

**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.174/DB/2022

1. Dr. Kamna Lohani (Female) a/a 55 years W/o Mr. D.C. Lohani Presently posted as Assistant Professor (History) at Government Degree College, Dehradun city District-Dehradun.
2. Dr. Archana Dhapwal (Female) a/a 54 years W/o Sri Sunder Singh Dhapwal Presently posted as Assistant Professor (Political Science) at Government Degree College, Devprayag District-Tehri Garhwal.
3. Dr. Lakshmi Datt (Male) a/a 52 years S/o Shri Shrinand Gargya Presently posted as Assistant Professor (Geography) at Government Post Graduate College, Agastyamuni District- Rudraprayag.
4. Dr. Neeraj Ruwali (Male) a/a 51 years S/o Sri L.D. Ruwali, Presently Posted as Assistant Professor (History) at M.B. Govt. Post Graduate College Haldwani, District- Nainital.
5. Dr. Deep Chandra (Male) a/a 47 years S/o Sri Pitamber Pandey Presently Posted as Assistant Professor (Hindi) at Government Degree College Haldwani City, Kishanpur, Gaulapar, Haldwani District-Nainital..

.....Petitioners

vs.

1. The State of Uttarakhand through Secretary, Higher Education, Uttarakhand Government at Dehradun.
2. Principal Secretary, Higher Education, Uttarakhand Government at Dehradun.
3. Director, Higher Education, Haldwani, District Nainital.

.....Respondents

Present: Sri Ganesh Kandpal, Advocate, for the petitioner. (**online**).
Sri V.P.Devrani, A.P.O., for Respondent No. 1.

JUDGMENT

DATED: MARCH 31, 2023.

Justice U.C.Dhyani (Oral)

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

I- Direct the respondents to count the entire service of the petitioners rendered in contractual capacity followed by regularization for the purpose of pension and other retiral benefits including gratuity etc.

II- Direct the respondents to treat the services of the petitioners covered under old pension scheme.

III- Direct the respondent to deduct the GPF amount from the salary of the petitioners and deposit the same in their GPF Account as is being done in the matter of the other employees of the department who are covered under old pension scheme. And the amount already deducted from salary of the petitioners under new pension scheme be adjusted in the GPF account of the petitioners.

IV- To pass any other suitable order, which this Hon'ble Tribunal may deem fit and proper on the basis of the facts and circumstances of the case.

V- Award the cost of the petition to the petitioners.”

2. Facts, in brief, of present claim petition are as follows:

2.1 At the time of creation of State of Uttarakhand, Uttarakhand Public Service Commission was not in function and for appointment of Assistant Professors / Lecturers in Higher Education, the State Govt. passed order/ instructions whereby vacancies of Assistant Professors / Lecturers in Higher Education Department were to be filled up by appointing the persons who are eligible for the post according to the norms of University Grants Commission on contract basis in the nomenclature of visiting faculty for teaching in the capacity of Assistant Professors / Lecturers.

2.2 Petitioners were appointed as Assistant Professors / visiting Lecturer, *vide* order dated 27.01.2001, on contractual basis. Services of the petitioners were regularized by the Regularization Rules, 2011. But the respondents, illegally added the condition in the regularization order as Condition No.2 that the regularized Visiting/ Contract Lecturers will not be

entitled for benefits of their past services for Career Advancement Scheme and retiral benefits like pension, gratuity and leave encashment.

3 Ld. Counsel for the petitioners submitted that the petitioners, who were selected through such Selection Committee, and were recruited after following the due process as is being adopted in the case of regularly appointed Assistant Professors, fall under the category of permanent service, as considering such services, petitioners were granted regular appointment by way of regularizing their services by virtue of Regularization Rules, 2011, are liable to be treated under the old pension scheme.

4. After arguing the petition at some length, Ld. Counsel for the petitioners confined his prayer only to the extent that the Respondent No. 3 may kindly be directed to decide petitioners' representation, in accordance with law, at an earliest possible. Ld. A.P.O. has no objection to such innocuous prayer.

5. Without prejudice to rival contentions, the claim petition is disposed of, at the admission stage, by directing Respondent No.3, to decide fresh representation (to be) moved by the petitioners, by a reasoned and speaking order, without unreasonable delay, in accordance with law, on presentation of certified copy of this order along with fresh representation, enclosing relevant documents in support thereof. No order as to costs.

6. It is made clear that the Tribunal has not expressed any opinion on the merits of the case.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MARCH 31, 2023
DEHRADUN

VM