

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

**Writ Petition No. 213 (S/B) of 2019**

**[Reclassified and Renumbered as Claim Petition No. 03/NB/SB/2023]**

Rajendra Prasad Pandey, aged about 62 years, s/o Sri Shiopujan Pandey, r/o House No. 25, Vashundhra Park, Phase-1, Bhurarani Road, Rudrapur, District Udham Singh Nagar.

.....Petitioner

versus

1. State of Uttarakhand through its Secretary, School Education, Uttarakhand Government, Dehradun.
2. Director, Secondary Education, Uttarakhand, Dehradun.

..... Respondents

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

**Judgement**

**Dated: 05<sup>th</sup> February, 2025**

**Justice U.C. Dhyani (Oral)**

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 14.12.2022 in WPSB No. 213 of 2019, Rajendra Prasad Pandey vs. State of Uttarakhand and another, which (order) reads as under:

“Mr. Vinay Kumar, learned counsel for the petitioner.

Mr. S.S. Chaudhary, learned Brief Holder for the State-respondent.

Petitioner is a public servant. The reliefs sought in the writ petition squarely fall within the jurisdiction of Uttarakhand Public Services Tribunal.

Considering the fact that the writ petition has been pending since the year 2019, we direct the Registry to transmit the complete

record of the present writ petition to the Tribunal forthwith to be registered as a Claim Petition.

The writ petition is disposed of accordingly.

In sequel thereto, all pending applications stand disposed of.”

2. The original record of the writ petition has been transferred to this Tribunal *vide* letter no. 18012/U.H.C./Service Section (S/B)/PST/ Nainital dated 22.12.2022 of the Deputy Registrar (Judicial) of the Hon’ble High Court. The same has been registered as claim petition no. 03/NB/SB/2023.

3. By means of present petition, petitioners seek following reliefs:

“(i) Issue a writ, order or direction in the nature of Certiorari calling for the record and quashing the impugned communication/ order dated 4th January 2018 issued by the Secretary, School Education, Govt. of Uttarakhand addressed to the Director, Secondary Education, Uttarakhand, whereby the claim of the petitioner for grant of adhoc promotion on the post of Principal, Govt. Inter College w.e.f. 29.12.2016 was wrongly rejected by treating it to be a matter of notional promotion on the post of Principal..

(ii) Issue a writ, order or direction in the nature of Mandamus directing the respondents grant to promotion to the petitioner as Adhoc Principal in the Grade Pay of Rs. 7600/- w.e.f. 29.12.2016 as has been granted to the persons junior to the petitioner and accordingly revise and pay the pensionary benefit of the petitioner by re-fixing his pension in the Grade Pay of Rs. 7600/-, along with arrears.

(iii) Issue any suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

(iv) Award the cost of writ petition to the petitioner.”

4. Sri Rajendra Prasad Pandey has filed affidavit in support of the petition. Relevant documents have been filed by him in support of the petition.

5. C.A./ W.S could not be filed on behalf of the respondent department. The writ petition was filed in the year 2019. The file was transferred to this Tribunal *vide* order dated 14.12.2022, which (file) was received in the Tribunal on 03.01.2023. Since then, hearing is being adjourned either on the request of learned Counsel

for the petitioner or on the request of learned A.P.O. or on their joint request. The Division Bench was not available in the Tribunal from 28.09.2023 to 16.08.2024.

6. Today when the hearing took place, it was found that the W.S./ C.A. could not be filed on behalf of the respondents.

7. Sri Kishore Kumar, learned A.P.O. submitted that no one from the respondent department contacted him to file W.S. or to put forward respondent's version before the Tribunal. The Tribunal is of the view that learned Counsel for the parties including learned A.P.O. should be heard *sans* W.S. inasmuch as the writ petition was filed in the year 2019 and it will consume more time if opportunity to file W.S. is given to the respondents. It would be appropriate that the counter version of the respondents, as mentioned in impugned letter dated 04.01.2018 (Annexure No. 9) be treated as W.S. It is accordingly treated as W.S. on behalf of the respondents.

8. Accordingly, the Bench heard learned Counsel for the parties on the basis of the documents thus filed on behalf of the petitioner.

9. Notification dated 28.11.2023 (Annexure No. 1) has been brought on record to indicate that petitioner, whose name has been mentioned at serial no. 79 of such notification, was promoted on the post of Headmaster on substantive basis. The names of Sri Jagdish Singh Adhikari, Sri Shravan Kumar, Sri Pratap Pal, Sri Mahesh Chandra Gairola, Sri Raghuv eer Singh Negi and Sri Umed Singh Rana find place at serial no. 82, 84, 88, 94, 106 & 107 respectively. The name of the petitioner finds place at serial no. 79.

10. Further, *vide* office memorandum dated 06.02.2016 (Annexure No. 2), petitioner, whose name finds place at serial no. 119 was posted as Principal under temporary and stop gap arrangement. Others' names also find place in such list. As per

such notification, the incumbent took charge as incharge/ officiating Principal on 01.03.2016.

11. Petitioner's juniors namely, Sri Jagdish Singh Adhikari, Sri Shravan Kumar, Sri Rang Bahadur Singh, Sri Pushkar Singh Dhanik, Sri Pratap Singh Pal, Sri Prem Narayan Yadav and others were promoted on *ad-hoc* basis *vide* office memorandum dated 29.12.2016. Petitioner's name does not find place in such list.

12. Further, *vide* order dated 23.08.2017 (Annexure No. 5), adverse entry dated 26.09.2016 of the petitioner for the year 2015-16 was expunged by the Govt. in the Secondary Education Department. In representation dated 23.08.2017 (Annexure No. 6), petitioner wrote to Additional Secretary, Secondary Education, that his juniors have been given grade pay Rs. 7600/- by promoting them as Principal on *ad-hoc* basis *vide* order dated 29.12.2016 but the he has not been given such promotion despite the fact that his adverse entry was expunged.

13. Petitioner's retirement age was 31.08.2017. He was given session benefit *vide* order dated 31.08.2017 (Annexure No. 7).

**14. Director, Secondary Education, wrote a letter to Additional Secretary, Secondary Education, Govt. of Uttarakhand on 31.08.2017 (Annexure No. 8) to consider the name of the petitioner for *ad-hoc* promotion on the post of Principal, which application and recommendation was turned down by the Govt. *vide* letter dated 04.01.2018 (Annexure No. 9) on the ground that notional promotion could only be given to those, who were regularly promoted.**

15. The Tribunal is of the view that when similarly situated persons, who were junior to the petitioner, were given *ad-hoc* promotion and were given grade pay Rs. 7600/-, the petitioner also ought to have been given such benefit especially when his adverse entry was expunged by the Govt. itself. The Tribunal does not want

to comment upon the reasoning given in letter dated 04.01.2018 (Annexure No. 9), but it is conscious of the fact that juniors to the petitioner were given promotion on *ad-hoc* basis and were given grade pay of Rs. 7600/-. Petitioner's adverse entry was expunged, therefore, he is also entitled to same benefits from the day his juniors were given such benefits.

16. Respondents are, therefore, directed to consider the case of the petitioner for notional promotion (as he has retired), from the day his juniors were promoted and were given benefit of grade pay Rs. 7600/-, in accordance with law. Such exercise of considering the promotion of the petitioner from the date his juniors were promoted be completed, as per law, as expeditiously as possible and without unreasonable delay.

No order as costs.

17. Since the petition is being decided without C.A., therefore, liberty is granted to the respondents to file review/ recall of the order, if they feel aggrieved with the same.

**(JUSTICE U.C. DHYANI)**  
CHAIRMAN

*DATE: 05<sup>th</sup> February, 2025*  
*DEHRADUN*  
*RS*