

**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. 42/NB/DB/2024

Dr. Renu Rawat, aged about 55 years, W/o Sri Vijay Singh Rautela, presently posted as Assistant Professor (B.Ed..) in M.B. Government P.G. College, Haldwani, District- Nainital.

.....**Petitioner**

Vs

1. State of Uttarakhand through Secretary, Higher Education, Civil Secretariat, Dehradun, Uttarakhand.
2. The Director, Higher Education Uttarakhand Navarkhera, Gaulapar, Haldwani District Nainital.
3. Screening-Cum-Evaluation committee, through its chairman at directorate, Higher Education Uttarakhand Navarkhera, Gaulapar, Haldwani District Nainital.

.....**Respondents**

Present: Sri Rahul Adhikari, Advocate for the petitioner
Sri Kishore Kumar, A.P.O., for the respondents

JUDGMENT

DATED: JULY 30, 2025

Per: Hon'ble Sri A.S.Rawat, Vice Chairman (A)

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

"I-Set aside the impugned decision of Screening-Cum-Evaluation committee whereby the claim of the petitioner for granting promotion Level 10 to Level 11 by counting past contractual service has been rejected which was issued by Director, Higher Education Uttarakhand vide its letter dated 7-7-2022 and communicated to the petitioner vide letter dated 18-12-2023 qua to the petitioner (contained in annexure No.1 to the claim petition).

II- Direct the respondents to grant the benefits of career advancement scheme to the petitioner by counting the past services rendered by the petitioner as contractual lecturer / Assistant professor from the date of initial appointment i.e. 31-10-2008 as per the university grants commission regulation 2018 which was adopted by the state government.

III- Direct the respondents to grant promotion to the petitioner from the level 10 to level 11 by treating the condition provided in clause 10(f) (III) of UGC regulation, 2018 regarding emolument according to the same term and condition of clause 13.0 of regulation 2018 as adopted by the state government vide order dated 6-9-2019.

IV- Direct the respondents to constitute a screening-cum-evaluation committee as per the regulation 2018 issued by the University Grants Commission for granting promotion from level 10 to level 11 and accordingly grant promotion from level 10 to level 11 to the petitioner by counting the past services rendered by the petitioner as Assistant professor on contractual basis.

V- 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.

VI- Award the cost of the petition to the petitioner.”

2. The brief facts of the case are as under:

2.1 The petitioner was appointed by the Respondent no. 2 on 31.10.2008 on the post of Asstt. Professor on contractual basis on a consolidated salary of Rs 10,000/- per month, which she joined on 18.12.2008.

2.2 The appointment as a contractual lecturer was extended time to time by the Govt. Later on the Government revised the consolidated salary of the contractual lecturers as Rs. 15000/- per month by G.O. dated 04.04.2011 vide order dated 30.09.2009. The consolidated salary of the petitioner was enhanced by the Government to Rs. 25000/- per month by Govt. Order dated 04.04.2011 keeping in view of UGC Regulations, 2010. The contractual appointment was further extended and the fixed salary of contractual lecturers was increased to Rs. 35,000/- per month by the Government vide G.O. dated 29.08.2014.

2.3 Pursuant to the Regularization Rules, 2013, the services of the petitioner were regularized vide order dated 18.7.2016. Since then, the petitioner is working as such.

2.4 The contractual lecturers so appointed are discharging same duties as being discharged by any other regularly appointed lecturers in the colleges. In addition to teaching duties, they are also discharging various other duties as being done by regular lecturers namely (a) Invigilation duty during examinations (b) Internal examiner-ship in practical examination held by the University (c) Team manager-ship during inter-college games and sports (d) Evaluation of answer sheets of university examinations (e) Election duty of student union election (f) In-charge-ship of the department (g) N.S.S. programmer (i) Head of the departments etc.

2.5 The University Grants Commission (UGC) vide Regulations of 2018 dated 18/07/2018 also provided the Career Advancement Scheme for the teachers working in the Universities and Government Degree Colleges. These Regulations of 2018 were adopted by the State of Uttarakhand vide order dated 6-9-2019 with certain amendments.

2.6 After adopting the UGC Regulation of 2018, the respondents invited applications for career advancement scheme vide order dated 11.12.2021. The Director, Higher Education, Government of Uttarakhand vide letter dated 13.12.2021 directed that the incumbents who were regularized in the year 2016 are also entitled to submit their applications for promotion under Career Advancement Scheme (CAS).

2.7 The petitioner who is Assistant Professor with NET, Ph.D. fulfills all the required eligibility criteria for promotional benefits under Career Advancement Scheme.

2.8 The aforesaid CAS under para 10 also stipulates for counting past services rendered by the teachers on Ad-hoc, Temporary and

contract basis for granting benefits under CAS as such petitioner is entitled for benefit of CAS by counting the past services rendered by her from the date of initial appointment.

2.9 The petitioner applied for granting the promotion from level 10 to level 11 under the Career advancement scheme. Her application was duly recommended by the Principal, M.B. Government Post Graduate College Haldwani, District Nainital to the Director, Higher Education, and Government of Uttarakhand vide letter dated 05-01-2022.

2.10 The Director, Higher Education, Government of Uttarakhand, ignoring the provisions of UGC Regulations of 2018 regarding granting the benefit of CAS by counting past Contract service rendered by the petitioner passed order on 07-07-2022, whereby declined the benefit of CAS to the petitioner on the ground that the benefits of past contractual service has not been given. The name of the petitioner is at Serial No. 49 in the said order.

2.11 The Secretary of U.G.C. on 27.02.2020 wrote a letter to the Vice chancellors of all the universities requesting therein to take appropriate action for deciding all pending promotion cases and counting the past service at the earliest. Despite the specific directions the respondents did not count past services of the petitioner for the benefit under Career advancement scheme.

2.12 The clause 10 of the UGC regulation 2018 which has already been adopted by the state vide order dated 6-9-2019 categorically provides the previous service rendered by the teacher as contract service shall be counted for granting benefit under career advancement scheme ignoring the same the respondent vide impugned order dated 7-7-2022 declined/rejected the claim of the petitioner for granting benefit of career advancement scheme on the ground that there is no order regarding the granting benefit by counting past service rendered on contract basis. Relevant portion of

the Clause 10.0 of the University Grant Commission Regulations, 2018, reads as under:

10.0 Counting of Past Services for Direct Recruitment and Promotion under CAS Previous regular service, whether national or international, as Assistant Professor, Associate Professor or Professor or equivalent in a University, College, National Laboratories or other scientific/professional organisations such as the CSIR, ICAR, DRDO, UGC, ICSSR, ICHR, ICMR and DBT, should count for the direct recruitment and promotion under the CAS of a teacher as Assistant Professor, Associate Professor, Professor or any other nomenclature, provided that:

(a)..... (b)

.....The post is/was in an equivalent grade or of the pre-revised scale of pay as the post of Assistant Professor (Lecturer) Associate Professor (Reader) and Professor.

(c).....

(d).....

(e).....

(f)The previous Ad-hoc or Temporary or contractual service (by whatever nomenclature it may be called) shall be counted for direct recruitment and for promotion, provided that:

(i) the essential qualifications of the post held were not lower than the qualifications prescribed by the UGC for Assistant Professor, Associate Professor and Professor, as the case may be

(ii) the incumbent was appointed on the recommendation of a duly constituted Selection Committee/Selection Committee constituted as per the rules of the respective university;

(iii) the incumbent was drawing total gross emoluments not less than the monthly gross salary of a regularly appointed Assistant Professor, Associate Professor and Professor, as the case may be; and

(g) ”.

3. Respondents have opposed the claim petition by filing C.A./W.S. mainly stating therein that-

3.1 The controversy involved in the Claim Petition is related to counting of past contract services rendered by the petitioner for availing the benefit of CAS (Senior Scale Academic Level 10 to 11) under the UGC Regulations, 2018.

3.2 The State of Uttarakhand notified Regularization Rules, 2013 vide its Notification dated 30.12.2013 for regularization of Contract,

Daily wage, Ad-hoc, Part time employees. The services of the petitioner were regularized by Govt. of Uttarakhand vide letter no. 153/XXIV(4)2016-1(25)/2016 dated 18.07.2016. The Rule 8 (1) of the aforesaid Regularizations Rules mentions that the date on which the order of regularization will be published, that shall be considered to be the date of substantive appointment and shall not be deemed to have been substantively appointed from any earlier date.

3.3 The regularization order dated 18.07.2016 of the petitioner, in para-2 clearly mentions that 'the regularized contractual faculty shall not avail any benefit based on the services rendered prior to their regularization, be it Career Advancement Policy or after retirement benefits like pension schemes, gratuity. The regularized faculty shall avail the benefits regarding their services only from the date of their substantive appointment. Their seniority shall also be considered from the date of their regularization.'

3.4 The Hon'ble Apex Court in Special Leave Petition (civil) no. 22278 of 2011 Rajasthan Agricultural University, Bikaner, versus Dr. Zabar Singh Solanki held that *".....the State Government vide its Letter dated 20.09.1994, had specifically clarified that the period of ad-hoc service rendered by the respondents/Assistant Professors shall not be counted for giving benefit of senior pay-scale under the CAS. We have already elaborated that the CAS is essentially a policy, and as such, the respondents cannot claim, nor would they have any vested right for claiming that the clauses therein be interpreted in a particular manner. Such an interpretative exercise would have to be left, in the domain of the appellant, subject to the State Government's directives unless patently perverse or arbitrary. The High Court, hence, was not justified in counting of the ad-hoc service rendered by the respondents for reckoning the period of computation as required for applying the CAS."*

3.5 Rule 10.0 of UGC Regulation, 2018 provides the detailed provisions regarding Counting of Past Services for Direct Recruitment

and Promotion under CAS. The Regulation 10(f) and 6.4 B- I reveal that for promotion from academic level 10 to academic level 11, the incumbent must have completed the last four years of service in Academic Level 10. The petitioner does not fulfill all the above-mentioned criteria to claim for Counting of Past Services for Promotion under CAS as she was not in academic level 10 in her contractual service rather, she received consolidated amount of Rs. 35000 or less. The Petitioner was appointed as contract lecturer in a fixed honorarium of Rs. 200.00 per lecturer within the maximum limit of Rs. 10000.00 per month which was revised from time to time by the Government up-to Rs. 35000 per month. Under Rule 10 (f) of the UGC Regulations, 2018 it is mentioned that for counting previous ad-hoc or temporary service the essential qualifications of the post held were not lower than the qualifications prescribed by the UGC for Assistant Professor, the incumbent was appointed on the recommendation of a duly constituted Selection Committee constituted as per the rules and the incumbent was drawing total gross emoluments not less than the monthly gross salary of a regularly appointed Assistant Professor. The petitioner was neither drawing salary equal to the monthly gross salary of Assistant Professor, nor she was selected on the basis of the recommendations of a duly constituted Selection Committee under the rules prevalent in the State of Uttarakhand. Rather, during the contractual period she got a consolidated remuneration, which was revised from time to time by the Government up-to Rs. 35000 per month. Thus due to non-fulfillment of the criteria regarding counting of past services for Promotion under CAS the Director, Higher Education rightly rejected the claim of the Petitioner for Counting of Past Services for Promotion under CAS.

3.6 The decision is neither illegal, nor arbitrary, rather it was totally as per Rules in its letter and spirit. It is submitted that the petitioner was appointed on temporary basis in contractual position on a fixed honorarium (not in Pay Scale), which was enhanced from time to time as clearly evident from first para of G.O. dated

30.09.2009, G.O. dated 04.04.2011 and G.O. dated 05.03.2014 and conditions of which are clearly mentioned in the contractual appointment letter issued vide letter no. Degree Sewa/6370/Samvida Chayan/2008-09 dated 31 October, 2008. In the said appointment letter, conditions mentioned clearly says that, on the basis of invitation for contractual appointment, claim for regularization will not be made, as the posts are of Group 'A' posts under the ambit of Public Service Commission and since those who are accepting the contract are free to apply for the regular appointment further through Public Service Commission. This also infers that, the appointment was nowhere in the category of regular appointment. It is also worth to be mentioned that considering their services of contractual position, Govt. vide its G.O. no. 153/XXIV(4)/2016-1(25)/2016 dated 18 July, 2016 took the decision to regularize the services of petitioner. In para 2 of the said G.O. it has been clearly mentioned that, the benefit of past services rendered by such regularized persons will not be admissible for career advancement scheme and retrial benefits as pension gratuity and monetization. The service benefits to all such regularized concerned lectures will be admissible from the date of regularization only and their seniority will be fixed further.

उपरोक्तानुसार विनियमित तदर्थ/अंशकालिक/संविदा प्रवक्ताओं को पूर्व में उनके द्वारा की गयी सेवाओं का लाभ, कैरियर एडवान्समेंट योजना तथा सेवानिवृत्तिक लाभों यथा पेंशन, ग्रेच्युटी एवं राशिकरण हेतु अनुमन्य नहीं होगा। विनियमित होने वाले सम्बन्धित प्रवक्ताओं को समस्त सेवा लाभ विनियमितीकरण की तिथि से देय होंगे तथा विनियमितीकरण के पश्चात इनकी ज्येष्ठता पृथक से निर्धारित की जाएगी।

The service and contractual conditions along with honorarium has been clearly defined in earlier GOs based on which petitioner gave her services and further when petitioner got regularized, even then the conditions of regularization has been clearly stipulated in which the earlier past services were not considered to be counted for CAS and other service benefits.

3.7 It is further submitted that the Hon'ble Uttarakhand Public Service Tribunal, Bench at Nainital, vide its judgement dated

22.01.2025 in Claim Petition No. 113/NB/DB/2022 in the matter of Bipin Chandra Bhatt Vs State of Uttarakhand rejected the claim for grant the benefits of Career Advancement Scheme to the petitioner by counting the past service rendered by the petitioner as contractual lecturer from the date of initial appointment as there was no order of the State Government or the competent authority regarding counting of the past contractual service rendered by the petitioner. The facts and circumstances of the present case are the same like the Claim Petition No. 113/NB/DB/2022. Thus, the petitioner has no right to claim for counting of past contractual service for the benefit of CAS under UGC Regulations.

4. R.A. has also been filed on behalf of the petitioner denying the contentions made in the Counter Affidavit and has reiterated the averments made in the claim petition. The petitioner has contended that the due process has been followed in her appointment on contract basis, she was paid remuneration as fixed by the UGC and the State Government time to time. The petitioner fulfills the criteria as laid down in the para 10(f) of UGC Regulations, 2018 and rendered more than 7½ years of service on contract basis before her regularization.

5. We have heard learned Counsel for the petitioner and learned A.P.O. and perused the record.

6. The Learned Counsel for the petitioner argued that the petitioner was working as an Asstt. Professor on contract basis since 18/12/2008 before her regularization on 18/07/2016. The para 10(f) of the UGC Regulations of 2018 provides for counting of past service rendered on contractual basis for the promotion under CAS. So the petitioner is entitled to get this benefit of counting the service rendered on contract basis to get promotion. But the respondents have not given her the benefit, in view of the provisions of the UGC Regulations, 2018, the claim petition is liable to be allowed, and the impugned orders are liable to be set aside.

7. Learned A.P.O. argued that the petitioner was regularized on the post of Asstt. Professor on 18/07/2016. In the regularization order it is clearly mentioned that no benefit of pension, promotion under CAS will be given to the petitioner for the service rendered on a contractual / ad hoc basis before regularization. The Committee for the promotion under CAS did not recommend the petitioner for promotion as she was not given the benefit of the service rendered on contract basis to complete the required length of services for promotion from level 10 to level 11. Learned APO has relied upon the judgement of the Hon'ble Apex Court in the Spl. Appeal No 22778 of 2011 in the matter of Rajasthan Agricultural University Bikaner Vs Dr Zabar Singh Solanki. Learned A.P.O. has further referred the judgment of the Hon'ble Public Service Tribunal, Bench at Nainital, dated 22.01.2025 in the Claim Petition No. 113/NB/DB/2022 in the matter of Bipin Chandra Bhatt Vs State of Uttarakhand in which the claim petition has been rejected on the ground that there is no order for counting the service rendered on contractual basis by the competent authority. In view of the judgement of the Hon'ble Apex Court and the Hon'ble Tribunal the present claim petition is liable to be dismissed.

8. Based on the arguments of the Learned Counsels for the parties and the documents placed, we find that the petitioner was appointed on contract basis as Asstt. Professor on 31.10.2008, her services were extended time to time before her regularization on 18/07/2016 on the post of the Asstt. Professor. It is mentioned in the regularization order of the petitioner that she would not get the benefit of the past service rendered on adhoc/contract basis before regularization for the benefit of the CAS and the pension. The Committee to consider the promotion of the petitioner did not recommend her for promotion as she was not given the benefit of the contractual service and she did not have the required length of service for the promotion. The order of the competent authority in respect of the petitioner to consider the service rendered on the contract basis

for promotion was not submitted before the Screening Committee. Later on, the petitioner was promoted to level-11 on 23/07/2020 vide GO No. 801 dt. 25/10/2022 on her completing four years of qualifying service at the level 10. The Hon'ble Uttarakhand Public Service Tribunal, Bench at Nainital, vide its judgement dated 22.01.2025 in Claim Petition No. 113/NB/DB/2022 in the matter of Bipin Chandra Bhatt Vs State of Uttarakhand rejected the claim for grant of the benefits of Career Advancement Scheme to the petitioner by counting the past service rendered by the petitioner as contractual lecturer from the date of initial appointment. The facts and circumstances of the present case are the same like the Claim Petition No. 113/NB/DB/2022. The relevant para of the judgement of the Hon'ble Tribunal is as under:

"15. Based on the arguments and facts submitted by the petitioner and learned A.P.O., we are of the opinion that the approval of the Govt. or the competent authority authorized by the Govt. for the purpose of approving the counting of the period of engagement on contract basis for consideration for ACP etc. is required, the DPC has aptly mentioned the reasons for not finding the petitioner eligible for promotion (letter dated 08.06.2022, Annexure-1). The UGC Regulations, 2018 have been adopted by the State Govt. with some modification vide letter dated 06.09.2019, but the order for counting the period spent on contractual engagement is not within the purview of DPC as the DPC considers the candidate for promotion based on Academic Performance Indicator (API) etc. The petitioner has not made any representation to the higher authorities for counting the period spent on contractual lectureship for the purpose of the benefit of ACP etc. So, his claim petition is liable to be dismissed."

9. In view of the fact of the case and the aforesaid judgements, the claim petition is liable to be dismissed.

ORDER

The claim petition is hereby dismissed. No order as to costs.

RAJENDRA SINGH
VICE CHAIRMAN (J)

A.S.RAWAT
VICE CHAIRMAN (A)

DATED: JULY 30, 2025
DEHRADUN
KNP