



सत्यमेव जयते

**UTTARAKHAND COURT NEWS**  
(A Quarterly Court Magazine)

**Vol.-X Issue No.-II (April to June, 2019)**



Hon'ble Mr. Justice Sudhanshu Dhulia  
Hon'ble Mr. Justice Alok Singh  
Hon'ble Mr. Justice Alok Kumar Verma

**COMPILED BY**

H.S. Bonal, Registrar General, High Court of Uttarakhand  
A quarterly newsletter published by High Court of Uttarakhand, Nainital

**Photograph of Hon'ble Judges of the Court with Hon'ble the Chief Justice after oath taking ceremony of Hon'ble Mr. Justice Alok Kumar Verma on 27.05.2019**



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Hon'ble Mr. Justice Alok Kumar Verma, Hon'ble Mr. Justice Narayan Singh Dhanik, Hon'ble Mr. Justice Sharad Kumar Sharma, Hon'ble Mr. Justice Lok Pal Singh, Hon'ble Mr. Justice Sudhanshu Dhulia, Hon'ble Mr. Justice Ramesh Ranganathan (Chief Justice), Hon'ble Mr. Justice Alok Singh, Hon'ble Mr. Justice Manoj Kumar Tiwari, Hon'ble Mr. Justice Ramesh Chandra Khulbe and Hon'ble Mr. Justice Ravindra Maithani.

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**UTTARAKHAND HIGH COURT****LIST OF JUDGES (As on 30 June, 2019)**

<b>Sl. No.</b>	<b>Name of the Hon'ble Judge</b>	<b>Date of Appointment</b>
<b>1.</b>	<b>Hon'ble Mr. Justice Ramesh Ranganathan (Chief Justice)</b>	<b>02.11.2018</b>
<b>2.</b>	<b>Hon'ble Mr. Justice Sudhanshu Dhulia</b>	<b>01.11.2008</b>
<b>3.</b>	<b>Hon'ble Mr. Justice Alok Singh</b>	<b>26.02.2013</b>
<b>4.</b>	<b>Hon'ble Mr. Justice Lok Pal Singh</b>	<b>19.05.2017</b>
<b>5.</b>	<b>Hon'ble Mr. Justice Manoj Kumar Tiwari</b>	<b>19.05.2017</b>
<b>6.</b>	<b>Hon'ble Mr. Justice Sharad Kumar Sharma</b>	<b>19.05.2017</b>
<b>7.</b>	<b>Hon'ble Mr. Justice Narayan Singh Dhanik</b>	<b>03.12.2018</b>
<b>8.</b>	<b>Hon'ble Mr. Justice Ramesh Chandra Khulbe</b>	<b>03.12.2018</b>
<b>9.</b>	<b>Hon'ble Mr. Justice Ravindra Maithani</b>	<b>03.12.2018</b>
<b>10.</b>	<b>Hon'ble Mr. Justice Alok Kumar Verma</b>	<b>27.05.2019</b>

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## Transfers and Promotions of Judicial Officers

Sl.No.	Name & Designation of the Officer	Place of Transfer/promotion	Date of Order
1.	Sri Ashish Naithani, Chairman, Permanent Lok Adalat, Dehradun (additional charge of Chairman, Transport Appellate Tribunal)	District & Sessions Judge, Champawat.	09.04.2019
2.	Smt. Monika Mittal, Addl. District and Sessions Judge, Khatima, District Udham Singh Nagar.	Addl. District & Sessions Judge, Ramnagar, District Nainital.	09.04.2019
3.	Sri Sujeet Kumar, Addl. District & Sessions Judge, Ramnagar, District Nainital.	Registrar, High Court of Uttarakhand, Nainital.	09.04.2019
4.	Sri Pradeep Kumar Mani, Joint Registrar, Public Service Tribunal, Dehradun.	Promoted to Uttarakhand Higher Judicial Service and posted as Addl. District & Sessions Judge, Khatima, District Udham Singh Nagar.	09.04.2019
5.	Sri Seash Chandra, Secretary DLSA, Almora.	Promoted to Uttarakhand Higher Judicial Service and posted as Addl. District & Sessions Judge, Tehri Garhwal.	09.04.2019
6.	Sri Arun Vohra, Secretary DLSA, Udham Singh Nagar	1 <sup>st</sup> Additional Civil Judge (Sr. Div.), Hardwar.	09.04.2019
7.	Sri Hemant Singh, Secretary DLSA, Uttarkashi.	Principal Magistrate (1 <sup>st</sup> Class), Juvenile Justice Board, Udham Singh Nagar.	09.04.2019
8.	Smt. Jyoti Bala, 1 <sup>st</sup> Addl. Civil Judge (Sr. Div.), Hardwar.	2 <sup>nd</sup> Addl. Civil Judge (Sr. Div.), Hardwar.	09.04.2019
9.	Ms. Chhavi Bansal, Joint Director UJALA, Bhowali, Nainital.	1 <sup>st</sup> Addl. Civil Judge (Sr. Div.), Udham Singh Nagar	09.04.2019

10.	Ms. Ritika Semwal, 2 <sup>nd</sup> Addl. Civil Judge (Sr. Div.), Hardwar.	Joint Director UJALA, Bhowali, Nainital.	09.04.2019
11.	Ms. Shweta Rana Chauhan, Civil Judge (Sr. Div.), Nainital.	4 <sup>th</sup> ACJM, Dehradun.	09.04.2019
12.	Sri Sanjeev Kumar, Principal Magistrate (1 <sup>st</sup> Class), Juvenile Justice Board, Udham Singh Nagar.	3 <sup>rd</sup> Addl. Civil Judge (Sr. Div.), Udham Singh Nagar	09.04.2019
13.	Ms. Durga, Civil Judge (Jr. Div.), Uttarkashi.	Promoted to Civil Judge (Sr. Div.)	09.04.2019
14.	Sri Ravindra Dev Mishra, Civil Judge (Jr. Div.), Hardwar.	Civil Judge (Jr. Div.), Didihat, District Pithoragarh.	09.04.2019
15.	Sri Ravi Ranjan, Civil Judge (Jr. Div.), Didihat, District Pithoragarh.	Civil Judge (Jr. Div.), Khatima, District Udham Singh Nagar.	09.04.2019
16.	Ms. Beenu Gulyani, Civil Judge (Jr. Div.), Khatima, District Udham Singh Nagar.	Civil Judge (Jr. Div.), Bazpur, District Udham Singh Nagar.	09.04.2019
17.	Sri Sachin Kumar, 2 <sup>nd</sup> Addl. Civil Judge (Jr. Div.), Hardwar.	Civil Judge (Jr. Div.), Hardwar.	09.04.2019
18.	Ms. Parul Thapalyal, Civil Judge (Jr. Div.), Bazpur, District Udham Singh Nagar.	Addl. Civil Judge (Jr. Div.), Khatima, District Udham Singh Nagar.	09.04.2019
19.	Sri Vivek Singh Rana, Judicial Magistrate, Kotdwar, District Pauri Garhwal.	Civil Judge (Jr. Div.), Kotdwar.	09.04.2019
20.	Ms. Shikha Bhandari, Judicial Magistrate-III, Dehradun	Judicial Magistrate, Kotdwar, District Pauri Garhwal.	09.04.2019
21.	Sri G.K. Sharma, District & Sessions Judge, Almora.	Director, Uttarakhand Judicial & Legal Academy, Bhowali, District Nainital.	12.06.2019
22.	Sri Pradeep Pant, Registrar General, High Court of Uttarakhand, Nainital	District & Sessions Judge, Almora.	12.06.2019

<b>23.</b>	Sri H.S. Bonal, District & Sessions Judge, Udham Singh Nagar.	Registrar General, High Court of Uttarakhand, Nainital.	12.06.2019
<b>24.</b>	Sri Prashant Joshi, Member Secretary, State Legal Service Authority, Uttarakhand, Nainital (additional charge of Director UJALA).	District & Sessions Judge, Dehradun.	12.06.2019
<b>25.</b>	Sri Narendra Dutt, District & Sessions Judge, Nainital	District & Sessions Judge, Udham Singh Nagar.	12.06.2019
<b>26.</b>	Sri Anuj Kumar Sangal, Registrar (Infrastructure), High Court of Uttarakhand, Nainital.	Registrar (Vigilance), High Court of Uttarakhand, Nainital.	26.06.2019
<b>27.</b>	Sri Rajeev Kumar Khulbey, 1 <sup>st</sup> Addl. District & Sessions Judge, Dehradun.	District and Sessions Judge, Nainital.	26.06.2019.

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## Circulars



From

Registrar General,  
High Court of Uttarakhand  
Nainital

To

All the District Judges/  
Principal Judge/Judges, Family Courts,  
State Judiciary, Uttarakhand,

C.L. No. 04

UHC/Admin.B/2019

Dated: April 12, 2019

**Subject:**

**Regarding transfer policy for the staff of subordinate courts.**

Sir/Madam,

In continuation and partial modification of C.L. No. 12/08 dated November 18/20, 2008 (*copy enclosed for ready reference*), I have been directed to communicate you that in the case of a class III employee posted at the Head Quarter/outlying court, and has completed three years in the same seat, he/she may be transferred from Head Quarter to the outlying court and vice versa, subject to availability of posts.

You are therefore, informed accordingly.





From

Registrar General,  
High Court of Uttarakhand,  
Nainital.

To,

1. All the District Judges, Subordinate to High Court of Uttarakhand.
2. All the Family Court Judges, State of Uttarakhand.
3. Secretary Law-cum-L.R., Government of Uttarakhand, Dehradun.
4. Secretary, Legislative & Parliamentary Affairs, Government of Uttarakhand, Dehradun.
5. Director, Uttarakhand Judicial & Legal Academy, Bhowali, District Nainital
6. Chairman, Commercial Tax Tribunal, F-6, Nehru Colony, Hardwar Road, Dehradun.
7. Chairman, State Transport Appellate Tribunal, 3/5 A, Race Course, Near Rinku Medicose, Dehradun.
8. Legal Advisor to Hon'ble the Governor, Rajbhawan, Dehradun.
9. Secretary, Lokayukt, 3/3, Industrial Area, Patel Nagar, Dehradun.
10. Registrar, State Consumer Redressal Commission, House No 176, Ajabpur Kalan, Near Spring Hills School, Mothrowala Road, Dehradun, 248415
11. Member-Secretary, Uttarakhand State Legal Services Authority, Nainital.
12. Presiding Officer, Industrial Tribunal-cum-Labour Court, Haldwani, Distt Nainital.
13. Presiding Officer, Labour Courts, Dehradun, Hardwar and Kashipur, Distt Udham Singh Nagar.
14. Presiding Officer, Food Safety Appellate Tribunal, Dehradun and Haldwani (Nainital).
15. Registrar, Public Service Tribunal, Uttarakhand, Dehradun.
16. Chairman, Uttarakhand Co-operative Tribunal, Dehradun.
17. Secretary-cum-Registrar, State Level Police Complaint Authority, Dehradun.
18. Chairman, Permanent Lok Adalat, Dehradun, Hardwar, Nainital and Udham Singh Nagar.

C.L. No. 5 /UHC/Admin.A/2019

Dated: June 27, 2019.

**Subject: Nomination of Administrative Judge(s).**

Sir/Madam,

In order to partial modification in Circular Letter no. 05/UHC/Admin.A/2018 dated 13.12.2018 on the subject noted above, I have to inform that Hon'ble the Chief Justice is pleased to nominate Hon'ble Mr. Justice Alok Kumar Verma as the Administrative Judge Incharge of the Rudraprayag District.

You are therefore, informed accordingly.

**HIGH COURT OF UTTARAKHAND**  
**NAINITAL**

**NOTIFICATION**

**No. 103/UHC/VII-a-1/Stationery**

**Dated: April 03, 2019**

Pursuant to the Government Notification No. 293 /xxxii (15)/G /19 /यूओओ 01(साओ)/2011 dated 26/03/2019 issued U/s 25 Negotiable Instrument Act. 1881 (Act No, 26 of 1881), 11<sup>th</sup> April, 2019 (Thursday) is hereby declared holiday in Subordinate Courts on account of General Election of Lok Sabha-2019.

**By order of the Court**

**HIGH COURT OF UTTARAKHAND**  
**NAINITAL**

**NOTIFICATION**

**No. 104 /UHC/VII-a-1/Stationery**

**Dated: April 03 , 2019**

Pursuant to the Government Notification No. 293 / xxxii (15) / G / 19 /यूओओ 01(साओ)/2011 dated 26/03/2019 issued U/s 25 Negotiable Instrument Act. 1881 (Act No. 26 of 1881), 11<sup>th</sup> April, 2019 (Thursday) is hereby declared holiday in the High Court of Uttarakhand on account of General Election of Lok Sabha-2019 and in lieu thereof the High Court will remain open on Saturday, 02<sup>nd</sup> of November, 2019.

**By order of the Court**

**HIGH COURT OF UTTARAKHAND**  
**NAINITAL**

**NOTIFICATION**

**No.155/UHC/Admin.A/2019**

**Dated: 24 May, 2019.**

In exercise of the powers conferred by Rule 27(i) of the Uttarakhand Higher Judicial Service Rule, 2004 and all other powers enabling in this behalf, Hon'ble the Court is pleased to grant the selection grade of Rs.57700-1230-58930-1380-67210-1540-70290 to Shri Amit Kumar Sirohi, Judge, Family Court, Almora after completing 05 years of continuous service in the H.J.S. Cadre, w.e.f. 13.10.2016.

**By order of the Court,**

**HIGH COURT OF UTTARAKHAND**  
**NAINITAL**

**NOTIFICATION**

**No. 158/UHC/Admin.A/2019**

**Dated: Nainital: May 27, 2019.**

Hon'ble Shri Justice Alok Kumar Verma, has assumed charge of the office of Additional Judge of the High Court of Uttarakhand in the forenoon of **27 May, 2019** vide **Notification No. K.13032/01/2019-US.I** dated **22.05.2019** issued by Government of India, Ministry of Law & Justice (Department of Justice).

**By order of the Court,**

**HIGH COURT OF UTTARAKHAND AT NAINITAL**  
**NOTIFICATION**

**No. 164/UHC/Admin. A /2019**

**Dated: May 30, 2019.**

In exercise of the powers conferred by Article 229 of the Constitution of India and all other powers enabling in that behalf, Hon'ble the Chief Justice has been pleased to make the following amendment in Allahabad High Court Officers and Staff (Conditions of service and conduct) Rules 1976, applicable to High Court of Uttarakhand, Nainital under U.P. Reorganization Act, 2000:-

Amendment in Allahabad High Court Officers and Staff (Conditions of Service and Conduct) Rules, 1976, as applicable to High Court of Uttarakhand vide Section 30 of

U.P. Reorganization Act, 2000.

<b>Rule No.</b>	<b>• Existing Rule</b>	<b>Amendment</b>
<b>9 (b)</b>	Must, possess good knowledge of English Shorthand and typewriting with minimum speed of 40 words per minute in English and 100 words in English Shorthand dictation per minute. Preference will be given to those having good knowledge of Hindi shorthand and typewriting with minimum speed of 80 in Hindi Shorthand dictation per minute and knowledge of Computer operation.	Must, possess good knowledge of English Shorthand and typewriting with minimum speed of 40 words per minute in English and 100 words in English Shorthand dictation per minute. In case, final marks obtained by 02 or more candidates are equal, preference will be given to those having good knowledge of Hindi shorthand and typewriting with minimum speed of 9000 key-depression in Hindi type-writing per hour and 80 words in Hindi Shorthand dictation per minute and knowledge of Computer operation.
<b>12</b>	(4) The merit list shall be prepared on the basis of the marks obtained in the written examination. The list shall hold good for three years or until the	(4) The merit list shall be prepared on the basis of the marks obtained in the written examination, except in case of recruitment of

	<p>next selection whichever is earlier.</p>	<p>Personal Assistant. The list shall hold good for three years or until the next selection whichever is earlier. Provided that for the recruitment of Personal Assistant, merit list shall be prepared on the basis of marks obtained in the written examination and shorthand test.</p>
<p><b>Appendix 'A'</b></p>	<p>Syllabus of the competitive examination for the direct recruitment on the posts of Personal Assistant, Assistant Review Officer, Assistant Librarian, Console Operator-cum-Data Entry Assistant, Translators &amp; Typist.</p> <p>General Knowledge (Objective Type) (For all Posts)</p>	<p>Syllabus of the competitive examination for the direct recruitment on the posts of Assistant Review Officer, Assistant Librarian, Console Operator-cum-Data Entry Assistant, Translators &amp; Typist.</p> <p>General Knowledge (Objective Type) (For all Posts), except Personal Assistant.</p>
	<p><b><u>Personal Assistant</u></b> <b>Paper-I- English language Time: 03 Hours MM: 200</b> (i) Word, Phrases, Synonyms, Opposites (ii) Essay (iii) Precis Writing (iv) Grammar (v) Translation from English to Hindi (vi) Letter Writing (formal) (vii) Summary Writing <b>Paper II- Hindi Language Time: 03 Hours MM: 200</b> • Word, Phrases, Synonyms, Opposites • Essay • Precis Writing • Grammar • Translation from Hindi to English • Letter Writing (formal) • Summary Writing <b>Paper III- Practical Time: 03 Hours MM: 100</b></p>	<p><b><u>Personal Assistant</u></b> <b>Paper-I- Time: 90 minutes MM: 80</b> (A) General Knowledge (Indian History, Knowledge of Uttarakhand, General Science, Constitution of India, Current Affairs) 40 Questions (Multiple-choice) of 40 marks. (B) English Language (i) Word, Phrases, Synonyms, Antonyms 10 Questions of 10 marks (ii) Grammar 10 Questions of 10 marks (iii) Translation from English to Hindi 10 Marks (iv) Precis writing in English 10 Marks <b>Paper II- Practical</b></p>

	<p>Shorthand and Type-writing with minimum speed of 12000 key-depressions per hour in English and 100 words in English Shorthand dictation per minute.</p> <p><b>Note: 1.</b> Preference will be given to those having good knowledge of Hindi Shorthand and Type-writing with minimum speed of the 9000 key-depressions in Hindi Type-writing per hour and 80 words in Hindi Shorthand dictation per minute and knowledge of Computer operation.</p>	<p>(v) Typing Test-(Qualifying)- The candidate must possess minimum speed of 40 words per minute (corresponding to 12000 key-depressions per hour) in English Typing. Candidates, who will not be able to type 12000 key depressions per hour, shall be disqualified.</p> <p>(vi) Shorthand Test-Candidates qualifying the typing test will have to appear for Shorthand Test at the speed of 100 words per minute in English. Max. Marks 120. Duration of Dictation 07 minutes. Transcription Time: 45 Minutes (This time excludes 10 minutes for reading of notes)</p> <p>Mode of Evaluation of Shorthand Test shall be as under: Evaluation Scheme of Shorthand Test for the post of Personal Assistant</p> <p>(1) Full Mistakes:</p> <ol style="list-style-type: none"> <li>i. Omission/ addition of any word/ figure.</li> <li>ii. Substitution of any word/figure in place of dictated word/figure. Above mistakes are counted as full mistakes and marked by red ink.</li> </ol> <p>(2) Half Mistakes:</p> <ol style="list-style-type: none"> <li>i. Spelling Mistake (spell check facility being available on computers)</li> <li>ii. Non use/ wrong use of Full Stop/ Question Mark.</li> <li>iii. Use of singular instead of plural and vice-versa.</li> <li>iv. Wrong use of capital letter at the beginning of a sentence.</li> </ol>
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		<p>v. Other grammatical mistakes. Above mistakes are counted as half mistakes and marked by <u>blue ink</u>. Actual Mistakes= Full Mistakes+1/2 of Half Mistakes.</p> <p>(3) Formula for awarding marks</p> <p>(a) Total Words dictated @ 100 w.p.m.=700 words</p> <p>(b) Maximum Marks=120</p> <p>(c) Total mistakes admissible/relaxed =Maximum 7% of total dictated words. {7% of 700 words=49 mistakes}. For being qualified, the candidate must come within the relaxation limit of 7% mistakes and no marks will be awarded to the candidate, who commits more than 49 Actual Mistakes.</p> <p>(d) For one Actual Mistake, 1 mark will be deducted.</p> <p>(e) Marks obtained by the qualified candidate=Maximum Marks-Actual Mistakes committed. Examples (i) a candidate committing 10 actual Mistakes will get 110 marks {i.e.120 (maximum marks)-10 (actual mistakes committed)}, (ii) a candidate committing 0 actual mistakes will get 120 marks (i.e. 120-0 actual mistakes) &amp; (iii) a candidate committing 30 actual mistakes will get 90 marks (i.e. 120-30 actual mistakes).</p> <p>Note: In case of incomplete transcription (more than 49 words left), the candidate will be</p>
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		<p>treated as not qualified. Candidate, who commits more than 49 Actual Mistakes, will be treated as 'not qualified'.</p> <p>In case of use of longhand in place of shorthand, the candidate will be disqualified.</p> <p>Note 1: Typing Test will be conducted first and the candidates, who will qualify in the Typing test, will only be allowed to appear in the Shorthand test. Candidates qualified in the Shorthand test will be allowed to appear in the written examination. Final merit list shall be prepared on the basis of marks obtained in written examination (80 Marks) and Shorthand test (120 Marks). Total marks-200.</p> <p>For General category candidates, cut-off for written examination shall be 40% and for reserved category candidate, cut-off shall be 35%.</p> <p>In case, two or more candidates secure equal marks, such candidates will be called for Hindi shorthand and type-writing and the candidate who will score better in Hindi shorthand will be given preference.</p>
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This amendment will come into force with immediate effect

**By order of Hon'ble the Chief Justice,**



**HIGH COURT OF UTTARAKHAND AT NAINITAL**  
**NOTIFICATION**

**No. 167/UHC/Admin. A /2019**

**Dated: May 31, 2019.**

In exercise of the powers vested in him by Article 229 (2) of the Constitution of India, Hon'ble the Chief Justice of High Court of Uttarakhand is hereby pleased to make the following Rules for regulating the Appointment, Conditions of Service and the Conduct of the Members of the Information Technology (I.T.) Cadre serving on the Establishment of High Court of Uttarakhand:

**HIGH COURT OF UTTARAKHAND INFORMATION TECHNOLOGY**  
**(I.T.) CADRE SERVICE RULES - 2019**

**PART-1: GENERAL**

**1. Short title and Commencement:**

- a. These Rules shall be called the "High Court of Uttarakhand Information Technology (I.T.) Cadre Service Rules – 2019".
- b. They shall come into force with immediate effect.

**2. Definitions (In these rules, unless the context otherwise requires):**

- (a) '**Appointing Authority**' means the Chief Justice of High Court of Uttarakhand or any other Sitting Judge of the High Court of Uttarakhand who has been delegated or authorized by the Chief Justice to act as Appointing Authority.
- (b) '**Chief Justice**' means the Chief Justice of the High Court of Uttarakhand.
- (c) '**Governor**' means the Governor of Uttarakhand.
- (d) '**High Court**' means the High Court of Uttarakhand at Nainital.
- (e) '**Member of the service**' means, a person appointed in the substantive capacity after due process, on a post in the service and in case the appointment is:-
  - i. Prior to the enforcement of these rules, then under the orders/ rules as applicable at the time of appointment;
  - ii. Subsequent to the enforcement of these rules, then under these rules.
- (f) '**Registrar General**' means the Registrar General of the High Court of Uttarakhand.
- (g) '**State Government**' means the State Government of Uttarakhand.
- (h) '**Substantive appointment**' means, a appointment that is:-
  - (i) Neither an ad-hoc nor temporary appointment; and
  - (ii) Made in accordance with the rules/ orders applicable at the time of appointment prior to the enforcement of these rules.
  - (iii) Appointed under these rules against the sanctioned posts.
- (i) '**Year of recruitment**' means a period of twelve months commencing from the first day of July of a calendar year.

**PART-2: RECRUITMENT**

**3. Recruitment:** The recruitment to the various posts in the service shall be as follows:-

<b>SNO</b>	<b>Designation</b>	<b>No. of Posts</b>	<b>Mode of recruitment and promotion criteria</b>
1	Assistant Programmer	8	(i) 75% through direct recruitment. (ii) 25% through departmental examination.
2	Programmer (Grade-II)	4	(i) 50% posts will be filled by promotion, on the basis of seniority-cum-merit from amongst the Assistant Programmers who have completed 5 years of

			satisfactory service as Assistant Programmer. (ii) 50% posts will be filled by direct recruitment.
3	Programmer (Grade- I)	3+1 <sup>(a)</sup> =4	By promotion, on the basis of seniority-cum-merit from amongst the Programmer(s) (Grade-II), who have completed 5 years of satisfactory service as Programmer (Grade-II).
4	Assistant Registrar (I.T.) / System Analyst	1	By promotion, on the basis of seniority from amongst such Programmer(s) (Grade-I), who have completed 3 years of satisfactory service as Programmer (Grade-I).
5	Deputy Registrar (I.T.) / Senior System Analyst	1	By promotion, on the basis of seniority from amongst the Assistant Registrar (I.T.) / System Analyst, who have completed 3 years of satisfactory service as Assistant Registrar (I.T.) / System Analyst.
<b>TOTAL</b>		<b>18</b>	

**Note:-**

- a. The existing post of System Analyst at High Court of Uttarakhand which was created vide **G.O. No. 234/Nyaya Anubhag/2001 dated 02-05-2001**, shall be renamed as Programmer (Grade-1) and merged in the I.T. Cadre of High Court of Uttarakhand as one time arrangement along with the length of service and pay protection. It shall be deemed that appointment in the existing post of System Analyst was made under these Rules.
- b. The number of posts and grade in the Cadre shall be as per **Schedule-1** to these rules.

**PART-3: QUALIFICATIONS**

4. **Qualifications:** The qualifications for the direct recruitment/departmental examination to the post of Assistant Programmer and Programmer Grade-II shall be as follows:-

<b>Assistant Programmer</b> (In case the selection is by direct recruitment)	<p>Knowledge of Unix/Linux, Open Source Software, PHP, JAVA, PostgreSQL / MySQL and other RDBMS packages, Programming languages with the following minimum educational qualification:</p> <ol style="list-style-type: none"> <li>M.C.A./M.Sc./B.E./B.Tech. (Computer Science or Information Technology)/DOEACC 'B' level or equivalent qualification from a Government recognized University/Institution/Board with minimum 2 (two) years experience of an enterprise (any Institution or any other establishment or corporation or under taking or any other department) in the sphere of computer maintenance, network services and software maintenance.</li> </ol> <p><b>OR</b></p> <p>3 years Diploma in Computers or IT from any recognized Polytechnic College or equivalent technical qualification from the recognized Institution/Board /University with minimum 4 (four) years experience of an enterprise (any Institution or any other establishment or corporation or under taking or any other department) in the sphere of computer maintenance, network services and software maintenance.</p> <p><b>OR</b></p> <p>Graduate/DOEACC 'A' level with minimum 5 (five) years experience as System Assistant under e-Court Mission Mode Project.</p> <ol style="list-style-type: none"> <li>(i) Proficient in Red Hat Linux/Ubuntu. (ii) Proficient in troubleshooting Information Technology equipments, network hardware handling, installation and good exposure of configuring network servers, android/iOS/windows based phone/tablet etc, switches and offering all kinds of maintenance, network and support services.</li> <li><b>Desirable:</b> CCNA/MCSE certification or other equivalent relevant certification.</li> <li><b>Essential:</b> Name of the candidate must be registered in any Employment Exchange in the State of Uttarakhand and his/ her registration should be valid on the last date of submission of application form.</li> </ol> <p>Provided that any relaxation in the above condition shall be in accordance with the orders issued by the State Government in this regard.</p>
<b>Assistant Programmer</b> (In case the selection is by departmental)	25% posts of Assistant Programmer shall be filled through departmental examination from willing regular employees of High Court having Knowledge of Unix/Linux, Open Source Software, PHP, JAVA, PostgreSQL / MySQL and other RDBMS packages, Programming languages with the following minimum educational qualification having M.C.A./M.Sc./B.E./ B.Tech. (Computer Science or Information Technology)/

examination)	DOEACC 'B' level/3 years Diploma in Computers or IT from any recognized Polytechnic College or equivalent technical qualification from a Government recognized University/Institution/Board. Provided that the above recruitment through departmental examination shall be deemed as fresh recruitment and in the event suitable candidates are not available through the departmental examination then the vacancies shall be filled through direct recruitment.
<b>Programmer (Grade- II)</b> (In case the selection is by direct recruitment)	Proficient knowledge of Unix/Linux, Open Source Software, PHP, JAVA, PostgreSQL/MySQL and other RDBMS packages, Programming languages with the following minimum educational qualification: B.E./ B.Tech.(Computer Science or Information Technology) or M.C.A./ M.Sc. (Computer Science or Information Technology)/ DOEACC 'B' level or equivalent qualification from a Government recognized University/Institution with minimum 3 (three) years experience in any Institution or any other establishment or corporation or under taking or any other department in the sphere of software development. <b>OR</b> B.Sc. (Computer Science or I.T.)/B.C.A./ DOEACC 'A' level from a recognized University/ Institute/Board with minimum 5 (five) years experience in any Institution or any other establishment or corporation or under taking or any other department in the sphere of software development.

**5. Disqualification for appointment:**

No person shall be eligible to the service –

- (a) Unless he is citizen of India.
- (b) If he has been dismissed from service by the Central Government or State Governments or Union Territory or any High Court or Statutory or Local Authority or statutory corporations;
- (c) If he has been convicted of an offence involving moral turpitude or who is or has been permanently debarred or disqualified by the High Court or the Union/State Public Service Commission or by any recruitment process or Examination conducting Authority from appearing in examinations or selections;
- (d) If he directly or indirectly influences or attempts to influence the Recruiting Authority by any means for his candidature;
- (e) If he is a man, has more than one wife living, and, if a woman, has married another man during the currency of her marriage, unless any such arrangement or marriage is legally permissible under the personal law applicable to candidate concerned. The candidate will not be eligible if he/she having a living spouse, have entered into or contracted a marriage with any person.

6. **Job Description:** The job description of the cadre shall be such as directed by Hon'ble the Chief Justice from time to time.

7. **Age:** In case of direct recruitment to the post of Assistant Programmer and Programmer (grade-II), candidates must have attained the age of 21 years as on 1<sup>st</sup> of July of the year of recruitment and must not have attained the age of 42 years or such maximum age as may be determined by the Chief Justice to be fit, having regard to the orders issued by the State Government in this regard from time to time.

Provided that there may be relaxation in the upper age limit in accordance with the orders issued by the State Government in this regard.

**PART- 4: PROCEDURE FOR RECRUITMENT**

**8. Determination of Vacancies:**

- a. The appointing authority would determine the number of vacancies to be filled during the course of the year of recruitment, and also the number of vacancies to be reserved for candidates belonging to Scheduled Caste, Scheduled Tribe, Other Backward Classes and other categories to such extent and in such manner, as may be specified by the State Government by issuing orders in this behalf from time to time.
- b. The applications for direct recruitment shall be invited by advertising the vacancies in one National Newspaper, one regional Newspaper having wide circulation in the State and in the website of the High Court.

- c. The fee for selection process shall be such as is determined by Hon'ble the Chief Justice having regard to the general policy.
- d. Determination of vacancies to be filled would be within the exclusive domain of appointing authority.
- 9. Method of Selection:**
- a. The selections shall be made under the orders of Hon'ble the Chief Justice by a Selection Committee, constituted by Hon'ble the Chief Justice or by the Uttarakhand Public Service Commission.
- b. The merit shall be determined on the basis of written examination, practical examination and interview or such other process which appointing authority deems appropriate. The interview board shall be such as constituted by Hon'ble the Chief Justice.
- c. The Selection Committee or the Uttarakhand Public Service Commission as the case may be, shall recommend and forward the merit list to the Chief Justice for appointment. If the appointment is made through Uttarakhand Public Service Commission, one Hon'ble Judge of the High Court of Uttarakhand, as nominated by Hon'ble the Chief Justice, shall preside over the interview board.
- d. In the selection, if two or more candidates secure equal marks then, the candidate securing higher marks in the written examination will be placed higher in the merit list. If, the written marks are also equal then the candidate senior in age will be placed higher.
- e. The selection list shall be valid only for one year from the date of declaration of the results or as directed by the Hon'ble Chief Justice.
- f. The Chief Justice may make such regulations/ guidelines or issue general or special order to advance the purpose of and to give effect to these rules, in suppression to the existing rules.

**PART-5: APPOINTMENT, PROBATION, CONFIRMATION AND SENIORITY**

**10. Appointment and Probation:**

- a. The appointments shall be made according to the merit list prepared at the time of selection.
- b. A candidate shall be placed on probation for a period of two years.
- c. The appointing authority may, for reasons to be recorded in writing may extend the period of probation.

11. **Confirmation:** A probationer may be confirmed at the end of period of probation or extended period of probation by an order of appointing authority, if -

- (a) His work and conduct is satisfactory; and,  
 (b) His integrity is certified; and  
 (c) The appointing authority is satisfied that he is otherwise fit for confirmation.

**12. Seniority:**

- (a) The Seniority shall be determined from the date of substantive appointment.  
 (b) The seniority shall be determined according to the merit list prepared in the selection process.  
 (c) These rules will not affect seniority of members of service as it existed prior to the date of enforcement of these rules.

**13. Promotion:**

Whenever it is required to make promotion on any post of I.T. Cadre, the Registrar General shall prepare a list of candidates eligible for promotion under these Rules. The list shall be drawn according to the inter se seniority of the candidates on the post from which the promotion is made. Promotion to all posts shall be made on the basis of seniority-cum-merit unless promotion of a member has been withheld as a penalty under the relevant Conduct Rules or unless he has been found unfit on the basis of analysis of his ACRs for the last three years.

**14. Pay, Allowances and Facilities:**

- (a) The pay-scales to the posts of the I.T. Cadre shall be as per **Schedule-2** to these rules or such as may be determined by the Chief Justice from time to time upon the approval of the Governor of the State.

(b) The members of the service would be entitled to allowances and other facilities as are admissible to the members of other services (General Cadre) in the High Court in the same pay-scale/grade or as directed by the Hon'ble Chief Justice.

#### **PART-6: OTHER PROVISIONS**

15. **Reservation:** The reservation shall be provided as per the directions of the Chief Justice having regard to the policy of the State and law of reservation as applicable on the date of advertisement.

**16. Posting, Transfer and Control:**

a. It shall be the exclusive prerogative of Hon'ble the Chief Justice to post and transfer any member of the service of the I.T. Cadre in High Court as well as Courts subordinate to the High Court of Uttarakhand.

b. Each member of the service shall be under the direct control of the Registrar General. However, the District Judge concerned shall also exercise the control over the employee of the I.T. Cadre posted in the District Court within the terms or directions to be issued by High Court/appointing authority time to time.

17. **Disciplinary Authority:** The Appointing Authority shall be the disciplinary authority under these rules and the members of I.T. Cadre shall also be governed by the Conduct Rules as are applicable to the other employees of High Court.

18. **Other conditions of service:** Other conditions of service, for which no specific provisions have been made in these rules, shall be regulated in accordance with the rules applicable to the employees of the High Court of Uttarakhand or such orders as may be issued by the Chief Justice from time to time.

19. **Interpretation:** If any question as to interpretation of these rules arises, the decision of the Chief Justice on such interpretation shall be final.

20. **Residuary Powers:** Where the Chief Justice is of the opinion that it is necessary or expedient so to do, he may, by order and for reason(s), to be recorded, in writing, relax any of the provisions of these rules including schedule thereto with respect to any category of persons or posts governed under the rules.

21. Notwithstanding anything contained in these rules, the Chief Justice of High Court of Uttarakhand shall have the power to make orders, as he may consider fit, in respect of recruitment, promotion, confirmation or any other matter thereto.

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**Schedule- 1**  
(See Rule-3)

**Number of Posts: 18**

<u>SN</u>	<u>Designation</u>	<u>Existing Post</u>	<u>Group/Grade</u>	<u>Number of posts</u>
1	Deputy Registrar(I.T.)/Senior System Analyst	-	Gr-A	1
2	Assistant Registrar(I.T.)/System Analyst	-	Gr-A	1
3	Programmer (Grade-I)	System Analyst	Gr-B	3+1*=4
4	Programmer (Grade-II)	-	Gr-B	4
5	Assistant Programmer	-	Gr-C	8

\* The existing post of System Analyst at High Court of Uttarakhand which was created vide **G.O. No. 234/Nyaya Anubhag/2001 dated 02-05-2001**, shall be renamed as Programmer (Grade-1) and merged in the I.T. Cadre of High Court of Uttarakhand as one time arrangement along

with the length of service and pay protection. It shall be deemed that appointment in the existing post of System Analyst was made under these Rules.

**Schedule-2**  
(See Rule 14)

SN	Designation	Pay scales as per 6 <sup>th</sup> Pay commission	Grade Pay as per 6 <sup>th</sup> Pay commission
1	Deputy Registrar(I.T.)/Senior System Analyst	15600-39100 (PB-3)	7600/-
2	Assistant Registrar(I.T.)/System Analyst	15600-39100 (PB-3)	6600/-
3	Programmer (Grade-I)	15600-39100 (PB-3)	5400/-
4	Programmer (Grade-II)	9300-34800 (PB-2)	4800/-
5	Assistant Programmer	9300-34800 (PB-2)	4200/-

- The pay scales and nomenclature/ designation of the posts are as per the **G.O. Number 94/XXXVI(1)/2016-67/2011, Dated 29/02/2016** and **G.O. No. 343/XXXVI(1)/2016-67/2011 T.C.-I dated 14/07/2016.**

This amendment will come into force with immediate effect.

**By order of Hon'ble the Chief Justice,**

**HIGH COURT OF UTTARAKHAND**

**NAINITAL**

**NOTIFICATION**

**No. 176 /UHC/Admin. A /2019**

**Dated: June 20, 2019.**

In exercise of the powers conferred by clause (2) of Article 229 of the Constitution of India and all other powers enabling in that behalf, Hon'ble the Chief Justice has been pleased to make the following amendment in Allahabad High Court Officers and Staff (Conditions of service and conduct) Rules 1976, applicable to High Court of Uttarakhand, Nainital under U.P. Reorganization Act, 2000:-

Amendment in Allahabad High Court Officers and Staff (Conditions of Service and Conduct) Rules, 1976, as applicable to High Court of Uttarakhand vide Section 30 of U.P. Reorganization Act, 2000.

Rule No.	• Existing Rule	Amendment
Rule 20(c)	<p>By promotion from amongst the Deputy Registrars and P.P.S.</p> <p>Notwithstanding anything contained hereinabove, any Joint Registrar may also be appointed by the Chief Justice as he deems fit and expedient.</p> <p>Notwithstanding anything contained herein before the incumbent to the post of Joint Registrar must be a Law Graduate of a recognized University or must pass the Judicial Test held by the High Court.</p> <p>Provided further that the person must have worked as Deputy Registrar or Principal Private Secretary for a period of one year.</p> <ul style="list-style-type: none"> <li>• Provided further that the Chief Justice will have the power to relax the requirement of the period of one year.</li> </ul>	<p>By promotion from amongst the Deputy Registrars, on the basis of “merit-cum-seniority”. Merit to be assessed on the entire record of service of the eligible candidates and interview by a Committee of three Judges to be constituted by the Hon’ble Chief Justice.</p> <p>Provided that the person must have worked as Deputy Registrar for a period of atleast three years.</p> <p>Provided further that the Chief Justice will have the power to relax the requirement of the period of three years for just and valid reasons.</p>
Appendix-A  Syllabus for promotion to the post of Joint Registrar	<p>The candidate must have working knowledge of Allahabad High Court Rules, 1952 (as applicable to High Court of Uttarakhand, Nainital) and Constitutional Law. The candidate must have elementary knowledge of Indian Penal Code, Code of Criminal Procedure, Civil Procedure Code, Evidence Act, Limitation Act, Family Courts Act, Motor Vehicle Act, Court Fees &amp; Suits Valuation Act etc. An aspirant to the post of Joint Registrar must also have practical knowledge of Computers.</p> <p>The question paper will be subjective-cum-objective and of 200 marks. Computer test will be of 25 marks. Viva-voce will be of 75 marks, in which 30 marks will be given for Annual Confidential Remarks (06 marks for outstanding, 05 marks for Very Goods and 04 marks for Good) of preceding five years.</p> <p>For General category candidates 50% marks in written test and computer test and for candidates belonging to Scheduled Caste, Scheduled Tribes and</p>	----- Deleted-----

	<p>O.B.C. 45% marks in written test and computer test must be required for qualifying for the Viva-voce.</p> <p>The setting up of question papers, conducting of test, valuation of answer papers, declaration of results and all other matters connected therewith will be done under the authority of Hon'ble Chief Justice or under the control of a Committee constituted by Hon'ble the Chief Justice in this behalf.</p>	
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This amendment will come into force with immediate effect.

**By order of Hon'ble the Chief Justice,**

**HIGH COURT OF UTTARAKHAND**  
**NAINITAL**

**NOTIFICATION**

**No.180/UHC/Admin.A/2019**

**Dated: 28<sup>th</sup> June, 2019.**

In exercise of the powers conferred by Rule 27(i) of the Uttarakhand Higher Judicial Service Rules, 2004 and all other powers enabling in this behalf, the Hon'ble Court is pleased to grant the Selection Grade of Rs.57700-1230-58930-1380-67210-1540-70290 to Shri Shrikant Pandey, 3<sup>rd</sup> Additional District & Sessions Judge, Dehradun after completing 05 years of continuous service in the H.J.S. Cadre, w.e.f. 01.12.2016.

**By order of the Court,**



**HIGH COURT OF UTTARAKHAND AT NAINITAL**  
**NOTIFICATION**

No.181/UHC/Admin. A /2019

Dated: June 28<sup>th</sup>, 2019.

In exercise of the powers conferred by clause (2) of Article 229 of the Constitution of India and all other powers enabling in that behalf, Hon'ble the Chief Justice has been pleased to make the following amendment in Allahabad High Court Officers and Staff (Conditions of service and conduct) Rules 1976, applicable to High Court of Uttarakhand, Nainital under U.P. Reorganization Act, 2000:-

**Amendment in Allahabad High Court Officers and Staff**  
**(Conditions of Service and Conduct) Rules, 1976, as applicable to**  
**High Court of Uttarakhand vide Section 30 of**  
**U.P. Reorganization Act, 2000.**

Rule No.	Existing Rule	Amendment
Rule 24	No person shall be appointed to the establishment of High Court of Uttarakhand, unless he/she be a citizen of India. <b><u>For <del>direct</del> recruitment to Class III posts at the establishment of High Court of Uttarakhand, a candidate shall be eligible only if his name is registered in any of the Government Employment Exchange situated in the State of Uttarakhand.</u></b>	No person shall be appointed to the establishment of High Court of Uttarakhand, unless he/she be a citizen of India.

This amendment will come into force with immediate effect.

**By order of Hon'ble the Chief Justice,**

## INSTITUTION, DISPOSAL AND PENDENCY OF CASES

### ➤ HIGH COURT OF UTTARAKHAND (From 01.04.2019 to 30.06.2019)

						<b>Pendency (As on 01.04.2019)</b>		
						<b>Civil Cases</b>	<b>Criminal Cases</b>	<b>Total Pendency</b>
						<b>22067</b>	<b>12678</b>	<b>34745</b>
<b>Institution ( 01.04.2019 to 30.06.2019)</b>			<b>Disposal ( 01.04.2019 to 30.06.2019)</b>			<b>Pendency (As on 30.06.2019)</b>		
<b>Civil Cases</b>	<b>Criminal Cases</b>	<b>Total Institution</b>	<b>Civil Cases</b>	<b>Criminal Cases</b>	<b>Total Disposal</b>	<b>Civil Cases</b>	<b>Criminal Cases</b>	<b>Total Pendency at the end of 30.06.19</b>
<b>3146</b>	<b>2440</b>	<b>5586</b>	<b>3846</b>	<b>2102</b>	<b>5948</b>	<b>21367</b>	<b>13016</b>	<b>34383</b>

## District Courts

(From 01.04.2019 to 30.06.2019)

SL. No	Name of the District	Civil Cases				Criminal Cases				Total Pendency at the end of 30.06.19
		Opening Balance as on 01.04.19	Institution from 01.04.19 to 30.06.19	Disposal from 01.04.19 to 30.06.19	Pendency at the end of 30.06.2019	Opening Balance as on 01.04.19	Institution from 01.04.19 to 30.06.19	Disposal from 01.04.19 to 30.06.19	Pendency at the end of 30.06.19	
1.	Almora	369	135	156	<b>348</b>	865	777	662	<b>980</b>	<b>1328</b>
2.	Bageshwar	124	53	46	<b>131</b>	387	469	556	<b>300</b>	<b>431</b>
3.	Chamoli	276	107	72	<b>311</b>	859	320	342	<b>837</b>	<b>1148</b>
4.	Champawat	200	56	68	<b>188</b>	1352	847	907	<b>1292</b>	<b>1480</b>
5.	Dehradun	11974	1647	1600	<b>12021</b>	73564	30773	37019	<b>67318</b>	<b>79339</b>
6.	Haridwar	10237	1285	1205	<b>10317</b>	49161	17372	14332	<b>52201</b>	<b>62518</b>
7.	Nainital	2281	402	439	<b>2244</b>	14737	4599	4235	<b>15101</b>	<b>17345</b>
8.	Pauri Garhwal	976	230	175	<b>1031</b>	4613	1609	1986	<b>4236</b>	<b>5267</b>
9.	Pithoragarh	501	118	125	<b>494</b>	1070	870	783	<b>1157</b>	<b>1651</b>
10.	Rudraprayag	102	57	58	<b>101</b>	953	534	769	<b>718</b>	<b>819</b>
11.	Tehri Garhwal	321	135	125	<b>331</b>	2238	901	1131	<b>2008</b>	<b>2339</b>
12.	Udham Singh Nagar	5807	696	700	<b>5803</b>	37931	10675	11857	<b>36749</b>	<b>42552</b>
13.	Uttarkashi	522	82	89	<b>515</b>	1178	398	455	<b>1121</b>	<b>1636</b>
	<b>Total</b>	<b>33690</b>	<b>5003</b>	<b>4858</b>	<b>33835</b>	<b>188908</b>	<b>70144</b>	<b>75034</b>	<b>184018</b>	<b>217853</b>

## Family Courts

**(From 01.04.2019 to 30.06.2019)**

SL. No	Name of the Family Court	Civil Cases				Criminal Cases				Total Pendency at the end of 30.06.19
		Opening Balance as on 01.04.19	Institution from 01.04.19 to 30.06.19	Disposal from 01.04.19 to 30.06.19	Pendency at the end of 30.06.19	Opening Balance as on 01.04.19	Institution from 01.04.19 to 30.06.19	Disposal from 01.04.19 to 30.06.19	Pendency at the end of 30.06.19	
1.	Almora	63	42	39	<b>66</b>	38	40	23	<b>55</b>	<b>121</b>
2.	Dehradun	1717	456	436	<b>1737</b>	962	237	200	<b>999</b>	<b>2736</b>
3.	Rishikesh	230	55	19	<b>266</b>	187	33	6	<b>214</b>	<b>480</b>
4.	Vikasnagar	119	39	40	<b>118</b>	180	48	37	<b>191</b>	<b>309</b>
5.	Nainital	176	65	59	<b>182</b>	277	67	54	<b>290</b>	<b>472</b>
6.	Haldwani	422	61	63	<b>420</b>	723	86	66	<b>743</b>	<b>1163</b>
7.	Haridwar	731	214	186	<b>759</b>	722	157	145	<b>734</b>	<b>1493</b>
8.	Roorkee	577	178	154	<b>601</b>	644	150	96	<b>698</b>	<b>1299</b>
9.	Laksar	106	31	52	<b>85</b>	104	41	44	<b>101</b>	<b>186</b>
10.	Kotdwar	247	42	-	<b>289</b>	304	38	-	<b>342</b>	<b>631</b>
11.	Pauri Garhwal	85	24	19	<b>90</b>	129	25	35	<b>119</b>	<b>209</b>
12.	Tehri Garhwal	69	32	24	<b>77</b>	38	14	10	<b>42</b>	<b>119</b>
13.	U.S.Nagar	370	113	109	<b>374</b>	499	116	75	<b>540</b>	<b>914</b>
14.	Kashipur	422	115	99	<b>438</b>	418	94	58	<b>454</b>	<b>892</b>
15.	Khatima	153	44	24	<b>173</b>	155	38	17	<b>176</b>	<b>349</b>
	<b>Total</b>	<b>5487</b>	<b>1511</b>	<b>1323</b>	<b>5675</b>	<b>5380</b>	<b>1184</b>	<b>866</b>	<b>5698</b>	<b>11373</b>

## **Some Recent Judgments of Uttarakhand High Court**

### **Full Bench Judgments**

1. ***In ITA No. 40 of 2012, Director of Income Tax International Taxation vs. M/s Schlumberger Asia Services Ltd. along with connected matters***, decided on 12.04.2019, the Bench observed that a “non obstante clause” is a legislative device which is usually employed to give overriding effect to certain provisions over some contrary provisions that may be found in the same enactment, that is to say, to avoid the operation and effect of all contrary provisions. It is equivalent to saying that, inspite of the provisions mentioned in the non-obstante clause, the provision following it will have full operation, or the provisions embraced in the non- obstante clause will not be an impediment for the operation of the enactment or the provision in which the non-obstante clause occurs. Use of such an expression is another way of saying that the provision, in which the non-obstante clause occurs, would wholly prevail over the other provisions of the Act. Non-obstante clauses are to be regarded as clauses which remove all obstructions which might arise out of any of the other provisions of the Act in the way of the operation of the principal enacting provision to which the non-obstante clause is attached. While interpreting a provision containing a non-obstante clause, it should first be ascertained what the enacting part of the Section provides, on a fair construction of the words used according to their natural and ordinary meaning, and the non-obstante clause is to be understood as operating to set aside as no longer valid anything contained in any other provision which is inconsistent with the Section containing the non-obstante clause. A legal fiction is created by sub-section (1) of Section 44BB of the Income Tax Act. When a statute enacts that something shall be deemed to have been done, which in fact and in truth was not done, the court is entitled and bound to ascertain for what purposes and between what persons the statutory fiction is to be resorted to. After ascertaining the purpose, full effect must be given to the statutory fiction. But in so construing the fiction, it is not to be extended beyond the purpose for which it is created, or beyond the language of the Section by which it is created.

It is further observed that a provision in a fiscal statute, such as Section 44BB, should be literally construed, and no other aid of interpretation can be resorted to. If the language is unambiguous, it must be enforced. It is, normally, not the concern of Courts to examine its reasonableness or consider its consequences or whether the policy it embodies is wise or unwise, or whether it leads to consequences just or unjust, beneficial or mischievous. If the language of a statute be plain, admitting of only one meaning, the legislature must be taken to have meant and intended what it has plainly expressed, and whatever it has in clear terms enacted must be enforced though it should lead to mischievous results. The principle of all fiscal legislation is this: If the person sought to be taxed comes within the letter of the law he must be taxed however great the hardship may appear to the judicial mind to be. A fiscal statute should be interpreted on the language used therein. No words ought to be added and only the language used ought to be considered so as to ascertain the proper meaning and intent of the legislation.

It is further observed that while dealing with a taxing provision, the principle of 'strict interpretation' should be applied. The Court shall not interpret the statutory provision in such a manner which would create an additional fiscal burden on a person. When two interpretations are possible, ordinarily the Court would interpret the provisions in favour of a tax-payer, and against the Revenue. In case of doubt or dispute, the construction should be made in favour of the taxpayer and against the Revenue. In interpreting a fiscal statute, the Court cannot proceed to make good deficiencies if there be any. It must interpret the Statute as it stands and, in case of doubt, in a manner favourable to the taxpayer. As the expression '**amount paid or payable**' in Section 44BB(2)(a), and the expression '**amount received or deemed to be received**' in Section 44BB(2)(b), is qualified by the words '**on account of the provision of services and facilities in connection with, or supply of plant and machinery**', it is only such amounts, paid or payable for the services provided by the assessee, which can form part of the gross receipts for the purposes of computation of gross income under Section 44BB(1) read with Section 44BB(2). On a plain and literal reading of clauses (a) and (b) of Section 44BB of the Act, it is clear that reimbursement of service tax ought not to be included in the aggregate of the amounts specified in clauses (a) and (b) of Section 44BB(2). Section 43B, (on which reliance is placed by Mr. H.M. Bhatia, learned Senior Standing Counsel for the Income-Tax), provides for certain deductions to be made only on actual payment and, thereunder, notwithstanding anything contained in any other provision of the Act (which would

include Section 44BB), a deduction, otherwise allowable under the Act, in respect of (a) any sum payable by the assessee by way of tax, duty, cess or fee, by whatever name called, under any law for the time being in force, shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in Section 28 of that previous year in which such sum is actually paid by him. Explanation (2) of Section 43B provides that, for the purposes of clause (a), as in force at all material times, “any sum payable” means a sum for which the assessee incurred liability in the previous year even though such sum might not have been payable within that year under the relevant law. In terms of clause (a) of Section 43B, an assessee can claim deduction, towards tax or duty, only in the previous year in which it is actually paid. The assessee can claim deduction, under Section 43B(a), only on actual payment of tax and duty, in computing its income under Section 28. As noted hereinabove, Section 44BB would prevail notwithstanding anything to the contrary contained in, among others, Section 28 which refers to income chargeable to tax under the head “**profits and gains of business or profession**”. Since the benefit of deduction of tax can be claimed by the assessee in view of Section 43B(a), only in computing its income under Section 28, and the provisions of Section 44BB would prevail notwithstanding anything contained in, among others, Section 28 also, Section 43B(a) has no application in computing the presumptive income under Section 44BB of the Act. Service tax is an indirect tax levied on certain services provided by certain categories of persons including companies, associations, firms, body of individuals, etc. Section 70 relates to furnishing of returns, and sub-section (1) thereof stipulates that every person, liable to pay service tax shall himself assess the tax due on the services provided by him, and shall furnish to the Superintendent of Central Excise a return in such form and in such manner and at such frequency as may be prescribed. Service tax is a value added tax which, in turn, is a general tax which applies to all commercial activities involving provision of services. It is also a destination based consumption tax leviable on services provided within the country. In case an assessee opts to be subjected to tax under sub-section (3) of Section 44BB, computation of its income, from profits and gains from business, will be made in accordance with the provisions specified in Sections 28 to 44DB, under the head (D) “Profits and gains from business or profession” in Chapter IV of the Act. In case the assessee exercises its option under Section 44BB (3), it is entitled to claim deduction under Section 43B (a) for the service tax paid by it to the Government, and add the amount received as

reimbursement of service tax in its receipts. Section 119 of the Act empowers the CBDT to issue such orders, instructions and directions to other income-tax authorities, "as it may deem fit for proper administration of the Act". Such authorities, and all other persons employed in the execution of the Act, are bound to observe and follow such orders, instructions and directions of the CBDT. The powers of the CBDT are wide enough to enable it to grant relaxation from the provisions of several Sections of the Act. Circulars of the CBDT, issued in the exercise of its powers under Section 119, are legally binding on the revenue, and this binding character attaches to the circulars even if they are found not to be in accordance with the correct interpretation. The reimbursement of service tax is not an amount paid to the assessee on account of providing services and facilities in connection with the prospecting for, or extraction or production of, mineral oils in India.

It is further observed that the amount reimbursed to the assessee (service provider) by the ONGC (service recipient), representing the service tax paid earlier by the assessee to the Government of India, would not form part of the aggregate amount referred to in clauses (a) and (b) of sub-section(2) of Section 44BB of the Act.

2. ***In WP(S/B) No. 45 of 2014, Dhananjay Verma vs. State of Uttarakhand and ors. along with connected matters***, decided on 21.05.2019, the Bench observed that the words "Equal protection of Law" was incorporated in Article 14 so that, amongst equals, the law could be equally administered and similarly placed persons could be placed in a similar manner. But this has a caveat. The State still has the power to differentiate amongst different classes of people. Article 16 (1), which takes its roots from Article 14, particularizes the generality in Article 14 and identifies, in a constitutional sense, "equality of opportunity" in matters of employment and appointment to any office under the State. The equality of opportunity, for purposes of employment, is available only for persons who fall substantially within the same class. The guarantee of equality is not applicable as between members of distinct and different classes. Article 16(1) permits reasonable classification, just as Article 14 does ensure attainment of the equality of opportunity assured by it. It may well be necessary, in certain situations, to treat unequally situated persons unequally. Not doing so, would perpetuate and accentuate inequality. Article 16(1) permits classification on the basis of the object and the purpose of the law or State action. Article 16(1) is affirmative whereas Article 14 is negative in language. Article 16(1) permits not only extending preferences,



concessions and exemptions, but also reservation of posts. What kind of special provision should be made in favour of a particular class is a matter for the State to decide, having regard to the facts and circumstances of a given situation. Both Articles 16(4) and 16(4A) do not confer any fundamental rights nor do they impose any constitutional duties, but are only in the nature of enabling provisions vesting a discretion in the State to consider providing reservation, if the circumstances mentioned in those Articles so warrant, for appointment in favour of backward classes of citizens which, in its opinion, is not adequately represented in the services of the State. The larger concept of reservation under Article 16(4) also takes within its sweep all supplemental and ancillary provisions as also lesser types of special provisions like exemptions, concessions and relaxations. Article 16(4), which indicates one of the methods of achieving the equality embodied in Article 16(1), is not an exception thereto, but is merely an emphatic way of stating a principle implicit in Article 16(1). Clause (4) of Article 16, an instance of classification implicit in and permitted by Clause (1), is a provision which must be read along with, and in harmony with, Clause (1). Even without Clause (4), it would have been permissible for the State to have evolved such a classification, and made a provision for reservation of appointment/posts in favour of the backward classes. Clause (4) merely puts the matter beyond doubt in specific terms. The power to make reservation, in favour of sportsmen, is traceable to Article 16(1) of the Constitution of India, subject, of course, that the exercise of power, to provide such reservation, satisfies the twin tests of a valid classification.

It is further observed that a decision, which has attained finality, is binding between the parties, and they are not to be permitted to reopen the issue decided thereby. Such orders bind the parties in a subsequent litigation or before the same Court at a subsequent stage of proceedings. It is only if a person is denied equality before the law or the equal protection of the law by the State, or if a citizen is denied equality of opportunity in matters relating to employment or appointment to any office under the State, can Article 14 and Article 16(1) of the Constitution be said to have been violated. Such denial would arise only if a law made by the State Legislature, or the Rules made and policies framed by the Executive, violate Articles 14 and 16(1) of the Constitution. While reservation with respect to categories, other than the backward classes, can also be extended under Article 16(1), the power to provide such reservation, under Article 16(1) of the Constitution, enures only in the Legislature and the Executive. In the absence of any such law or rule having been made, or a policy having been framed, the petitioners' request, for reservation to be provided under the Sports Category,

cannot be granted by Courts. The judiciary, one among the three branches of the State, is co-equal to the other two branches i.e. the executive and the legislature. Each has specified and enumerated constitutional powers. The judiciary is assigned the function of ensuring that executive actions accord with the law, and that laws and executive decisions accord with the Constitution. The exercise of making policy must be left to the discretion of the executive and legislative authorities. The court is called upon to consider the validity of a public policy only when a challenge is made that such policy decision infringes the fundamental rights guaranteed by the Constitution of India or any other statutory right. It is not within the domain of the Court to legislate. The Courts interpret the law, and have the jurisdiction to declare the law unconstitutional. But, the courts are not to plunge into policy making by adding something to the policy by issuing a writ of mandamus. Since a writ of Mandamus cannot be issued to the Legislature to enact a particular law, or to the Rule making authority to make rules in a particular manner or even to the Government to frame a policy, providing reservation under Article 16(1) of the Constitution, the petitioners' request, for reservation to be provided under the Sports Category, must be addressed to the Government and not to the Court, for it is only after a law or a rule is made or a policy is framed providing reservation, can Courts, thereafter, be called upon to examine its validity on the touchstone of Articles 14 and 16(1) of the Constitution of India.

## **Division Bench Judgments**

1. *In SPA No. 149 of 2019, Chandra Prakash vs. State of Uttarakhand and ors.*, decided on 03.04.2019, the Court observed that one of the conditions for exercising power under Article 226, for issuance of a mandamus, is that the Court must come to the conclusion that the aggrieved person has a legal right, and that such a right has been infringed. The applicant has to satisfy the Court that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought. The duty that may be enjoined by a mandamus may be one imposed by the Constitution, a statute, common law or by rules or orders having the force of law. No one can seek a mandamus without a legal right. There must be a judicially enforceable right as well as a legally protected right before one, suffering a legal grievance, can ask for a

mandamus. A person can be said to be aggrieved only when he is denied a legal right by someone who has a legal duty to do something or to abstain from doing something.. In order that mandamus may issue to compel an authority to do something, it must be shown that the statute imposes a legal duty on that authority, and the aggrieved party has a legal right under the statute to enforce its performance. If there is no statutory basis for the claim, and there is no provision in the statute imposing an obligation, it would not furnish a ground for issuance of a writ of mandamus.

2. ***In CRLA No. 315 of 2012, Ramesh and another vs. State of Uttarakhand***, decided on 04.04.2019, the Bench observed that in a case of circumstantial evidence a greater burden lies on the shoulder of the prosecution to prove its case. The chain of evidence must be complete, and there should be one and only one conclusion, based on the evidence produced by the prosecution, which should be that the act has been committed by the accused, and by no one else. In other words, there is a heavy burden on the prosecution to prove its case.
3. ***In CRLA No. 30 of 2010, Tasavvur vs. State of Uttarakhand***, decided on 05.04.2019, along with four connected matters, the Court observed that the examination-in-chief as well as the cross-examination of a hostile witness so far as it supports the case of the prosecution can be read as an evidence in favour of the prosecution.
4. ***In SPA No. 395 of 2019, Shree Cement Limited vs. State of Uttarakhand and others***, decided on 02.05.2019, the Bench observed that the scope of interference, in proceedings under Article 226 of the Constitution, against a show-cause notice is extremely limited. Ordinarily, a writ court would not exercise its discretionary jurisdiction to entertain a writ petition questioning a notice to show cause unless the same, inter alia, appears to have been issued without jurisdiction, an effective remedy under the Act itself. But these are limitations imposed by the Courts on themselves in the exercise of their jurisdiction, and are not matters of jurisdictional factors. It would, ordinarily, not be proper or appropriate that the initial jurisdiction of the authority/Tribunal to deal with jurisdictional facts should be circumvented and the decision, on such a preliminary issue, sought before a High Court in its writ jurisdiction. However, the self-imposed restrictions on the High Court not to entertain a writ petition, if another effective and efficacious remedy is available, will not operate as a bar where the order or proceedings are wholly without jurisdiction. In very rare and exceptional cases, the High Court can quash a show-cause notice if it is found to be wholly without jurisdiction. A show-cause notice does not give

rise to any cause of action as it does not amount to an adverse order which affects the rights of any party. It is quite possible that, after considering the reply to the show-cause notice, the authority concerned may drop the proceedings and/or hold that the allegations are not established. A show-cause notice does not infringe the rights of anyone. It is only when a final order imposing some punishment, or otherwise adversely affecting a party, is passed that the said party can be said to have any grievance.

The jurisdiction of the High Court, under Article 226 of the Constitution, should not be permitted to be invoked in order to challenge a show-cause notice unless, accepting the facts in the show-cause notice to be correct, the show-cause notice is, *ex facie*, without jurisdiction.

**5. *In WPPIL No. 90 of 2010, Rural Litigation and Entitlement Kendra Rlek vs. State of Uttarakhand and ors.***, decided on 03.05.2019, the Bench observed that it is unfortunate that representatives of people, and other high dignitaries, continue to occupy residential accommodation provided by the Government though they are no longer entitled to such accommodation. Many of such persons continue to occupy residential accommodation commensurate with the office(s) held by them earlier, and which are beyond their present entitlement. The unauthorized occupants must recollect that rights and duties are correlative, as the rights of one person entail the duties of another. Similarly the duty of one person entails the rights of another. The unauthorized occupants must appreciate that their act of overstaying in the premise infringes the right of another. No law or directions can entirely control these acts of disobedience, but for the self realization among the unauthorized occupants. In public law, the most obvious limitation on the doctrine of estoppel is that it cannot be evoked to give an overriding power which the authority does not in law possess. In other words, no estoppel can legitimate an action which is *ultra vires*. Another limitation is that the principle of estoppel does not operate at the level of Government policy. This doctrine, being equitable, must yield when equity so requires. If it can be shown, by the Government or public authority, that, having regard to the facts as they have transpired, it would be inequitable to hold the Government or public authority to the promise or representation made by it, the Court would not raise an equity in favour of the person to whom the representation is made, and enforce the representation against the Government or public authority. The doctrine of estoppel would be displaced in such a case because, on facts, equity would not require that the Government or public authority should be held bound by the representation made by it. Estoppel being an extension of the principle of

equity, the basic purpose of which is to promote justice founded on fairness, is incapable of being enforced in a court of law if the promise which furnishes the cause of action or the agreement, express or implied, giving rise to a binding contract, is statutorily prohibited or is against public policy. As the estoppel stems from an equitable doctrine, it requires that he, who seeks equity, must do equity. The doctrine cannot be invoked if it is found to be inequitable or unjust in its enforcement. The executive Government is bound to conform to the provisions of the Constitution, and to the law of the land. The legislature cannot override the fundamental rights guaranteed the Constitution to the citizens. Consequently, even such acts of the executive, which are sanctioned by the legislature, can be declared void and inoperative if they infringe any of the fundamental rights guaranteed under Part III of the Constitution. Article 162, as is clear from the opening words, is subject to the other provisions of the Constitution. The executive can, therefore, never go against the provisions of the Constitution or of any law. Even public policy decisions of the Executive can be tested in the context of illegality and unconstitutionality. A policy decision of the Government, which is demonstrably capricious or is arbitrary and not informed by reason or which suffers from the vice of discrimination or infringes any statute or provisions of the Constitution, can be struck down. What is imperative, and implicit in terms of Article 14, is that a policy is made fairly, and not arbitrarily. The basic requirement of Article 14 is fairness in action by the State, and non-arbitrariness, in essence and substance, is the heart beat of fair play. Actions are amenable, in the panorama of judicial review, to the extent that the State must act validly for a discernible reason, not whimsically for any ulterior purpose. The exercise of discretion is impeachable on well accepted grounds such as 'ultra vires' or 'unreasonableness'. If the policy of the Government fails to satisfy the test of reasonableness, it would be unconstitutional. The ultimate test is whether, on the touchstone of reasonableness, the policy decision comes out unscathed.

6. ***In SPA No. 392 of 2019, All India Institute of Medical Sciences vs. Harish Kumar Godhwal and another along with connected matters***, decided on 09.05.2019, the Bench observed that Empanelment, after selection, is at best a condition of eligibility for the purpose of appointment, and does not, by itself, create a vested right to be appointed, unless the relevant service rule provide to the contrary. By mere selection, the candidates acquire no indefeasible right for appointment even against existing vacancies. However, the State has no licence to act in an arbitrary manner, and the decision, not to fill up the vacancies, should be taken bona fide and for just and valid reasons. And if all the vacancies, or any of them, are filled up the State is bound to

respect the comparative merit of the candidates, as reflected in the recruitment test, in making appointment to these posts. The decision not to fill up the vacancies should not be arbitrary or unreasonable, it must be based on sound, rational and conscious application of mind, and must pass the test of reasonableness under Article 14 of the Constitution. No interference is called for in judicial review proceedings, unless the decision, not to fill up the post, is infected with the vice of arbitrariness.

7. ***In SPA No. 304 of 2016, Pt Purnanand Tiwari Intermediate College and ors., vs. Sunil Kumar Agarwal and ors.***, decided on 10.05.2019, the Bench observed that the power to appoint would, therefore, bring within its ambit the power to terminate the tenure of an employee. The power of termination would include acceptance of the employees request for voluntary retirement, as the tenure of the employee would stand terminated thereby.
8. ***In WP(S/B) No. 154 of 2019, Anil Kumar Sharma vs. Indian Institute of Technology Roorkee and Others***, decided on 18.06.2019, the Bench observed that while the concerned authority may not be bound to give his reasons for refusing to exercise his discretion in a particular manner, he cannot escape from the possibility of control by mandamus without explanation. If he does not give any reason for his decision, the Court may be at liberty to come to the conclusion that he had no good reason for reaching that conclusion and issue a prerogative writ accordingly. The discretion of a statutory body is not unfettered, and should be exercised according to law. A mandamus can only be issued against the authority if it is shown that, in some way, it acted unlawfully. A Court can make an order if it were shown that the authority (a) failed or refused to apply his mind to consider relevant questions, or (b) misinterpreted the law or proceeded on an erroneous view of the law, or (c) based his decision on some wholly extraneous consideration or (d) failed to have regard to matters which he should have taken into account.
9. ***In SPA No. 576 of 2019, Naresh Kumar vs. State of Uttarakhand and others***, decided on 18.06.2019, the Bench observed that ordinarily, when serious imputations are made against the conduct of an officer, the disciplinary authority cannot immediately draw up the charges. Considerable time may elapse between receipt of imputations against an officer, and a definite conclusion by a superior authority, that the circumstances are such that definite charges can be levelled against the officer. Whether it is necessary or desirable to place the officer under suspension, even before definite charges have been framed, would depend upon the circumstances of the case and the view

which is taken by the Government concerned. It is possible that, in some cases, the authorities do not proceed with the matter as expeditiously as they ought to, which results in prolongation of the sufferings of the delinquent employee. But the remedy in such cases is either to call for an explanation from the authorities in the matter and, if it is found unsatisfactory, to direct them to complete the inquiry within a stipulated period and to increase the suspension allowance adequately. The Court has to examine each case on its own facts and decide whether the delay in serving the charge-sheet and completing the inquiry is justified or not.

## **Single Bench Judgments**

1. ***In WP (M/S) No. 866 of 2019, Rajendra Singh Rawat vs. State of Uttarakhand and ors.***, decided on 01.04.2019, the Bench observed that the petitioner could not be permitted to abandon or by pass that remedy and invoke the jurisdiction of the High Court under Article 226 of the Constitution of India, when he had an efficacious and adequate remedy open to him by way of appeal/revision before the Excise Commissioner.
2. ***In WP (M/S) No. 2286 of 2015, Smt. Munni Devi and others vs. State of Uttarakhand and others***, decided on 01.04.2019, the Bench observed that the averments in the plaint are germane which are to be seen in deciding the application under Order 7 Rule 11 of C.P.C. and the averments made in the written statement are wholly irrelevant in order to ascertain as to whether or not, there arises a cause of action. A perusal of the material available on record, it would reveal that the learned trial court did not consider the case of the defendant rather the trial court has allowed the application Order 7 Rule 11 of C.P.C. having considered the admitted fact that the property in dispute has already been transferred by the defendant prior to filing of the suit. Thus, at the time of institution of suit, there was no cause of action available with plaintiff against the defendant.
3. ***In A.O. No. 51 of 2014, Kewal Singh Pundir and another vs. Saral Kishore and others***, decided on 04.04.2019, it was held that while deciding the application U/O 09 Rule 7 C.P.C. court should adopt lenient view and avoid hyper technical view.

4. ***In WP (M/S) No. 2385 of 2015, Iqbal Ahmad vs. Satish Kumar***, decided on 08.04.2019, the Bench observed that after passing the decree, the trial court suo motu cannot issue any order to execute its decree, without there being any execution application.
5. ***In C-482 No. 368 of 2019, Abhijeet Kumar vs. State of Uttarakhand***, decided on 10.04.2019, the Bench observed that Section 60 of the Act does not provide for confiscation of any vehicle, immediately after its seizure. Confiscation is a separate procedure un-connected with conviction, acquittal or discharge of the accused. It is only the satisfaction of the court, trying an offence under the Act, to decide as to whether the vehicle is liable to be confiscated or not. The provision of Section 60 of the Act at all does not debar from releasing a vehicle during pendency of the trial. The provision of Section 60 of the Act and Section 451 of the Code act in different spheres. It is the matter of interim custody only. If vehicle is given to its owner with certain conditions namely producing it whenever called to do so; not changing its shape without prior permission of the Court; not to transfer its ownership without prior permission of the Court, etc; the production of the vehicle may be ensured at any later stage of the trial or at the time of confiscation proceeding.
6. ***In WP (M/S) No. 3101 of 2018, M/s Ajanta Merchants Pvt. Ltd. vs. Sriprakash Mishra & ors.***, decided on 22.04.2019, the Bench observed that when the delay has been explained sufficiently irrespective of the period of delay, the court should not adopt a hyper technical approach or a pedantic view in rejecting the delay condonation application.
7. ***In WPCRL No. 526 of 2019, Shajid Husain vs. State of Uttarakhand and others***, decided on 25.04.2019, the Court observed that Reasonable opportunity depends upon facts and circumstances of the case. There cannot be any universal rule specifying the days or hours which may be necessarily given to qualify that “reasonable opportunity” has been given to a person to explain the things.
8. ***In C-482 No. 345 of 2013, Fanu @ Irfan vs. State of Uttarakhand and another***, decided on 25.04.2019, the Court observed that a juvenile who had not completed 18 years of age, on the date of commission of offence will be entitled to the benefits of 2000 Act.
9. ***In C-482 No. 2040 of 2018, Anuradha Dalmia vs. State of Uttarakhand and ors.***, decided on 02.05.2019, the Bench observed that under Section 482 of the Code for quashing the proceedings. The proceedings cannot be quashed at ease without any



inconvenience. Court has to be much reluctant to exercise this jurisdiction under Section 482 of the Code.

10. ***In CRLR No. 156 of 2012, Tula Ram vs. State of Uttarakhand***, decided on 07.05.2019, the Bench observed that trial of the revisionist has proceeded without there being any prosecution sanction, as required under Section 39 of the Act. This is an illegality, without previous sanction the trial under Section 25 of the Act could not have been instituted against the revisionist.
11. ***In WP (M/S) No. 1260 of 2019, M/s Ratan Seeds Pvt. Ltd. vs. Asst. Commissioner Stamps and others***, decided on 09.05.2019, the Bench observed that extraordinary jurisdiction under Article 226 or 227 of the Constitution of India should not be evoked, when a statutory remedy of appeal or revision is available to any aggrieved party.
12. ***In WP (M/S) No. 1937 of 2010, Haridwar Sahkari Grih Nirman Samiti Limited vs. Public Information Officer & Another***, decided on 15.05.2019, the Bench observed that the cooperative societies, which are not funded, controlled or regulated by the State would not fall to be a public authority as defined under Section 2(h) of the Act.
13. ***In C-482 No. 1737 of 2018, Smt. Madhvi Goswami and others vs. State of Uttarakhand and another***, decided on 28.05.2019, the Court observed that some rules of conduct in the administration of justice are unwritten. If a Judge hears some matters at the trial stage, it is always advisable that the same Judge should refrain from hearing the matter at the appellate stage. It may not have apparently any impact on the decision, but it may appear to someone that the person has dealt with the case at both the levels. It should be avoided.
14. ***In WPCRL No. 28 of 2019, Ms. X vs. State of Uttarakhand and others***, decided on 31.05.2019, the Court observed that petitioner's right to determine her sex and gender has to be respected and honoured. The petitioner has identified herself as a 'female', therefore, 'she' has to be treated as a female for all the purposes, whatsoever without any further confirmation from any authority.

## **Major Events & Initiatives**

**1. Oath ceremony of Hon'ble Mr. Justice Alok Kumar Verma :-** Hon'ble Mr. Justice Alok KUMAR Verma, Judge, High Court of Uttarakhand has assumed charge of the office of Judge of the High Court of Uttarakhand in the forenoon of 27<sup>th</sup> May, 2019 in pursuance of **Notification No. K.13032/01/2019-US.1 dated 22.05.2019** issued by Government of India, Ministry of Law & Justice (Department of Justice).

### **Programmes attended by Hon'ble Judges ( From April- June, 2019)**

1. Hon'ble Mr. Justice Ramesh Chandra Khulbe visited National Judicial Academy, Bhopal to attend Conference for newly elevated High Court Justices during the period 12.04.2019 to 14.04.2019.

**Activities of State Legal Service Authority (SLSA) for the months of April to June, 2019**  
**Activities on Legal Literacy and Awareness**

A sensitization workshop on “**Criminal Justice Administration**” was organized at Uttarakhand Judicial and Legal Academy on June 30, 2019 under the joint auspices of UJALA and Uttarakhand State Legal Services Authority. The purpose of the said workshop was to make all stakeholders aware about various aspects of Criminal Justice Administration e.g. early access to justice at pre-arrest and remand stages, transformation of criminal justice towards justice to victim, role of service providers in expeditious justice delivery etc..

The workshop was inaugurated by Hon’ble the Chief Justice, High Court of Uttarakhand and Hon’ble Judges of Hon’ble High Court of Uttarakhand, Advocate General of Uttarakhand, Distinguish Speakers, Registrar General of Hon’ble High Court, Registrars of Hon’ble High Court, Seniors Advocates in Hon’ble High Court of Uttarakhand and Officers of UJALA & UKSLSA also graced the event by their presence as guest.

As the participants, 34 Judicial Officers of Kumaon Division excluding the Judicial Officers posted at District Champawat and Pithoragarh, 55 Government Counsels & Advocates and Assistant Prosecution officers/Penal Lawyers were participated in the workshop. In addition to this Law Students from different Law Colleges were also participated. The event was very successful.

**Legal Awareness on Commemorative Days**

Between the months of April, 2019 to June, 2019, the World Labour Day, Anti-Tobacco Day, World Environment Day and International Day Against Drug abuse and Illicit were observed throughout the State. During these occasions, **217** special legal literacy and awareness camps were organized wherein **12595** people got benefited.

## STATISTICAL INFORMATION

**Statement showing the progress of Lok Adalats held  
in the State of Uttarakhand  
for the period from April, 2019 to June, 2019**

Sl. No.	Name of DLSA's	No. of Lok Adalats Held	No. of Cases Taken up	No. of Cases Disposed off	Compensation/ Settlement Amount	Amount Realized As Fine (in Rs.)	No. of Persons Benefited in Lok Adalat
01	ALMORA	01	198	37	-	59,100	37
02	BAGESHWER	04	210	105	9,62,000	1,01,900	105
03	CHAMOLI	01	108	48	-	55,350	48
04	CHAMPAWAT	01	675	135	-	1,55,300	135
05	DEHRADUN	04	9572	3871	37,09,042	7,70,825	3947
06	HARDWAR	01	3786	513	-	1,36,950	513
07	NAINITAL	03	2776	475	8,81,666	4,93,400	475
08	PAURI GARHWAL	01	1069	246	-	1,08,410	246
09	PITHORAGARH	04	221	117	61,600	45,100	117
10	RUDRAPARYAG	01	202	47	-	9,600	47
11	TEHRI GARHWAL	03	1492	370	13,00,539	3,59,300	370
12	UDHAM SINGH NAGAR	01	5439	2902	-	1,65,790	2902
13	UTTARKASHI	01	352	99	-	56,600	99
14	HCSLC, NAINITAL	-	-	-	-	-	-
15	UKSLSA,NTL	-	-	-	-	-	-
	<b>TOTAL :-</b>	<b>26</b>	<b>26100</b>	<b>8965</b>	<b>69,14,847</b>	<b>25,17,625</b>	<b>9041</b>

**Statement showing the progress of Camps organized in the State of  
Uttarakhand for the period from April, 2019 to June, 2019**

<b>Sl. No.</b>	<b>Name of DLSA's</b>	<b>No. of Camps Organized</b>	<b>No. of Persons Benefited in Camps</b>
<b>01</b>	<b>ALMORA</b>	28	3426
<b>02</b>	<b>BAGESHWER</b>	22	988
<b>03</b>	<b>CHAMOLI</b>	98	4407
<b>04</b>	<b>CHAMPAWAT</b>	73	3850
<b>05</b>	<b>DEHRADUN</b>	154	4717
<b>06</b>	<b>HARDWAR</b>	81	5142
<b>07</b>	<b>NAINITAL</b>	108	8074
<b>08</b>	<b>PAURI GARHWAL</b>	79	3529
<b>09</b>	<b>PITHORAGARH</b>	107	6018
<b>10</b>	<b>RUDRAPARYAG</b>	17	1010
<b>11</b>	<b>TEHRI GARHWAL</b>	24	1720
<b>12</b>	<b>UDHAM SINGH NAGAR</b>	21	1913
<b>13</b>	<b>UTTARKASHI</b>	355	1338
<b>14</b>	<b>HCLSC, Nainital</b>	-	-
<b>15</b>	<b>UKSLSA, Nainital</b>	-	-
	<b>Total</b>	<b>1167</b>	<b>46132</b>

**Statement showing the progress of Legal Aid and Advice/Counseling provided  
in the State of Uttarakhand  
for the period from April, 2019 to June, 2019**

Sl. No.	Name of DLSA's	No. of Persons Benefited through Legal Aid & Advice	
		Legal Aid	Legal Advice/ Counseling
01	ALMORA	15	-
02	BAGESHWER	07	-
03	CHAMOLI	05	01
04	CHAMPAWAT	03	-
05	DEHRADUN	144	07
06	HARDWAR	77	-
07	NAINITAL	41	06
08	PAURI GARHWAL	18	11
09	PITHORAGARH	06	01
10	RUDRAPARYAG	05	01
11	TEHRI GARHWAL	16	16
12	UDHAM SINGH NAGAR	133	17
13	UTTARKASHI	10	16
14	H.C.L.S.C., N.T.L.	-	-
15	U.K. S.L.S.A., N.T.L.	-	25
	<b>TOTAL</b>	<b>480</b>	<b>101</b>

**UTTARAKHAND JUDICIAL AND LEGAL ACADEMY, BHOWALI, NAINITAL****Training Programmes held in the Month of  
April, May and June, 2019**

<b>Sl. No.</b>	<b>Name of Training Programmes/ Workshops</b>	<b>Duration</b>
1.	Foundation Training Programme for Newly Recruited Civil Judge (J.D.) 2016 Batch (II <sup>nd</sup> phase of Institutional Training) <i>[Including 22 days Uttarakhand Darshan Programme]</i>	19.01.2019 to 07.06.2019  (Including 22 days Uttarakhand Darshan Programme )
2.	Workshop on emerging trends and recent developments in Criminal Laws for CJM's/ACJM's/Judicial Magistrates (II <sup>nd</sup> phase)	23.04.2019 to 27.04.2019 (Tuesday to Saturday) (five days)
3.	Foundation Training Programme for Recently Promoted Judicial Officers in H.J.S. cadre	01.05.2019 to 31.05.2019 (one month)
4.	Workshop on emerging trends and recent developments in Civil Laws for Civil Judges (Sr. Div. & Jr. Div.) (II <sup>nd</sup> phase)	06.05.2019 to 10.05.2019 (Monday to Friday) (five days)
5.	Workshops on issues relating to Juvenile Justice under the "Juvenile Justice (Care & Protection of Children) Act, 2015 & Rules made thereunder" for Principal Magistrates and Members of Juvenile Justice Boards as well as District Probation Officers of the State	10.06.2019 & 11.06.2019 (Monday & Tuesday) (two days)
6.	Training for District Government Counsels /Additional District Government Counsels/Assistant District Government Counsels (Crime)	27.06.2019 & 28.06.2019 (Wednesday & Thursday) (two days)
7.	One day Workshop on Administration of Criminal Justice for all Judicial Magistrates of Districts Almora, Bageshwar, Nainital and U.S. Nagar and other Stakeholders (Govt. Advocates of State in Hon'ble High Court, Prosecution Officers/Panel Advocates of Distt. Nainital and U.S. Nagar, District Govt. Counsels/ Assistant District Govt. Counsels (Crime) and Students of Law Colleges) of the State	30.06.2019 (Sunday) (one day)

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Oath taking ceremony of Hon'ble Mr. Justice Alok Kumar Verma on 27.05.2019



Inauguration ceremony of one day Workshop on Administration of Criminal Justice for all Judicial Magistrates of Districts Almora, Bageshwar, Nainital and U.S. Nagar and other Stakeholders (Govt. Advocates of State in Hon'ble High Court, Prosecution Officers/Panel Advocates of District Nainital and U.S. Nagar, District Govt. Counsels/ Assistant District Govt. Counsels (Crime) and Students of Law Colleges) of the State on 30.06.2019.





Foundation Training Programme for Recently Promoted Judicial Officers in H.J.S. cadre from 01.05.2019 to 31.05.2019.



Workshop on emerging trends and recent developments in Civil Laws for Civil Judges (Sr. Div.) & (Jr. Div.) IInd phase from 06.05.2019 to 10.05.2019.



Workshops on issues relating to Juvenile Justice under the "Juvenile Justice (Care & Protection of Children) Act, 2015 & Rules made thereunder" for Principal Magistrates and Members of Juvenile Justice Boards as well as District Probation Officers of the State from 10.06.2019 to 11.06.2019.