

**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. 32/SB/2022

Brahma Nand, s/o late Sri Baijram, r/o Hlmanshu Sadan, Srinagar Road, Pauri, District Pauri Garhwal-246001, presently posted as Assistant Teacher Government Inter College Katuli pauri, District Pauri Garhwal.

.....Petitioner

versus

1. State of Uttarakhand through its Secretary, School Education Government of Uttarakhand, Dehradun.
2. Director Secondary School Education, Uttarakhand.
3. Additional Director, Secondary School Education Garhwal Mandal, Pauri, District- Garhwal.
4. Chief Education Officer, Pauri Garhwal District-Pauri Garhwal.

..... Respondents

Present: Sri Anil Anthwal, holding brief of Sri Prabhakar Narayan;
and Sri Mahavir Kohli, Advocates, for the petitioner
Sri V.P. Devrani, A.P.O. for the respondents

Judgement

Dated: 24th February, 2023

Justice U.C. Dhyani (Oral)

By means of present claim petition, the petitioner seeks following reliefs:

“(i) To set aside the impugned order dated 08-11-2021 passed by Respondent no. 2.

- (ii) To issue a direction/order to the respondents to grant Grade Pay of Rs. 5400/- along with arrears to the petitioner w.e.f. 13.04.2016 and other consequential benefits be fixed on the grade pay of Rs. 5400/-.
- (iii) To issue order or direction, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the present case.
- (iv) To award the cost of the present claim petition in favor of the petitioner."

2. This is the second round of litigation. In the first round of litigation, the petitioner approached the Hon'ble High Court of Uttarakhand by way of filing a writ petition bearing WPSS No. 1049/2021, Brahma Nand vs. State of Uttarakhand and others, with the following reliefs:

- "a) Issue a writ order or direction in the nature of Mandamus commanding and directing the respondents to selection grant Grade Pay of Rs. 5400/- with arrears to the petitioners w.e.f. 13-04-2016 and other consequential benefits be fixed on the grade pay of Rs. 5400/-.
- b) Issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.
- c) Award the cost of the petition."

3. The petition was disposed of by the Hon'ble High Court *vide* order dated 16.08.2021 with the following observations:

"The writ petition is disposed of with the liberty to the petitioner to make a representation to respondent no. 2 within a period of one week from today with further directions to respondent no.2 that upon such representation having been made, that shall be decided within a period of two months thereafter. But, in case the dispute is still not resolved, even after consideration of the representation, any writ petition, on the subject, shall not be entertained by this Court merely on the ground that it is in sequel to the instant writ petition."

4. Annexure: A1 is the copy of the order passed by the Director, Secondary Education, whereby the representation of the petitioner was rejected on 08.11.2021. Learned Counsel for the petitioner submitted that juniors to the petitioner have been given the benefit of grade pay Rs. 5400/-, whereas the petitioner has not been given the said benefit.

5. Learned Counsel for the petitioner drew attention of the Bench towards Annexure: 13, which is the order issued by Additional Director, Secondary Education, Garhwal Region, Pauri, dated 01.06.2021. Learned Counsel for the petitioner submitted that subsequent to order dated 31.12.2020 passed by the Hon'ble High Court in WPSS No. 175/2019, Subhash Chandra and others vs. State of

Uttarakhand and others, along with other connected writ petitions, a committee was constituted by Additional Director, Secondary Education, Garhwal Region, Pauri, regarding the benefit of the promotion as well as grade pay of the Assistant Teachers in Govt. Schools, who were not getting the benefit of selection grade pay as well as promotional pay scale. Learned Counsel for the petitioner further submitted that those who were juniors to the petitioner, are getting the benefit of selection grade pay as well as promotional pay scale whereas the petitioner has not been given the same benefit.

6. Learned A.P.O., on the other hand, submitted that the petitioner was initially appointed on the post of Assistant Teacher in the grade pay Rs. 4600/- on 28.11.1998 and thereafter he has been promoted to the post of lecturer on 02.12.2005 on *ad-hoc* basis and thereafter this promotion has been substantively converted into regular promotion on 20.02.2020, as has been mentioned in the counter affidavit on behalf of the respondents. As regards the G.O. dated 06.09.2019, learned A.P.O. submitted that in para 2 (ka)(3), selection grade will be given only when no promotion has been granted and learned A.P.O. submitted that the petitioner has been granted promotion to the post of lecturer and hence he is not entitled to the benefit of selection grade. At this stage, learned Counsel for the petitioner drew attention towards Annexure: A5, which is the document certifying that the petitioner has not been promoted since 13.04.2006.

7. Petitioner moved an application for granting selection grade which was recommended by Principal of the Govt. Inter College, Katuli (Khirsu), District Pauri Garhwal, the institution in which the petitioner was serving. The same was strongly recommended by Block Education Officer, Khirsu, District Pauri Garhwal.

8. **The Principal has made an endorsement that the petitioner is entitled to the pay scale of Rs. 47600-151100/- grade pay Rs. 4800/- w.e.f. 13.04.2006, and he is entitled to selection pay scale Rs. 47600-151100/- grade pay Rs. 5400/- as per the G.O.s issued by the Govt.**

from time to time. The Principal also recommended that there appears to be no difficulty in granting selection pay scale to the petitioner as per entries in the character roll.

9. As has been mentioned above, the recommendation of the Principal has further been strongly recommended while forwarding the same by Block Education Officer, Khirsu, District Pauri Garhwal to Additional Director, Secondary Education, Garhwal Region, Pauri, *vide* letter dated 31.01.2020 (Annexure: A10).

10. Although, detailed order has been passed by respondent no. 2 on the representation of the petitioner, but the impugned order is silent on the recommendations of the Principal and the Block Education Officer. A curious mind would, obviously, like to know as to what has happened to these recommendations. Tribunal's curiosity needs to be answered.

11. The claim petition is disposed of by directing respondent no. 3 to re-consider the representation of the petitioner in the light of recommendations of the Principal and the Block Education Officer, in accordance with law, at the earliest, within 12 weeks of presentation of certified copy of this order along with fresh representation. No order as to costs.

12. Liberty is granted to the petitioner for filing fresh claim petition, in case petitioner's grievance survives.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
[virtual]

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: 24th February, 2023

DEHRADUN

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