

**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.173/DB/2022**

Dr. Ashok Kumar, aged 47 years, s/o Sri Sadanand Maindola, presently posted as Assistant Professor (Economics) at Pt. L.M.S. Campus Rishikesh, Sri Dev Suman Uttarakhand University, District Dehradun.

.....Petitioner

**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.
4. Additional Director, Primary Education, Garhwal Mandal, Pauri.
5. Sri Dev Suman Uttarakhand University, Badshitohl Tehri Garhwal, District Tehri Garhwal through its Registrar.

.....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, petitioner seeks the following reliefs:

I- Direct the respondents to count the entire service of the petitioner 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 petitioner covered under old pension scheme.

III- Direct the respondent to deduct the GPF amount from the salary of the petitioner 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 petitioner under new pension scheme be adjusted in the GPF account of the petitioner.

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 petitioner.”

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 Petitioner was appointed as Assistant Professor (Economics)/ visiting Lecturer, vide order dated 27.01.2001, on contractual basis. Services of the petitioner 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 Lecturer 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 petitioner submitted that the petitioner, who was selected through such Selection Committee, and was 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, petitioner was granted regular appointment by way of regularizing his services by virtue of Regularization Rules, 2011, and is liable to be treated under the old pension scheme.

4. After arguing the petition at some length, Ld. Counsel for the petitioner confined his prayer only to the extent that the Respondent No. 3 may kindly be directed to decide petitioner's representation dated 13.10.2022 (Annexure: A 1), 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 petitioner, 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