

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

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

**CLAIM PETITION NO. 83/DB/2021**

1. Harish Chandra Sharma, aged about 44 years, s/o Sri Shobha Ram, r/o Village Kurar, Post Kurar, Tharali, District Chamoli, presently working as Lecturer (Physics), Govt. Inter College Tyura, Bagadwaldhar, Tehri Garhwal.
2. Niranjana Singh Bisht, aged about 44 years, s/o Sri Dhyan Singh Bisht, r/o Village Tyalni, Post Tyuna, District Tehri Garhwal, presently working as Lecturer (Mathematics), Govt. Inter College Kund Bharpoorkhar, Devprayag, Tehri Garhwal.
3. Naveen Kumar Raturi, aged about 44 years, s/o Sri Bachchi Ram Raturi, r/o Village Srikot (Ganganali), Srinagar (Garhwal), Pauri, presently working as Lecturer (English), Govt. Inter College Tyura, Bagadwaldhar, Tehri Garhwal.

.....Petitioners

**vs.**

1. State of Uttarakhand through Secretary, School Education, Civil Secretariat, , Dehradun.
2. Director, School Education, Nanoorkheda, Dehradun.
3. Additional Director, School Education, Nanoorkheda, Dehradun.
4. Additional Director, Secondary Education, Pauri Garhwal.
5. Chief Education Officer, Chamoli, District Rudraprayag.

.....Respondents.

Present: Sri S.S.Yadav, Advocate, for the petitioners.

Sri V.P.Devrani, A.P.O. for the Respondent No.1.

**JUDGMENT**

**DATED: March 17, 2022.**

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

By means of present claim petition, petitioners seek the following reliefs:

“I. Issue an order or direction to set aside the order dated 08.12.2017 (Annexure No. 1 to the claim petition) and 13.12.2017 (Annexure No. 2 to the claim petition).

II. Issue an order or direction to set aside the orders dated 16.12.2017 (Annexure No. 12 to the claim petition) and 19.07.2018 (Annexure No. 13 to the claim petition) passed by Regional Additional Director of Education, Garhwal Mandal, Pauri Garhwal and Chief Education Officer, Chamoli.

III. Issue an order or direction to set aside the orders dated 04.11.2019 (Annexure No. 18 to the claim petition) passed by Regional Additional Director of Education, Garhwal Mandal, Pauri Garhwal.

IV. Issue an order or direction to the respondents not to recover any amount which has already been paid to the petitioner in view of the order dated 27.08.2016.

V. Issue an order or direction to the respondent no.1 to provide the total benefit of service counting the length of service since 2001 from the date of initial appointment for the purpose of pension and other all related service benefit of Lecturer of Govt. of Inter College.

VI. Issue an order or direction which this Hon’ble Tribunal may deem fit and proper under the circumstances of the case may kindly be passed.

VII. Award the cost of the petition.”

2. Sri S.S.Yadav, Ld. Counsel for the petitioners has filed certified copy of the judgment dated 13.12.2021, rendered by Hon’ble High Court in WPSS No. 2602 of 2019 and submitted that the subject matter of present claim petition is squarely covered by the aforesaid decision rendered by Hon’ble High Court on 13.12.2021 in Writ Petition (S/S) No. 2602 of 2019 and connected petitions, which reads as below:

“These are the bunch of six writ petitions, in which primarily the petitioners have put a challenge to the impugned orders dated 08.12.2017 and 13.12.2017, whereby, the Principal Secretary, and the Director of Education, had denied the grant of selection grade to the petitioners on the ground that the determination of the satisfactory

period of services for the purposes of grant of selection grade has been determined in the case of the petitioners from their respective date of regularization.

2. It has been argued by the learned Senior Counsel for the petitioners, that the petitioners, who were initially appointed as a “Shiksha Bandhu”, in the year 2001, in fact was considered and granted an adhoc status by virtue of an order dated 31.01.2006, and as a consequence thereto, they were placed in the Grade Pay of Rs.6500-10500, as payable to the Lecturers English. This fact of grant of an adhoc status and the Scale referred to in the order of adhoc appointment of 31.01.2006, is a fact, which is not disputed, by the counsel for the parties.

3. The contention of the petitioners counsel is that as a consequence of the grant of adhoc status, if the selection grade, which was supposed to be granted to the petitioners by putting them in a scale of Rs.7500-12,000/- with the Grade Pay of Rs.5400/- is concerned, the same ought to have been determined in the light of the parameters which had been laid down by the Government Order No.655/Madhyamik/2002, dated 12th July, 2002.

4. Learned Senior Counsel for the petitioners had particularly referred to Clause (1) of the said Government Order dated 12th July, 2002, which is extracted hereunder:- “1. माध्यमिक शिक्षण संस्थाओं क शिक्षकों/प्रवक्ताओं को “साधारण वेतनमान” में 10 वर्ष की “संतोषजनक सेवा” पूर्ण करने पर चयन स्वीकृत किया जायेगा तथा चयन वेतनकाल में 12 वर्ष की संतोषजनक सेवा पूर्ण करने पर प्रोन्नति वेतनमान स्वीकृत किया जायेगा।”

5. The argument of the learned Senior Counsel for the petitioners is that the parameters requiring for the grant of the selection grade; as per the terms of the said Government Order dated 12th July, 2002, for the Lecturers working in the Secondary Education, there are only two parameters, which were required to be satisfied (1) that the employee must have worked on “Sadharan Vetanmaan” for ten years of satisfactory service. What he wants to submit is that while interpreting Clause (1) of the Government Order, that the grant of the selection made, as provided in the Government Order of 12th July, 2002, it only provides, that the period of ten years has to be determined from the date when a candidate completes his ten years of “satisfactory service” after being placed in a “common grade (Sadharan Vetanman)”.

6. The petitioners submits that their placement in the “Sadharan Vetanmaan”, is quite apparent from their order of grant of an adhoc status i.e. dated 31.01.2006, and the consequential grant of selection grade by an order of 27.08.2016, and which has been determined on the basis of the above two parameters, provided in the Government Order of 12th July, 2002.

7. The petitioners submit, that after the grant of the selection grade by the respondents based on the Government Order, the same couldn't have been withdrawn, though the petitioners had earlier approached the writ court, and the writ court had observed, that the claim of the petitioners for the grant of the selection grade, would be considered by the respondents while deciding the representation, without being influenced by the embargos which had been created by the Government Order dated 08.12.2017. This order passed by the learned Single Judge on 28.05.2019, which has attained the finality, as it has not been put to challenge by the respondents in a special appeal before

the Division Bench of this Court. However, qualifying the stand taken by the petitioners in the writ petition while interpreting the affect of the Government Order of 2002, for the grant of the selection grade based on the parameters of the “satisfactory services” and the placement in the “common grade”, in fact, the period of ten years is being sought to be determined by the respondents based on the fact that since the petitioners’ services after being placed as an adhoc Lecturer on 31.01.2006, was regularized only on 28.12.2013, in that eventuality, while applying the principles laid down by the Government Order dated 08.12.2017, the respondents contend, that the period of satisfactory services has to be reckoned from the date of the regularization of the services dated 28.12.2013, and not with effect from the date when the petitioners were granted adhoc status and were also placed on a “Sadharan Vetanmaan”.

8. The rejection order based on the Government Order dated 18.02.2017, first of all will not create any impediment in the grant of benefit of a selection grade for the reason being, that the unchallenged judgment of the coordinate Bench of this Court dated 28.05.2019, directing the respondents to consider the claim of the petitioners for the grant of the selection grade without being influenced by the embargos created by the Government Order dated 08.12.2017, had attained finality.

9. Even otherwise also, logically if the basic foundation of the grant of selection grade, which has been postulated in the Government Order of 2002, I am of the view that once the petitioners had been placed on a “Sadharan Vetanmaan”, while they were granted an adhoc status on 31.01.2006, its tenor of the services of 10 years required for the purposes of the grant of a selection grade as per the Government Order of 2002, would be reckoned from 2006, and not from the date of the grant of regularization i.e. dated 28.12.2013, as it has been argued by the learned counsel for the respondents because the reference of the date of the regularization, which was qualified to be made applied by the Government Order dated 08.12.2017, would not apply in the instant case, particularly, when the petitioners claim already stood matured by the Government Order of 2002.

10. In that eventuality, the impugned orders of denying the selection grade to the petitioners’ cannot be sustained. The orders are hereby quashed. Since this Court is of the considered view that the petitioners claim for the grant of the selection grade stood matured w.e.f. 31.01.2006, in the light of the Government Order dated 12th July, 2002, the period of 10 years for the purposes of grant of selection grade on ten years of services as provided under Clause (1) of the Government Order dated 12th July, 2002, has to be calculated in relation to the petitioners w.e.f. 31.01.2006, and not w.e.f. 28.12.2013, i.e. the date of the regularization of the petitioners as it has been contended by the respondents.

11. For the aforesaid reasons, the writ petitions are allowed. The impugned orders are quashed. A writ of mandamus is issued to the respondents to consider and grant the selection grade to the petitioners in the light of the Government Order dated 12th July, 2002, after reckoning the period of satisfactory services rendered by them from the date of the grant of adhoc appointment when the “Sadharan Vetanmaan” was made payable, which will fall to be within the ambit of the zone of consideration under Clause (1) of the Government Order dated 12th July, 2002.

12. Accordingly, the writ petitions are allowed, subject to the aforesaid observations.”

3. Ld. Counsel for the petitioners has also supplied copy of the judgment rendered by Hon’ble High Court on 13.01.2022 in WPSS No. 2553 of 2019 and connected writ petitions, which runs as below:

“These are the bunch of seven writ petitions, in which the petitioner had invariably put a challenge to the orders dated 08.12.2017 and 04.11.2019, which were passed by respondent no.5, as well as the order dated 12.10.2017, as a consequence of which the deduction were directed to be made from the service benefits of the petitioner. Simultaneously the petitioner has also sought a writ of mandamus, directing the respondent no.1, to provide the total benefit of the services after counting the length of services which was rendered by them from the date of their respective initial appointments. In some of the matters for example in Writ Petition No. 2772 of 2018, there are other two consequential orders which has been put to challenge, by the petitioner but factually the controversy stands covered by the principle orders, which has been referred to above, and are challenge in those petitions too.

The counsel for the petitioner, when the matter was taken up on the previous date i.e. on 10.01.2022, stated that these bunch of writ petitions stands squarely covered by the judgment rendered in Writ Petition No. 2602 of 2019, as decided on 13.12.2021, in order to assure that the issue stands covered by the said judgment the learned Standing Counsel, who was represented through Deputy Advocate General, on the previous date i.e. 10.01.2022, was directed to complete the instructions from the respondents, as to whether the matter stands covered by the said judgment of 13.12.2021 or not.

Today, the respondents who are represented by Mrs. Anjali Bhargava, the Additional Chief Standing Counsel, and she submits that based on the instructions, which she has received from the respondents, the respondents admit the fact, that the matter stands squarely covered by the judgment of 13.12.2021, which was as rendered in Writ Petition No. 2602 of 2019.

In view of the aforesaid assertion made by the learned counsel for the State based on instructions received by her through correspondence number Vidhi Prakosht (Ma)/24370/2021-22, dated 11.01.2021 issued by Mrs. Seema Jaunsari, Director, Secondary Education, Uttarakhand and Letter Number 11119 of 2021-22 dated 12.01.2022, issued by Mr. Mahaveer Singh Bisht, the Additional Director Secondary Education, Garhwal Mandal, Pauri. (These two correspondences had been taken on records, of the writ petition).

Hence based on the aforesaid two communications, these writ petitions would too stand disposed of under the same terms and conditions of the judgment dated 13.12.2021 as rendered in Writ Petition No.2602 of 2019.”

4. Ld. Counsel for the petitioners, therefore, prayed that since factual matrix of present claim petition along with law is the same, therefore, this

claim petition be decided in terms of WPSS No. 2602 of 2019 and connected writ petitions and WPSS No. 2553 of 2019 and connected writ petitions.

5. Ld. A.P.O. submitted that present claim petition is covered by the above mentioned judgments of Hon'ble High Court. He, however, submits that Reliefs No. I, II, IV and V are barred by limitation, inasmuch as the claim petition before this Tribunal can be filed within one year in terms of Section 5 (1)(b)(i) of the Public Services (Tribunal) Act, 1976.
6. In reply, Ld. Counsel for the petitioners submitted that he seeks to withdraw those reliefs, which, according to Ld. A.P.O. are barred by limitation, with liberty to pursue those remedies before the appropriate forum, in accordance with law. Such liberty is granted.
7. The claim petition is, accordingly, decided in terms of the decision rendered by Hon'ble High Court in WPSS No. 2602 of 2019 and connected writ petitions on 13.12.2021 and WPSS No. 2553 of 2019 and connected writ petitions on 13.01.2022.

**RAJEEV GUPTA)**  
VICE CHAIRMAN (A)

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

*DATED: MARCH 17, 2022*  
*DEHRADUN.*

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