



2025:UHC:2115-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

**HON'BLE JUSTICE SRI MANOJ KUMAR TIWARI AND
HON'BLE JUSTICE SRI ASHISH NAITHANI**

Special Appeal No. 248 of 2017

Cantonment Board, Dehradun

-Appellant

Versus

Vishnu Dev

--Respondent

Presence:-

Mr. Bhagwat Mehra, Advocate for the appellant

Mr. Sanjay Bhatt, Advocate for the respondent

The Court made the following:

JUDGMENT: (per Hon'ble Justice Sri Manoj Kumar Tiwari)

1. This intra-court appeal is directed against the judgment and order dated 30.03.2017, passed by learned Single Judge in Writ Petition (S/S) No. 1379 of 2016.

2. By impugned judgment, Cantonment Board, Dehradun, was directed to pay salary of the post of Headmaster, on which writ petitioner (respondent herein) officiated, within 10 weeks, with a further direction to consider his case for promotion as Headmaster.

3. It is contended by learned counsel for the appellant that writ petitioner/respondent was only given officiating charge as Headmaster of a Primary School, run by Cantonment Board, Dehradun while his substantive post was Assistant Teacher and since the writ petitioner/respondent was paid due salary for the post of Assistant Teacher, therefore, he is not entitled



to any remuneration for the duties, he discharged as officiating Headmaster.

4. Mr. Sanjay Bhatt, learned counsel for respondent submits that similar controversy was decided by learned Single Judge in Writ Petition (S/S) No. 1140 of 2005 in favour of one Smt. Hema Kandpal, who was also serving as teacher in a school run by Cantonment Board, Nainital. The said judgment was affirmed by Division Bench in Special Appeal No. 20 of 2006 vide judgment dated 24.04.2006.

5. Hon'ble Supreme Court, in the case of **Jaswant Singh Vs. Punjab Poultry Field Staff Association**, reported in **(2002) 1 SCC 261** has held as under:

“The High Court's decision in Gobind Singh case did not direct the promotion of Gobind Singh. What was directed was the payment of salary and allowances of the post of Chick Sexer since Gobind Singh had been discharging the duties of that post. Therefore, while the appellant's promotion to the post of Chick Sexer cannot be upheld, given the fact that the appellant had discharged the duties of a Chick Sexer, he was at least entitled to the pay and other allowances attributable to that post during the period he carried out such duties.

We accordingly allow the appeal in part. While upholding the order of the High Court, setting aside the order of the appellant's promotion, we direct the respondent Authorities to pay the appellant for the period he rendered service as a Chick Sexer at the scales of pay together with all allowances to which Chick Sexers were entitled at the relevant time.”

6. Admittedly, writ petitioner discharged duties as officiating Headmaster from 22.10.2011 till 28.06.2017, as reported by learned counsel for the appellant, therefore, the direction to pay him



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remuneration as officiating Headmaster, issued by learned Single Judge cannot be faulted.

7. Thus, there is no scope for interference. The Special Appeal fails and is dismissed.

MANOJ KUMAR TIWARI, J.

ASHISH NAITHANI, J.

Dt: 24TH March, 2025
Mahinder