



2024:UHC:8935-DB

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE ACTING CHIEF JUSTICE SRI MANOJ KUMAR TIWARI
AND
HON'BLE SRI JUSTICE VIVEK BHARTI SHARMA

WRIT PETITION (S/ B) NO. 448 OF 2017

3RD DECEMBER, 2024

Dr. Vijay Shah and others Petitioners

Versus

State of Uttarakhand & others Respondents

WITH

WRIT PETITION (S/ B) NO. 449 OF 2017

Dr. Bhagirathi Joshi and others Petitioners

Versus

State of Uttarakhand & others Respondents

WITH

WRIT PETITION (S/ B) NO. 451 OF 2017

Dr. Bipin Pant and others Petitioners

Versus

State of Uttarakhand & others Respondents

WITH



WRIT PETITION (S/ B) NO. 334 OF 2018

Dr. Jagdish Chandra Mandal Petitioner

Versus

State of Uttarakhand & others Respondents

WITH

WRIT PETITION (S/ B) NO. 357 OF 2022

Dr. Rajendra Prasad Khanduri
and others Petitioners

Versus

State of Uttarakhand & others Respondents

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| Counsel for the petitioners | : | Mr. B.D. Upadhyaya, learned Senior Counsel assisted by Mr. Vaibhav Mahtolia, learned counsel |
| Counsel for the respondents | : | Mr. S.S. Chaudhary, learned Brief Holder for the State of Uttarakhand |
| | : | Mr. I.D. Paliwal, learned Standing Counsel for the State of Uttar Pradesh |
| | : | Mr. K.P. Upadhyay, learned Senior Counsel assisted by Mr. Hemant Pant, learned counsel for the private respondents |

The Court made the following:

JUDGMENT: (per Hon’ble The Acting Chief Justice Sri Manoj Kumar Tiwari)

Petitioners in the aforementioned writ petitions



were initially given ad-hoc appointment as Medical Officers in different Government hospitals of State of Uttar Pradesh between 1990 to 1993. Remuneration payable to these ad-hoc Medical Officers was Rs. 2,200/- per month initially, which was later on enhanced to Rs.2,700/- per month. All the petitioners faced selection held by U.P. Public Services Commission, and after being selected they were given regular appointment as Medical Officer in the department of Medical Health and Family Welfare, Government of Uttar Pradesh, on different dates between 1991 to 1995. In these petitions, petitioners have claimed remuneration as is admissible to regular Medical Officers for the period they served as ad-hoc Medical Officers.

2) Since common questions of law and facts are involved in all these writ petitions, therefore, they are being heard and decided together. However, for the sake of brevity facts of Writ Petition (S/B) No. 448 of 2017, alone has been considered and discussed.

3) In Writ Petition (S/B) No. 448 of 2017, petitioners have sought the following reliefs :



“(i) To issue a writ, order or direction in the nature of mandamus commanding / directing the respondents to grant the salary, arrear of the salary and all other consequential benefits including seniority to the petitioners from the date of their respective date of ad-hoc appointment.

(ii) To issue a writ, order or direction in nature of mandamus directing the respondent the promotional exercise should not be initiated for the post of Additional Director until the seniority of the petitioners is not decided from the date of their ad-hoc appointment as per the order passed by the Supreme Court.”

4) Learned Senior Counsel appearing for the petitioners submits that all the petitioners were appointed in department of Medical Health and Family Welfare of State of Uttar Pradesh, and upon State re-organization, they were allotted to the State of Uttarakhand by the Central Government in exercise of powers under Section 73 of the U.P. Re-organization Act, 2000. He submits that similarly situate persons who were given ad-hoc appointment as Medical Officers in State of Uttar Pradesh between 1990 to 1993, were given all monetary benefits for the services they rendered in ad-hoc capacity vide Government Order dated 01.08.2014. Thus, he submits



that petitioners are also entitled to similar benefit as they also served in the department of Medical Health and Family Welfare of State of Uttar Pradesh at the relevant point of time, and it is only the matter of chance that they have now been allotted to the State of Uttarakhand upon State re-organization.

5) Mr. K.P. Upadhyay, learned Senior Counsel appearing for the private respondents, submits that the only concern of his client is that the settled *inter-se* seniority of the Medical Officers may not be disturbed, and if petitioners are paid monetary benefits alone for the services they rendered in ad-hoc capacity, then he has nothing much to say.

6) Mr. I.D. Paliwal, learned Standing Counsel appearing for the State of Uttar Pradesh, contended that since petitioners were allotted to State of Uttarakhand after State re-organization, and they are members of Uttarakhand Medical and Health Service, therefore, they are not entitled to the benefit which was granted to Medical Officers, who are still serving in the State of Uttar Pradesh.



7) Mr. S.S. Chaudhary, learned Brief Holder appearing for the State of Uttarakhand, also adopted the contention made by Mr. Paliwal, learned Standing Counsel for the State of Uttar Pradesh.

8) Since petitioners also were appointed in ad-hoc capacity as Medical Officers in State of Uttar Pradesh, and they were subsequently granted regular appointment on the recommendation of Public Service Commission; since similarly situate persons have been granted monetary benefits for the period they served as ad-hoc Medical Officers in State of Uttar Pradesh vide Government Order dated 01.08.2014, therefore, the claim made by the petitioners for grant of similar benefit cannot be said to be without any basis. The only distinction which can be made between petitioners vis-à-vis the Medical Officers who were granted benefit vide Government Order dated 01.08.2014 is that the petitioners have now been allotted to State of Uttarakhand, but whether that ground alone would be sufficient to deny similar benefit to the petitioners has to be examined by State of Uttar Pradesh.

9) Mr. B.D. Upadhyay, learned Senior Counsel appearing for the petitioners, has drawn our attention to



Annexure-11 to the Writ Petition (S/B) No. 448 of 2017, which is a communication by Director General, Medical Health and Family Welfare, Uttarakhand, to his counterpart in State of Uttar Pradesh. By the said letter, which was issued on 20.06.2014, the case of the petitioners for grant of monetary benefit for the ad-hoc services they rendered in the State of Uttar Pradesh was forwarded to the Director General, Department of Medical Health and Family Welfare, Uttar Pradesh.

10) Learned counsel for the parties are unanimous on the point that the competent authority in the State of Uttar Pradesh is yet to take decision in the matter, although the matter was referred by the State of Uttarakhand vide letter dated 20.06.2014 (Annexure-11 to the writ petition).

11) We, accordingly, dispose of the aforementioned writ petitions by directing the Secretary, Department of Medical Health and Family Welfare, State of Uttar Pradesh to examine the issue and take decision in the matter of grant of monetary benefits for the ad-hoc services which petitioners rendered in the State of Uttar Pradesh, in the light of the decision earlier taken vide Government Order



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dated 01.08.2014, and pass a reasoned order, as per law,
within four months from the date of production of certified
copy of this order.

MANOJ KUMAR TIWARI, A.C.J.

VIVEK BHARTI SHARMA, J.

Dt: 3RD DECEMBER, 2024
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