

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

CLAIM PETITION NO. 74/SB/2024

1. Mohammad Shamim s/o Sh. Maqsood Ali r/o 58, Ram Nagar Colony Ladpur, Raipur, Dehradun.
2. Naeem Fatima w/o Mhd. Aslam Khan.
3. Kalimullah Khan s/o Sh. Masitulla Khan r/o I-188, Nehru Colony Dehradun.
4. Shahida Begum w/o Sri Aziz Khan, r/o 164, ghair meer baaz khan, tanki no.5 jail road, Rampur city, Rampur, Uttar Pradesh.

.....**Petitioners**

vs.

1. State Of Uttarakhand through its Secretary, Education, Uttarakhand Dehradun.
2. Director, Elementary Education, Dehradun, Uttarakhand.
3. District Education Officer, Elementary Education, Dehradun.

.....**Respondents**

Present: Sri Abhishek Chamoli & Sri Umesh Kumar Chamoli (online),
Advocates, for the petitioner.
Sri V.P.Devrani, A.P.O., for Respondents.

JUDGMENT

DATED: AUGUST 22, 2024

Justice U.C.Dhyani (Oral)

By means of present claim petition, petitioner seeks the following reliefs:

“i. Issue an order or direction to set aside impugned orders dated 15.05.2024 and consequential order dated 15.07.2024 by way of which claim of the petitioners were rejected by both Respondents No. 2 and 3 in contravention of Hon'ble High Court's decision after calling entire record by the respondents.

ii. Issue an order or direction directing the Respondents to grant the claimants all benefits as per the High Court's judgement in Special Appeal No. 61 of 2008 Sajjad Hussain vs State of Uttarakhand and others, including the trained pay scale, seniority effective from 08.04.1990, and associated promotions and promotional pay scales and selection grade.

iii. Issue any other direction or order as this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.

iv. Award costs of the writ petition to the Claimant.”

2. The claim petition is supported by the affidavit of petitioner no.

1. Relevant documents have been filed along with the claim petition.

3. Petitioners gave representation to District Education Officer (Basic Education), Dehradun (Respondent No.3), who apprised the Director, Basic Education, Uttarakhand (Respondent No.2) vide letter dated 15.05.2024 (Annexure-1), under intimation to the petitioners, that the petitioners have already been given benefit of 'trained pay scale'. Aggrieved against the said communication, an appeal was filed before the Director, Basic Education, Uttarakhand, Respondent No.2, which (non-statutory) appeal was not entertained, inasmuch as, according to the Director, the reasons have already been assigned in the order of Respondent No.3.

4. Whereas Ld. A.P.O. made an endeavour to justify the departmental action by saying that the District Education Officer, Respondent No.3, has passed a reasoned order, against which there is no provision for filing statutory appeal, Ld. Counsel for the petitioners submitted that although non-statutory appeal was filed but no effort was made by the respondents to decide the same on merits, as if the order passed by Respondent No.3 is gospel truth.

5. Be that as it may, Ld. Counsel for the petitioners submitted that a direction may be given by the Tribunal to decide the representation of the petitioners by Respondent No.1, in accordance with law. Ld. A.P.O. is not averse to the idea of referring the matter to Respondent No.1, for taking an appropriate decision, as per law.

6. Ld. Counsel for the parties submitted that such an order may be passed by Single Bench of the Tribunal.

7. Without going into the veracity and legality of the orders impugned, the matter is referred to Respondent No.1, in the interest of justice, for taking appropriate decision, in accordance with law.

8. The claim petition is disposed of, at the admission stage, by making a request to Respondent No.1, to take an appropriate decision in the matter of the petitioners, as expeditiously as possible, without unreasonable delay, on presentation of certified copy of this order along with representation, enclosing the documents in support thereof. No order as to costs.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: AUGUST 22, 2024.
DEHRADUN

VM