

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

Present: Hon'ble Mr. Rajendra Singh

-----Acting Chairman

Hon'ble Mr. A.S.Rawat

-----Vice Chairman (A)

REVIEW PETITION NO. 04/NB/DB/2024

(Arising out of the judgment and order dated 09.09.2024, passed in Claim Petition
No.94/NB/DB/2022 (WRIT PETITION NO 577(S/B) OF 2018)

1. State of Uttarakhand through Secretary, Medical Health & Family Welfare, Uttarakhand, Dehradun, Secretariat Complex, Subhash Road, Dehradun.
2. Director General, Medical Health & Family Welfare, Uttarakhand, Dehradun.
3. Chief Medical Officer, Champawat.

.....Applicants/ Respondents

Vs.

Dr. Shaili Singh, aged about 33 years, w/o Dr. Abhash Chandra, presently posted as Mahila Medical Officer, Primary Health Centre, Patti, District Champawat.

.....Petitioner (respondent herein)

Present: Sri Kishore Kumar, A.P.O. for the respondents (review Applicants)
Sri I.P. Gairola, Advocate for the petitioner (respondent herein)

JUDGMENT

DATED: SEPTEMBER 18, 2026

The present review petition has been filed on behalf of the respondents to review the judgment and order dated 09.09.2024 passed by this Tribunal in Claim Petition no. 94/NB/DB/2022, Dr. Shaili Singh vs. State of Uttarakhand & others. A delay condonation application has also been filed along with review petition. Learned

Counsel for the petitioner (respondent herein) also filed objections to the delay condonation application.

2. This Tribunal heard learned Counsel for the parties on delay condonation application. Learned A.P.O. on behalf of the review applicants submitted that this Hon'ble Tribunal vide order dated 09-09-2024 disposed of the claim petition in terms of the decision rendered by Hon'ble High Court on 16.06.2016 in WPSB No. 437/2015 Dr. Sanjay Kumar & another vs. State of Uttarakhand and others and connected writ petitions. The review applicants submitted the certified copy of the judgment dated 09-09-2024 to the department on 18-09-2024 and thereafter the same was placed before the Govt. The Govt. vide order dated 24-09-2024 directed the department to submit its report. The department submitted its report to the government on 07-10-2024 stating therein that pursuant to the judgment of the Hon'ble Apex Court dated 16-11-2018 passed in SLP (Civil Diary No. 37674/2018) "State of Uttarakhand & others Vs. Dr. Himanshu Pandey and others", the petitioner is not eligible for full salary during her Post Graduation Course. On perusal of the report of the department, the Govt. vide order dated 14-11-2024 directed the department to file review application before the Hon'ble Tribunal and on the directions of the government collected all the relevant papers and approached the learned Assistant Presenting Officer of the Uttarakhand Public Service Tribunal Bench at Nainital on 05-12-2024 and requested him to prepare the review application for reviewing the judgment and order dated 09-09-2024 on the ground that the petitioner is not entitled for full salary during her studies and thereafter the Assistant Presenting Officer on the instructions of the department has prepared the review application along with delay condonation application.

3. The delay in filing present review petition is neither deliberate nor intentional, hence, it is prayed to condone the delay in the filing the review application for reviewing judgment/ order dated

09.09.2024 and the claim petition be heard afresh or to pass any suitable orders or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case.

4. Learned Counsel for the petitioner (respondent herein) has also filed objections to the delay condonation application stating therein that this Tribunal passed its judgment on 09.09.2024 and whereas the review applicants had filed the review application on 09.12.2024, after the lapse more than of 90 days which is clearly the violation of rule 17(1) of U.P.P.S.T. (Procedure) Rules, 1992 which states that "No petition for review shall be entertained unless it is filed within thirty days from the date of order of which the review is sought" Hence the review application is liable to be dismissed alone on this ground without going on its legal merit. Hence, the judgement passed by the Hon'ble Tribunal on 09.09.2024 in Claim Petition no. 94/NB/DB/2022) is legally sound and requires no interference or review. Hence the review application is liable to be dismissed.

5. In view of the above, we are of the view that the present review application was filed before this Tribunal on 09.12.2024 after passing the judgment by this Tribunal on 09.09.2024. The review applicants have explained day-to-day delay in filing the review application that after getting certified copy of the judgment, they submitted it to the department on 18.09.2024, which was placed before the Govt. and the Govt. vide order dated 24.09.2024 directed the department to submit its report. The department submitted its report to the Govt. on 07-10-2024. The Govt. vide order dated 14-11-2024 directed the department to file review application before the Hon'ble Tribunal and thereafter, collected all the relevant papers and approached the learned Assistant Presenting Officer at Nainital on 05.12.2024. Hence, the delay has been explained on behalf of the review applicants and accordingly, the delay condonation application is allowed and the delay in filing the review application is hereby condoned.

6. Heard learned Counsel for the parties on the review application.

7. It is the submission of the review applicants that at the time of hearing, due to inadvertence, the paragraph no. 3 of the Counter Affidavit filed by the department in the writ petition was not taken into consideration and the Hon'ble Tribunal on the statements of the learned Counsel for the petitioner (that the case of the petitioner is covered by the judgment dated 16.06.2016 of the Hon'ble High Court passed in WPSB No. 437/2015 Dr. Sanjay Kumar & another vs. State of Uttarakhand and others and connected writ petitions) disposed off the claim petition. But the department in its Counter Affidavit at paragraph no.3 has clearly stated that the petitioner is not entitled to full salary pursuant to the Rules of 2017 which are applicable on her and which are upheld by the Hon'ble Apex Court in the case of Dr. Himanshu Pandey. The judgment dated 16-11-2018 passed by the Hon'ble Apex Court in the case of State of Uttarakhand and others Vs. Dr. Himanshu Pandey and others is being reproduced here below:

"Delay Condoned

We find no reason to entertain this special Leave Petition, which is accordingly dismissed.

However, in case of those who are availing study after the introduction of 2017 Rules, It will be open to the State to insist on the proper compliance of the rules, without discriminating anybody.

Pending application(s), if any, shall stand disposed of."

8. It has further been submitted that as per the policy conveyed vide letter dated 19-05-2017, it is provided that for study leave only half salary is admissible to the employee and the petitioner has admittedly got admission in P.G. Course after 19-05-2017, thus in view of this fact, the petitioner is not entitled to full salary and thus in view of the aforesaid judgment of the Hon'ble Apex Court the judgment dated 09-09-2024 passed by this Hon'ble Tribunal is contrary and is liable to be reviewed.

9. Learned Counsel for the petitioner (respondent herein) has submitted that the judgment is correct and there is no scope of review, as the scope of review is very limited. Further, it has been submitted that this Tribunal vide its judgement and order dated 09.09.2024 disposed off the said petition, with the consent of Ld. Counsel for the parties, in terms of the binding judgement rendered by the Hon'ble High Court on 16.06.2016 in WPSB no.437/2015, Dr Sanjay Kumar and another vs State of Uttarakhand and others in connected writ petitions the operative portion of which is reproduced below:-

10 "Present petition is disposed of in terms of the decision rendered by Hon'ble High Court on 16.06.2016 in WPSB No. 437/2015 Dr Sanjay Kumar and another vs State of Uttarakhand and others and connected writ petitions"

10. Learned Counsel for the petitioner (respondent herein) further submitted that there is no apparent error of fact and law on the face of the judgment and order dated 09.09.2024 passed by this Tribunal and the judgment is correct, perfect, legally tenable and sustainable in the eyes of law and requires no interference to be reviewed since the common question of law & material facts of WPSB No. 437/2015 Dr Sanjay Kumar and another vs State of Uttarakhand and others and connected writ petitions are similar and identical. Hence, the judgement and order dated 09.09.2024 should be applicable in the present case.

11. The judgment and order dated 09.09.2024 passed by this Tribunal, which is sought to be reviewed reads as under:

"Hon'ble High Court of Uttarakhand at Nainital, passed an order, in WPSB No. 577/2018, Dr. Shaili Singh vs. State of Uttarakhand and others, on 13.09.2022, as follows:

"Mr. Dinesh Gehtori, learned counsel holding brief of Mr. I.P. Gairola, learned counsel for the petitioner.

Mr. Anil Bisht, learned Additional Chief Standing Counsel for the State. The petitioner has preferred the present writ-petition for the following relief:-

“i. Issue a writ, order or direction in the nature of certiorari, quashing the impugned restriction no.1 in order (letter no.2p/ra.pu./323/2018/23123 Dehradun) dated 04.10.2018 passed by respondent no.2 (Annexure No.4 to this writ petition), by which half average salary is to be paid to the petitioner during the three years period of post graduation course.

ii. issue a writ, order or direction in the nature of mandamus, commanding/directing the respondents to pay full salary to the petitioner during the three years period of post graduation course.

iii. issue any other suitable writ, order or direction of any nature in favour of petitioner, which this Hon’ble Court may deem fit and proper in the present circumstances of the case.”

The petitioner is a public servant. The Uttarakhand Public Service Tribunal has the jurisdiction to deal with the issue raised in this writ-petition.

Considering the fact that the petition is pending since 2018 and pleadings have been completed, we direct the Registry to transfer the complete records of the case to the Tribunal, which shall be registered as a claim petition and be dealt with by the Tribunal, in accordance with law.

We request the Tribunal to endeavor to dispose of the petition at an early date, considering that the writ-petition is pending since 2018.”

2. Writ Petition No. 577 (S/B) of 2018 is, accordingly, reclassified and renumbered as Claim Petition No. 94/NB/DB/2022. Since the reference in this Tribunal shall be of the writ petition filed before the Hon’ble High Court, but shall be dealt with as claim petition, therefore, the claim petition shall be referred to as ‘petition’ and petitioner shall be referred to as ‘petitioner’, in the body of the judgment.

3. Petition is supported by the affidavit of the petitioner. Relevant documents have been filed along with the petition.

4. Petition has been contested on behalf of respondents. Dr. T.C. Pant, Director General, Medical Health and Family Welfare, Dehradun, Uttarakhand, has filed Counter Affidavit on behalf of Respondent No. 2. Relevant documents have been filed along with the Counter Affidavit.

5. Petitioner is seeking direction to the respondents to pay the petitioner full salary for 3 years’ period of her study of Post Graduation at Shri Guru Ram Rai Institute of Medical Science, Dehradun. Petitioner is also challenging the condition of half average pay during the three years’ period of study as provided in order dated 04.10.2018.

5.1 Petitioner was appointed as Medical Officer (Ordinary Grade) *vide* order dated 25.03.2015, issued by Respondent No.1 (Copy: Annexure- 1). She joined as Medical Officer on 13.04.2015 at Primary Health Centre, District Champawat (Copy: Annexure- 2). Petitioner was

allotted seat for P.G. for the sessions 2018-19 by H.N.B. Uttarakhand Medical Education University, Dehradun. (Copy: Annexure- 3)

5.2 There is scheme in the State of Uttarakhand for Post Graduation in Medical Science, under which the petitioner applied for P.G.-2018. She was selected for P.G. Programme and order was issued to approve the selection of the petitioner *vide* order dated 04.10.2018, passed by Respondent No.2 (Copy: Annexure- 4). Petitioner was relieved from her duties on 01.06.2018 by Respondent No.3. She joined P.G. Programme at Guru Ram Rai Institute of Medical & Health Science, Patel Nagar, Dehradun (Copy: Annexure- 5).

5.3 According to order dated 04.10.2018, issued by Respondent No.2 (Annexure: 4), there is a condition that during three years period of study, the incumbents shall be paid half average salary. In the year 2015, various Medical Officers were selected. They started their P.G. Programme like the petitioner. Similar condition of payment of half average salary to the Medical Officers doing the P.G. Course was imposed, as was imposed on the petitioner.

5.4 Various Medical Officers have filed writ petitions before the Hon'ble High Court. In WPSB No. 437/2015 Dr. Sanjay Kumar & another vs. State of Uttarakhand and others; WPSB No. 462/2015 Dr. Amit Jain & another vs. State of Uttarakhand and others; WPSB No. 176/2015 Dr. Vandana Semwal vs. State of Uttarakhand and others; and WPSB No. 546/2015 Dr. Prashant Saini vs. State of Uttarakhand and others, following was observed:

“.....learned senior counsel appearing for the petitioners would submit that the petitioners are prepared to serve in any part of the State of Uttarakhand till they superannuate.

In such circumstances, there can be no basis for discriminatory treatment. Accordingly, all the petitions are allowed. The portion of impugned memorandums, in the name of the petitioners of the effect that the petitioners will only be given 50% of their pay on average basis will stand set aside and we direct respondent no. 1 to pay full salary to the petitioners including the arrears, naturally after giving credit to the amount which has already paid.”

5.7. A copy of judgment dated 16.06.2016 rendered in WPSB No. 462/2015 Dr. Amit Jain & another vs. State of Uttarakhand and others has been filed as Annexure: 6.

5.8 All the petitioners were paid full salary, instead of half average pay, in the light of order dated 16.06.2016.

5.9 Order dated 19.05.2017 was issued by Respondent No. 1, quoting the order dated 16.06.2016. Order dated 19.05.2017 has been brought on record as Annexure: 7 to the petition.

5.10 P.G. Programme attended by the petitioner and also by those who filed writ petitions before the Hon'ble High Court, was in the interest of job requirement and for betterment of

performance during service period. As per order dated 16.06.2016, the Respondent No.1 has already issued orders for payment of full salary to the then Medical Officers, attending the P.G. Course. Earlier candidates of P.H.M.S. services, were allowed to draw full salary during their P.G. Programme (Copy: Annexure- 8). Order dated 04.10.2018 contains three important points, which are as follows:

- i. The respondents were providing only half of the salary for the period of three years of the study of post graduation.
- il. The respondents were not providing even a single penny for the third year of study period.
- iii. All the expenses, which were to be incurred by the petitioners on their study of post graduation course, were to be borne by the petitioners themselves.

5.11 It is clear from the above noted paragraphs that the total expenditure is being borne by the petitioner herself. The condition of half average salary to the petitioner is against the earlier practice of paying full salary to the Medical Officers during their P.G. Programme.

5.12 In the similar circumstance, Dr. Asad Abbas was permitted to complete his P.G. from the same college. When he was not provided the facility of full salary during his study period, he filed WPSB No. 62/2014 before the Hon'ble High Court. Hon'ble Court decided the writ petition on 10.04.2015 (Copy: Annexure- 9). In pursuance to the said order, the respondents have paid full salary along with allowance to Dr. Asad Abbas. (Copy: Annexure- 10)

5.13 Petitioner is given half salary during study period only for a period of two years. The respondents have not paid any benefit of expenses incurred on study.

6. In para 11 of the C.A. a reference of Dr. Sayed Asad Abbas' case has been given, which is quoted herein below for convenience:

"We have heard learned counsel for the parties. Seeing the paucity of doctors in the State of Uttarakhand, we appreciate that the petitioner is ready to serve in any part of the State of Uttarakhand till his superannuation. Though, no doctor can compel the Government to give full salary for pursuing his M.D. (Medicine Course), but once the Government has made a policy and is giving full salary to other doctors who are pursuing their P.G. Courses, the respondents cannot discriminate the petitioner."

6.1 In para 11 of the C.A., the following has also been mentioned:

"Earlier in some of the matter, some doctors were given full salary during study leave, but some were given half average salary, therefore, the Hon'ble Court directed not to discriminate the petitioners of that writ petition. However in the present matter, the fact and situations are different as now in regard to grant of study leave the government has taken a policy decision by which the Government Order dated

19.5.2017 has been issued, therefore, after 19.5.2017 the doctors, who are taking study leave for P.G. Course, would be bound by the provisions of the aforesaid policy.”

7. Sri S.K.Jain, Ld. Counsel for the petitioner submitted that petitioner’s case is squarely covered by the decisions rendered by Hon’ble Court in WPSB No. 437/2015 Dr. Sanjay Kumar & another vs. State of Uttarakhand and others and WPSB No. 62/2014 Dr. Sayed Asad Abbas vs State of Uttarakhand and others, therefore, the same direction should be given to the respondents which direction was given in the case of Dr. Sanjay Kumar (*supra*) & in the case of Dr. Asad Abbas (*supra*), in favour of the petitioner.

8. Sri Kishore Kumar, Learned A.P.O. also agrees with the submission of Ld. Counsel for the petitioner. He submitted that all the facts are similar to the above noted writ petition(s).

9. In WPSB No. 437/2015 Dr. Sanjay Kumar & another vs. State of Uttarakhand and others and connected writ petitions, Hon’ble High Court directed as under

“Petitioners are appointed as Medical Officer in the State. Subsequently, they were selected for Post Graduation Courses, and they seek following prayers:

i. To issue a writ, order or direction in the nature of mandamus, commanding the respondents to provide the petitioners full salary along with complete allowances and the expenses incurred by the petitioners for the complete period of three years of their study of Post Graduation Course at Medical College Haldwani, District Nainital.

ii. To issue suitable directions to the respondents to modify and amend the office memo dated 07.04.2015, bearing no.649/XXVIII-2/01(16)2011, issued in the name of the petitioner no.1 (Annexure No.1 to the writ petition) and the office memo dated 07.04.2015, bearing no.648/XXVIII-2/01(16) 2011, issued in the name of the petitioner no.2 (Annexure No.2 to the writ petition) providing a benefit of full salary to the petitioners during complete period of three years of their study of Post Graduation Course, along with the expenses to be incurred by the petitioners on their study of Post Graduation Course at Medical College Haldwani.

iii. Any other relief which this Hon’ble Court may deem fit and proper, may kindly be awarded in favour of the petitioner and against the respondents.

iv. Award the cost of the petition in favour of the petitioner and against the respondents.

We have heard Mr. T.A. Khan, learned senior counsel assisted by Mr. Aditya Kumar Arya, learned counsel for the petitioners and Mr. Pradeep Joshi, learned Standing Counsel for the State.

Reliance has been placed upon the judgment of this Court dated 10.04.2015 passed in Writ Petition No.62 of 2014 (S/B) (Annexure-14). We notice paragraphs 5 and 6 of the said judgment, which are extracted hereunder:

“We have heard learned counsel for the parties. Seeing the paucity of doctors in the State of Uttarakhand, we appreciate that the petitioner is ready to serve in any part of the State of Uttarakhand till his superannuation. Though, no doctor can compel the Government to give full salary for pursuing his M.D. (Medicine Course), but once the Government has made a policy and is giving full salary to other doctors who are pursuing their P.G. Courses, the respondents cannot discriminate the petitioner.

6. Considering the submission advanced by the learned counsel for the parties, we set aside the portion of Office Memorandum dated 03.07.2013 passed by the respondent no.1, which provides that the petitioner would be entitled for half salary on average basis, and direct the Government to make payment of full salary to the petitioner as is being given to other doctors of the State of Uttarakhand, who are pursuing their P.G. Courses.”

Sri T.A. Khan, learned Senior Counsel appearing for the petitioners would submit that the petitioners are prepared to serve in any part of the State of Uttarakhand till they superannuate.

In such circumstances, there can be no basis for discriminatory treatment. Accordingly, all the petitions are allowed. The portion of impugned memorandums, in the name of the petitioners to the effect that the petitioners will only be given 50% of their pay on average basis, will stand set aside, and we direct respondent no.1 to pay full salary to the petitioners including the arrears, naturally after giving credit to the amount which has already paid.”

10. Since the controversy in hand is covered by the judgment rendered by Hon’ble High Court in WPSB No. 437/2015 Dr. Sanjay Kumar & another vs. State of Uttarakhand and others, therefore, the present petition should be decided in terms of the aforesaid judgment.

11. Present petition is disposed of in terms of the decision rendered by Hon’ble High Court on 16.06.2016 in WPSB No. 437/2015 Dr. Sanjay Kumar & another vs. State of Uttarakhand and others and connected writ petitions.”

12. It is the submission on behalf of the review applicants that this Hon'ble Tribunal disposed of the claim petition on the statements of Learned Counsel for the petitioner that the case of the petitioner is covered by the judgment dated 16.06.2016 of the Hon'ble High Court passed in WPSB No. 437/2015, Dr. Sanjay Kumar & another vs. State

of Uttarakhand and others and connected writ petitions, but inadvertently failed to notice that department in its Counter Affidavit at paragraph no.3 has clearly stated that the petitioner is not entitled for full salary pursuant to the Rules of 2017 which are upheld by the Hon'ble Apex Court in the case of Dr. Himanshu Pandey.

13. It would be relevant to produce paragraph no. 3 of the Counter Affidavit, which reads as under:

“That in reply to the contents of para no. 2 of the writ petition it is stated that in the Writ Petition No. 62 of 2014 (S/B), Dr. Sayed Abbas Vs State of Uttarakhand the Hon'ble High Court was pleased to pass order dated 10.4.2015 and keeping in view the para no. 5 of the aforesaid judgment the Government of Uttarakhand after due consideration took a policy decision in regard to granting study leave to the Medical Officers and thereby issued a Government Order dated 19.5.2017, by which the provisions were made for granting study leave for taking admission in P.G. (Post Graduate) to the PMHS (Provincial Medical Health Services)/Dental Cadre's Doctors, for 3 years on the average half salary.

The petitioner has been granted/sanctioned the study leave as per the provisions of the Government Order No. dated 604/xxviii-2-2017/02(01)2014 19.5.2017. It is further submitted that vide aforesaid Government Order, all the Government Order issued earlier in regard to the aforesaid subject matter were superseded and after 19.5.2017 i.e. from the issuance of the aforesaid Government Order the provisions of the aforesaid Government Order are applicable.

It is relevant to point out here that the Hon'ble Supreme Court in SLP (Civil) Diary No. 37674/2018 (State of Uttarakhand Vs Dr. Himanshu Pandey & others) was pleased to pass an order dated 16.11.2018, which is being quoted below:-

"Delay condoned.

We find no reason to entertain this special leave petition, which is accordingly, dismissed.

However, in the case of those who are availing study leave after the introduction of 2017 Rules, it will be open to the State to insist on the proper compliance of the rules, without discriminating anybody.

Pending application(s), if any, shall stand disposed of."

Bare reading of the aforesaid order it transpires that in case of those, who are availing study leave after the introduction of 2017 Rules, will be bound by the provisions of the aforesaid Rules, meaning thereby, if any doctor is sanctioned study leave under the provisions of the Government Order dated 19.5.2017, would be granted half average salary for 3 years.

14. The policy of the Govt. dated 19-05-2017 provides that for study leave only half salary is admissible to the employee and the petitioner has got admission in P.G. Course after 19-05-2017. Thus, the judgment dated 09-09-2024 passed by this Hon'ble Tribunal is contrary and is liable to be reviewed.

15. Learned A.P.O. on behalf of the review applicants drew our attention towards paras 7 & 8 of the judgment under review. Paras 7 & 8 are quoted herein below:

" 7. Sri S.K.Jain, Ld. Counsel for the petitioner submitted that petitioner's case is squarely covered by the decisions rendered by Hon'ble Court in WPSB No. 437/2015 Dr. Sanjay Kumar & another vs. State of Uttarakhand and others and WPSB No. 62/2014 Dr. Sayed Asad Abbas vs State of Uttarakhand and others, therefore, the same direction should be given to the respondents which direction was given in the case of Dr. Sanjay Kumar (*supra*) & in the case of Dr. Asad Abbas (*supra*), in favour of the petitioner.

8. Sri Kishore Kumar, Learned A.P.O. also agrees with the submission of Ld. Counsel for the petitioner. He submitted that all the facts are similar to the above noted writ petition(s)."

16. Learned A.P.O. submitted that the Tribunal had passed judgment on the basis of the statement given by learned Counsel for the petitioner that the case of the petitioner is covered by the judgment dated 16.06.2016 of the Hon'ble High Court passed in WPSB No. 437/2015 Dr. Sanjay Kumar & another vs. State of Uttarakhand and others and connected writ petitions and the claim petition was disposed off. In para 8 of the judgment, recorded that learned A.P.O. also agrees with the submission of Ld. Counsel for the petitioner.

He submitted that there is manifest error apparent on the face of record while writing the submission of the APO 'all the facts are similar to the above noted writ petition(s) without considering the submissions made in the Counter Affidavit' as mentioned above.

17. As stated above, the claim petition was disposed in terms of the decision rendered by Hon'ble High Court on 16.06.2016 in WPSB No. 437/2015, Dr. Sanjay Kumar & another vs. State of Uttarakhand and others and connected writ petitions. Whereas The Government of Uttarakhand issued a Government Order dated 19.05.2017, by which the provisions were made for granting study leave for taking admission in P.G. (Post Graduate) to the PMHS (Provincial Medical Health Services)/Dental Cadre's Doctors, for 3 years on the average half salary. The petitioner has been granted/sanctioned the study leave as per the provisions of the Government Order No. 604/ xxviii-2-2017/02 (01)2014 dated 19.05.2017. Vide aforesaid Government Order, all the Government Order issued earlier in regard to the aforesaid subject matter stood superseded and after 19.05.2017, the provisions of the aforesaid Government Order are applicable.

18. The petitioner was appointed as Medical Officer (Ordinary Grade) *vide* order dated 25.03.2015, issued by Respondent No.1. She joined as Medical Officer on 13.04.2015 at Primary Health Centre, District Champawat. Petitioner was allotted seat for P.G. for the sessions 2018-19 by H.N.B. Uttarakhand Medical Education University, Dehradun. She was selected for P.G. Programme and order was issued on 04.10.2018 by Respondent No.2. Petitioner was relieved from her duties on 01.06.2018 by Respondent No.3. She joined P.G. Programme at Guru Ram Rai Institute of Medical & Health Science, Patel Nagar, Dehradun. The judgment cited by the petitioner would not be applicable in the present case, as the petitioner has been sanctioned study leave under the provisions of the Government Order dated 19.5.2017, whereas the petitioners of the above cited cases,

have been given benefit of full salary prior to issuance of the Government Order dated 19-05-2017.

19. The petitioner in the original claim petition has herself filed a certificate dated 01.06.2018, which reads as under:

“प्रमाणित किया जाता है कि शासनादेश संख्या-341/xxviii-2/2017-01(143)/2003, दिनांक 07. 04.2017 एवं शासनादेश संख्या-004/xxviii-2-2017/02(01) 2014, दिनांक 19.05.2017 एवं शासनादेश संख्या-1438/xxviii-2/2017/01 (10) 2011, दिनांक 30.11.2017 एवं महानिदेशक, चिकित्सा स्वास्थ्य एवं परिवार कल्याण, उत्तराखण्ड, देहरादून के पत्र संख्या-2प/रा०पु०/70/2017/टी०सी०-01/10432, दिनांक 04.05.2018 के कम में डा० शैली सिंह, महिला चिकित्सा अधिकारी, प्रा०स्वा०केन्द्र पाटी, चम्पावत को एम०डी०/एम०एस० (ओ०बी०जी०) हेतु श्री गुरु रामराय इन्सीट्यूट ऑफ मेडिकल एण्ड हेल्थ साइन्स पटेल नगर देहरादून, उत्तराखण्ड में उक्त अध्ययन हेतु आज दिनांक 01.06.2018 को कार्यभार मुक्त किया जाता है।”

20. On the basis of the above, we are of the view that the judgment dated 16.06.2016 of the Hon'ble High Court passed in WPSB No.437/2015, Dr. Sanjay Kumar & another vs. State of Uttarakhand and others and connected writ petitions, as cited by the petitioner, was not applicable in the case of the petitioner, as the petitioner has been sanctioned study leave under the provisions of the Government Order dated 19.05.2017, which were applicable to the petitioner, which has been upheld by the Hon'ble Apex Court vide judgment and order dated 16-11-2018 passed in the case of State of Uttarakhand and others Vs. Dr. Himanshu Pandey and others.

21. Accordingly, the review application filed by the review applicants is hereby allowed. The judgment and order dated 09.09.2024 is reviewed and the claim petition is hereby dismissed in view of the facts and circumstances, as mentioned above.

(A.S.RAWAT)
VICE CHAIRMAN (A)

(RAJENDRA SINGH)
ACTING CHAIRMAN

DATE: SEPTEMBER 18, 2026
DEHRADUN.
KNP