 (copy Annexure C1). The petitioner registered her presence on 04.08.2016 in District Allopathic Hospital, Talwari, *vide* letter dated 15.02.2019 of D.A.U.O., Chamoli to the Director, Ayurvedic and Unani Services. According to such document, the department is not aware where did the petitioner remain for 356 days from 14.08.2015 to 03.08.2016. *Vide* another letter dated 21.02.2019 sent by the Director, Ayurvedic and Unani Services to the Under Secretary, Ayush and Ayush Education, the petitioner never remained in office from 14.08.2015 to 03.08.2016. She did not register her presence either before the District Officer or before the Directorate. She did not seek the permission to leave the station either (copy Annexure CA1 *colly*).

13. *Vide* letter dated 14.08.2015, which was written by the respondent no. 4 to respondent no. 3, a copy of which was marked to the petitioner, she was told that she will be informed about her joining after receiving the instructions from the higher authorities. As such the petitioner made an application on 14.08.2015, whereby she made a request to

respondent no.4 to permit her to leave District Headquarters and as and when she will receive the order for her joining in the place of posting, she will be present for joining immediately (copy Annexure No. 9). Thereafter, on 17.08.2015, the respondent no. 3 again wrote a letter to respondent no. 2 seeking appropriate instructions in her matter (copy Annexure No. 10). Petitioner has been making representations regularly to the authorities concerned for giving joining at the place of her posting and the respondents no. 3 & 4 were regularly seeking instructions from their higher authorities about her joining but no decision was taken till 02.08.2016 (copy Annexure No. 11).

14. In para 16 of the petition, it has been mentioned that similarly situated Medical Officers were given joining on 03.11.2015 but the petitioner was discriminated and she was not permitted to join her place of posting (copies of joining letters dated 03.11.2015 of similarly situated Medical Officers: Annexure No. 12). On 02.08.2016, respondent no. 3 wrote a letter to respondent no. 4 apprising him that the petitioner is permitted to join on the post of Medical Officer in view of Government Order dated 27.07.2016 (copy Annexure No. 13). Petitioner gave her joining in the office of D.A.U.O., Gopeshwar, on 03.08.2016. Pursuant to the letter dated 02.08.2016, she gave her joining and she was ordered to be present in the Government Allopathic Hospital Talwari. Consequently she gave her joining at Talwari on 04.08.2016 (copy Annexure No. 14). Thereafter the petitioner requested the respondent authorities to pay her salary from 14.08.2015 to 03.08.2016 by making a representation as she was compelled to wait for her joining on the post of Medical Officer by the respondent no. 4 whereas she duly reported her presence for joining on 14.08.2015 before the said authority (copy Annexure No. 15).

15. The respondent department has erred in stating that the petitioner was not present on 14.08.2015. The documents brought on record indicate that she was definitely present in the office of D.A.U.O. on 14.08.2015 (Annexures No. 7 to 11). When she was not given joining on 14.08.2015, for valid reasons, inasmuch as even her first application was not sanctioned by then, the D.A.U.O. had no option but to seek the permission of the Director, Ayurvedic and Unani Services, who in turn sought the permission of Secretary, Ayush and Ayush Education. Copy of Annexure No. 8 was given to the petitioner to indicate that her application has been forwarded to the Director, Ayurvedic and Unani Services, and she will be intimated no sooner such directions are received by D.A.U.O. When the petitioner's matter was under consideration before the Govt. in the Ayush Department, they enquired from the Director whether she was present on 14.08.2015 onwards or not. The Director, Ayurvedic and Unani Services, in turn, sought information from D.A.U.O., on whose behalf it was stated that the petitioner was not present on 14.08.2015 onwards. The documents indicate that she was in fact present in D.A.U.O. office on 14.08.2015 but thereafter she remained absent in such office. There is no document to suggest that she remained present in Director's office. She left the station without obtaining station leave. When the Bench enquired from learned Counsel for the petitioner what prevented the petitioner from seeking station leave and then only leave the station, learned Counsel for the petitioner replied that since the petitioner was not given joining therefore, station leave was not sanctioned to her. It may be noted here that she was on probation for two years. She should not have left the station without seeking station leave. If joining was not given to her on 14.08.2015, she should have waited for a few more days or should have come to the Director's office to seek audience from the Director and pursue the matter.

She did not do it. Further, she even did not mention her address in the application seeking station leave. It appears that she has taken her joining in Uttarakhand in a very casual manner and thereafter left for pursuing her masters degree, for which leave without pay was sanctioned by the State Govt. But even before such leave without pay could be sanctioned, she completed her masters degree and came for joining in district Chamoli. D.A.U.O., rightly referred the matter to the Director. How could D.A.U.O. give her joining when her leave without pay for undertaking masters degree was not sanctioned by the Govt? D.A.U.O. could not have done the same. He, therefore, rightly referred the matter to the Director. Probably, it was not within the competence of the Director to grant permission and therefore, the Director referred the matter to the Secretary. Joining a service, leaving the station for undertaking masters degree, then again coming to the place of posting after completing masters degree, at will, is something which can't be said to be as per Rules governing a Govt. servant, who is on probation and is a temporary Govt. servant. Even a permanent Govt. servant is not expected to behave in the manner in which the petitioner has behaved. Nothing should be taken for granted in Govt. service. The respondent State has taken liberal stand by granting leave without pay for 533 days. The State Govt. also sanctioned pay from the date the petitioner actually started working in the respondent department. The only thing, which has been stated earlier, that a wrong fact was projected by D.A.U.O. that she was not physically present on 14.08.2015 for giving her joining, but the same would have hardly affected the Secretary's decision in the matter. Still, the petitioner has taken a definite stand that Dr. Vijay Kumar Gangwar, Medical Officer, Dr. Savita Sonkar, Medical Officer, whose case is similar to the case of the petitioner, were given joining on 03.11.2015, whereas the petitioner was given joining on 03.08.2016. It is the case of the petitioner that she was kept waiting from 14.08.2015 till 03.08.2016, whereas identically placed medical officers Dr. Vijay Kumar Gangwar and Dr. Savita Sonkar were given joining at Pithoragarh on 03.11.2015.

16. The Tribunal is not aware what were the facts and circumstances under which Dr. Vijay Kumar Gangwar and Dr. Savita Sonkar were given joining on 03.11.2015, whereas the petitioner was denied joining till 03.08.2016. The Tribunal is also not aware, whether the cases of Dr. Vijay Kumar Gangwar and Dr. Savita Sonkar are identical to the case of the petitioner or not. The whereabouts of the petitioner from 14.08.2015 till 03.08.2016 are also not known. Atleast from the documents brought on record, it is evident that she was not at Chamoli between 15.08.2015 and 03.08.2016. It is however definite that she was present before D.A.U.O. Chamoli on 14.08.2015. The Secretary and Director were misled on this count.

17. To sum up, the petitioner was present in the office of D.A.U.O. on 14.08.2015. She was not given joining. She moved an application for station leave, in which she did not give her address. The station leave was not entertained because she was not given joining. Her matter was rightly forwarded by D.A.U.O. to the Director, who, in turn, sought the guidance of Govt. in the Ayush Department regarding petitioner's joining. Two allegedly identical persons namely, Dr. Vijay Kumar Gangwar and Dr. Savita Sonkar were given joining on 03.11.2015, whereas the petitioner was given joining only on 03.08.2016. Identical cases should be decided alike. The State Govt. may, probably, like to re-visit their order dated 29.03.2019 on the basis of the above noted facts. The Tribunal has been informed that the petitioner is no more in the service of Uttarakhand. She is doing services somewhere

in the State of Rajasthan. A case for re-visiting the order dated 29.03.2019 is made out in view of the above discussion.

18. The petition is disposed of by directing respondent no. 1, Secretary, Ayush and Ayush Education, Govt. of Uttarakhand, to reconsider his decision dated 29.03.2019, in the peculiar facts of the case, primarily on two counts (i) she was physically present in the office of D.A.U.O. on 14.08.2015 and (ii) Dr. Vijay Kumar Gangwar and Dr. Savita Sonkar, both medical officers, were given joining in Pithoragarh in the similar circumstances on 03.11.2015, whereas the petitioner was given joining only on 03.08.2016 in Chamoli. Informed decision may be taken by respondent no. 1 within 10 weeks from the date of presentation of certified copy of this order. No order as to costs.

4. Ld. Counsel for the petitioner submitted that the order passed by the Tribunal on 13.06.2023 has not been complied with by the respondents so far.

5. It is also the submission of Ld. Counsel for the petitioner/applicant that casual approach on the part of opposite party(ies)/respondent(s) should not be tolerated and strict direction should be given to them to ensure compliance of such order.

6. Ld. counsel for the petitioner/applicant submitted that such direction may be given by Single Bench of the Tribunal. Ld. A.P.O. agrees with such legal proposition.

7. Considering the facts of the case, the authorities concerned in respondent department are directed to comply with the order dated 13.06.2023, passed by this Tribunal in Claim Petition No. 19/DB/2023, Dr. Abha Singh vs. State of Uttarakhand & others, if the same has not been complied with so far, without further loss of time, failing which the concerned authorities may be liable to face appropriate action under the relevant law governing the field.

8. Petitioner/ applicant is directed to serve copies of this order on Respondents No. 2 to 4 by registered post acknowledgement due, to remind that a duty is cast upon said authorities to do something, which has not been done.

9. Execution application is, accordingly, disposed of, at the admission stage, with the consent of Ld. Counsel for the parties.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JUNE 04, 2024.

DEHRADUN

RS