

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
BENCH AT NAINITAL**

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

----- Chairman

Hon'ble Mr. Arun Singh Rawat

-----Vice Chairman (A)

CLAIM PETITION NO.90/NB/DB/2025

Smt. Prabhawati Devi, aged about 44 years, w/o Sri Mohan Ram, r/o Silanga Mehalchori, Chamoli.

.....**Petitioner**

vs.

1. State of Uttarakhand, through Secretary, Education, Government of Uttarakhand, Subhash Road, Dehradun.
2. Director, Secondary Education, Goverfnment of Uttarakhand, Directorate Education, Nanoor Khera, Dehradun.
3. Chief Education Officer, Almora.
4. Principal Swami Viveknand Higher Secondary School, Simalkhet, Chokhutiya, Almora.

.....**Respondents**

(virtually)

Present: Sri Abhishek Divakar Chamoli, Advocate, for the petitioner.
Sri Kishore Kumar, A.P.O., for the Respondents.

JUDGMENT

DATED: DECEMBER 15, 2025

Justice U.C.Dhyani (Oral)

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

"I)) To pass an order or direction, directing respondent to take decision on the pending representation of the Petitioner regarding Issuance of No Objection Certificate.

(ii) To issue any other order or direction which this court may deem fit and proper in the circumstances of this case in the favour of the petitioner.

(iii) To award the cost of the Petition."

2. An affidavit has been filed by the petitioner in support of her claim petition. Relevant documents have also been filed along with the same.

3. Petitioner is an Assistant Teacher at Swami Viveknand Higher Secondary School, Simalkhet, Chokhutiya, Almora. On medical grounds, she applied for transfer. On her application, District Magistrate, Almora, wrote to the Chief Education Officer, Almora (Respondent No.3), to direct the Principal of the School to issue 'No Objection Certificate'. Petitioner requested Respondent No.3 by filing written application. When the petitioner did not receive any reply, she filed fresh representation, but to no avail.

4. Sri Abhishek Divakar Chamoli, Ld. Counsel for the petitioner submitted that in Section 39(2)(c) of the Uttarakhand School Education Act, 2006, there is a provision for transfer from one Govt. College to another. Because of delay on the part of Respondent No.3, petitioner is facing great hardship. Hence, present claim petition for directing Respondent No.3 to order the Principal to issue 'No Objection' regarding petitioner's transfer.

5. Ld. A.P.O., at the very outset, objected to the maintainability of the claim petition *inter alia* on the ground that 'transfer' cannot be claimed before the Tribunal in view of proviso to Section 4(1) of the U.P. Public Services (Tribunal) Act, 1976 (as applicable to Uttarakhand), which (provision) reads as under:

"Provided that no reference shall, subject to the terms of any contract, be made in respect of a claim arising out of the transfer of a public servant."

[Emphasis supplied]

6. After hearing Ld. Counsel for the parties and having gone through the contents of claim petition, the Tribunal finds that the petition is,

indeed, a petition for transfer of the petitioner from one place to another. The Tribunal is afraid, such relief cannot be granted to the petitioner, howsoever genuine the prayer of the petitioner might be. In the garb of saying that Respondent No.3 be directed to issue 'NOC', the petitioner is indirectly pressing for her transfer.

7. Having said that, the Tribunal observes that the petition cannot be entertained in the Tribunal in view of *proviso* to Section 4(1) of the U.P. Public Services (Tribunal) Act, 1976 (as applicable to Uttarakhand). The same, however, does not mean that Respondent No.3 is absolved of his responsibility of not deciding the representation of the petitioner, as per law. The said authority is not permitted to sit over the application of the petitioner and not to proceed with the same, in accordance with law.

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: DECEMBER 15, 2025
DEHRADUN

VM