

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

Present: Hon'ble Mr. Rajendra Singh
.....Vice Chairman (J)

Hon'ble Mr. A.S.Rawat
.....Vice Chairman(A)

CLAIM PETITION NO. 20/NB/DB/2025

Chandra Prakash Arya, aged about 47 years, s/o Sri Mohan Ram, presently posted as Assistant Teacher, L.T. Grade (Sanskrit), Govt. Higher Secondary School, Inderpur, Haldwani, Block Haldwani, District Nainital.

.....Petitioner

Vs.

1. State of Uttarakhand Through Secretary, school Education, Civil Secretariat, Uttarakhand, Dehradun.
2. Director, Secondary Education, Uttarakhand, Dehradun.
3. Additional Director of School Education (Secondary), Kumaoun Region, Nainital.
4. Chief Education Officer, Nainital.

.....Respondents

Present: Sri S.K.Mandal, Advocate for the petitioner
Sri Kishore Kumar, A.P.O., for the State respondent

JUDGMENT

DATED: APRIL 04, 2025

The petitioner has filed this claim petition for the following reliefs:

"i) To command the respondents for grant of annual increment from the year 2018 and grant the salary of selection grade pay Rs. 4800/- from 29.03.2019 to the petitioner (after completion of 10 years service) on the post of Assistant Teacher, L.T. Grade with arrears and admissible interest.

ii) To command the respondents for expunge the adverse entry made in service record of the petitioner for the academic session 2015-16 and also set aside the order of stopping the increment from the year 2017 (contained in Annexure 2 to this Claim Petition).

iii) To pass an order or direction in the nature, which this Hon'ble Court may deem fit and proper in the circumstances of the case.

iv) Award the cost of the claim petition and may be given to the petitioner.

2. Facts, in brief, of the claim petition are that the petitioner was initially appointed on 17.03.2008 as Assistant Teacher, LT Grade and he joined on 29.03.2008 and given posting at Government Higher Secondary School, by the Additional Director of Education, Kumaun Division, Nainital on Pay Scale of Rs. 8500-175-9000. The services of the petitioner were regularized vide order dated 28.07.2007 in pursuance of the G.O. dated 09.02.1991 and G.O. dated 13.08.2002 read with Uttarakhand Subordinate Education (Trained Graduate) Service Rules, 2014 in the pay scale of Rs. 9300-34800 on probation of two years period. The regularization has been made w.e.f. 31.12.2010.

3. On 08.09.2016, the Chief Education Officer, Almora has passed the order by which one adverse entry has been given on account of negligence committed by the petitioner during the evaluation of answer sheet of High School Board Examination 2016-17 and directed to stop one increment for the year 2015-16, in which name of the petitioner has placed at sl. No. 2. For the Academic Session 2016-17 and 2018-19 due to the lower result of Board Examination of the subject in which the petitioner was the teacher, and an adverse entry was made. The adverse entry has been recorded in the service record of the petitioner. But after that year the result of Board Examination in which the subject teacher was the petitioner has been improved, therefore, on 13.09.2022 by order of Divisional Additional Director of Education, Middle Education, Kumaon Division, Nainital vide order dated 13.09.2022 has expunged the adverse entry for the year 2016-17, 2018-19.

4. On 19.02.2019, the Chief Education Officer, Almora sent a letter to all the Block Education Officers stated therein that for grant of Selection/Promotional Pay scale of the Assistant Teacher L.T. Grade, the relevant documents may be submitted within specified period, who have become eligible till 31.12.2018.

5. Since the adverse entry was made for the session 2015-16 to the petitioner and one increment was stop for the year 2017, but the respondents are not granting the increment even after 2017 and the increment has to be given from the year 2018, the Additional Director of Education has expunged the adverse entry for the year 2016-17 and

2018-19, therefore, there is no efficiency bar to grant the annual increment from the year 2018 (after exclude the year 2017) as well as after complete the 10 years regular service (after exclude the adverse entry period 2017) the 10 years period shall be completed in the year 2019, but the respondents till the date has not granted the annual increment from 2018 as well as not granting the selection grade from 29.03.2019.

6. On 31.05.2022, the petitioner made representation to the Additional Director of Education, Kumaun Division, Nainital through proper channel requesting that for the year 2015-16 the adverse entry was given. The negligence in evaluation of answer sheet due to the family disturbance as his wife and children met an accident and the petitioner was under depression and now his result is 100%, therefore, his adverse entry made in the year 2016 may be expunged and the annual increment may be given from the year 2016 in according to the 7th Pay Commission.

7. On 17.12.2024 the Principal, Government Higher Secondary School, Indrapur, Haldwani, District Nainital sent a letter to the Additional Director of Education, Kumaun Division, Nainital on the application made by the petitioner and same was forwarded with recommendation, stated therein that since academic session 2015-16 due to the adverse entry made against the petitioner, the annual increment of salary as well as benefit of selection grade pay scale has not been granted, the petitioner has made the application to expunge the adverse entry, therefore, the necessary steps may be taken to expunge the adverse entry. The petitioner made again representation on 10.02.2025 which is undecided.

8. Learned A.P.O. has opposed to the maintainability of the claim petition inter-alia on the ground that the petitioner has sought the multiple reliefs for grant of annual increment from the year 2018 and grant of salary of selection grade. He has also challenged the adverse entry for the year 2015-16, which is time barred. He has also submitted that against the adverse entry, the petitioner should have filed appeal to the higher authority.

9. After hearing learned Counsel for the parties to some extent, at the admission stage, learned Counsel for the petitioner confined his prayer to the extent that he will move a fresh detailed representation to the respondent department, stating all the relevant facts, mentioned in the

claim petition, which may kindly be directed to be decided by the respondents within a stipulated time, by a reasoned and speaking order.

10. Learned A.P.O. has no objection to the innocuous prayer made by learned Counsel for the petitioner.

11. In view of the above, the petitioner shall move a detailed fresh representation to the Respondents within 20 days and the Respondents shall decide the representation of the petitioner, by a reasoned and speaking order within two months, from the date of presentation of certified copy of this order along with fresh representation.

12. Accordingly, the claim petition is disposed of at the admission stage itself. No order as to costs.

A.S.RAWAT
VICE CHAIRMAN (A)

RAJENDRA SINGH
VICE CHAIRMAN (J)

DATED: APRIL 04, 2025
DEHRADUN.
KNP