



2025:UHC:6152-DB

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
THE HON'BLE CHIEF JUSTICE MR. G. NARENDAR**

AND

THE HON'BLE JUSTICE MR. ALOK MAHRA

Writ Petition (S/B) No.275 of 2025

15th July, 2025

Santosh Kumari

--Petitioner

Versus

State of Uttarakhand and others

--Respondents

Presence:-

Ms. Priyanka Agarwal, learned counsel for the petitioner.

Mr. B. S. Parihar, learned Addl. C.S.C. along with Mr. S.M.S. Mehta,
learned Brief Holder for the State.

JUDGMENT : (per Mr. Alok Mahra, J.)

Heard learned Counsel for the petitioner and
learned Addl. C.S.C. for the State.

2. Briefly put, the case of the petitioner is as
follows:

According to the petitioner, she completed her
Basic Teacher Course from Bhartiya Shiksha Parishad,
U.P., through correspondence in the year 2000; that,
pursuant to an advertisement, petitioner participated in
a selection process and was appointed to the post of
Assistant Teacher, on 26.07.2007; that, on 27.08.2015,



she was served with a letter from respondent no.5 to submit her educational certificates for verification; that, she submitted all her certificate, including BTC certificate; that, services of the petitioner were terminated vide order dated 19.11.2015 on the ground that BTC Certificate possessed by the petitioner is not valid as per the NCTE norms for appointment to the post of Assistant Teacher; that, petitioner challenged the order dated 19.11.2015 by filing WPSS No.2567 of 2015, which was allowed by the learned Single Judge of this Court vide order dated 17.05.2017, whereby the impugned termination order dated 19.11.2015 was quashed and set aside and liberty was granted to the respondents to proceed with the matter, in accordance with law; that, State of Uttarakhand challenged the order dated 17.05.2017 by filing Special Appeal No.967 of 2017, which was dismissed vide order dated 14.12.2019.

Pursuant to the above orders, petitioner was reinstated in service and departmental inquiry was conducted against the petitioner, as provided under the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003; that, the Disciplinary Authority



passed the order dated 29.10.2020, whereby the services of the petitioner were dismissed on the ground that, at the time of her appointment, the petitioner does not possess the requisite educational and professional qualifications for the aforesaid post; that, thereafter, the petitioner challenged the order of dismissal by preferring the departmental appeal, which was also dismissed vide order dated 30.06.2021; that, petitioner challenged these orders by way of filing the Claim Petition No. 22/DB/2022 before the Tribunal and the Tribunal set aside the order of termination and directed the Disciplinary Authority to proceed afresh, in accordance with law, thereafter, the petitioner was reinstated in service and departmental proceedings were initiated against the petitioner; that, ultimately, vide order dated 08.02.2023, the services of the petitioner were again terminated; that, petitioner challenged the order dated 08.02.2023 before the Tribunal by filing the Claim Petition No.52/DB/2023, which was disposed of by the Tribunal vide its order dated 16.03.2023 by giving liberty to the petitioner to file departmental appeal against the termination order; that, thereafter, the petitioner preferred the departmental appeal, which was dismissed vide order dated 12.05.2023 by the Chief



Education Officer, Dehradun; that, the petitioner challenged the order dated 12.05.2023 as well as order dated 08.02.2023 by preferring the Claim Petition No.97/DB/2023 before the Tribunal, which was disposed of vide order dated 10.03.2025, whereby the Tribunal directed the Chief Education Officer, Dehradun to decide the petitioner's case in the light of the decision rendered by the Hon'ble Apex Court in *M.S. Mudhol & Anr. Vs. S.D. Halegar & Ors., Pramod Kumar vs. U.P. Secondary Education Services Commission & Ors.*, and the decision of the Hon'ble Calcutta High Court in *Mohammad Abu Naser Vs. State of West Bengal & Ors.*, as expeditiously as possible, preferably within 12 weeks from the date of presentation of a certified copy of the order. Thereafter, the representation of the petitioner was ultimately decided by the Chief Education Officer, Dehradun on 24.05.2025, wherein he has held that at the time of her appointment, the petitioner does not possess either the essential educational qualification or professional qualification, therefore, the order of dismissal cannot be interfered with. Thus, feeling aggrieved, petitioner has approached this Court, seeking the following reliefs:-

- i. To set aside/quash the judgment and order dated 10.03.2025 passed by learned Public*



Services Tribunal, Dehradun in Claim Petition No.97/BD/2023, whereby the claim petition of the petitioner has been disposed off by directing the Chief Education Officer, Dehradun to decide the case of the petitioner in light of the judgments of the Hon'ble Apex Court.

- ii. To set aside/quash the order dated 24.05.2025 passed by Chief Education Officer, Dehradun, whereby the representation of the petitioner has been rejected and termination order dated 08.02.2023 has been upheld.*
- iii. Direct the authorities to pay the salary to the petitioner from the date of her initial termination i.e. 09.11.2015 till her reinstatement i.e. on 20.10.2022.*

3. The main ground canvassed by the petitioner for challenging the impugned orders is that she has rendered eight years' continuous satisfactory service before her termination and she has neither misrepresented before the authority nor have filed any forged educational and professional certificates at the time of her appointment and further that she has gained experience as a teacher during the aforesaid period, therefore, taking into account all these factors, her termination order should be set aside.

4. Per contra, learned counsel for the State submitted that the petitioner does not possess the requisite educational as well as professional qualifications, which were required mandatory, as per



the relevant service rules, therefore, petitioner has rightly been terminated from service. In order to buttress his contention, learned counsel for the State placed reliance upon the judgment rendered by the Hon'ble Apex Court in the case of '*M.S. Patil (DR.) vs. Gulbarga University and Others*, reported in (2010) 10 SCC 63. The relevant extract of the judgment reads as under:-

"15. Once the facts of the case are narrated, there remains hardly anything to adjudicate upon. The facts of the case lead to only one conclusion that the appellant was wrongly appointed to a post that was reserved for 'Group B' category. The High Court has also found that the appellant's selection for appointment to the post was tainted by the participation of the Head of the Department of Kannada, who was related to him, in the selection process. In those facts and circumstances, all that is needed is to dismiss the appeal without further ado.

16. But at this stage once again a strong appeal is made to let the appellant continue on the post where he has already worked for over 17 years. Mr. Patil, learned senior counsel, appearing for the appellant, submitted that throwing him out after more than 17 years would be very hard and unfair to him since now he cannot even go back to the college where he worked as lecturer and from where he had resigned to join to this post.

17. We are unimpressed. In service law there is no place for the concepts of adverse possession or holding over. Helped by some University authorities and the gratuitous circumstances of the interim orders passed by the Court and the



delay in final disposal of the matter, the appellant has been occupying the post, for all these years that lawfully belonged to someone else. The equitable considerations are, thus, actually against him rather than in his favour.

5. Learned counsel for the State has further placed reliance upon the judgment rendered by the Hon'ble Apex Court in the case of 'Pramod Kumar vs. U.P. Secondary Education Services Commission and Others, reported in (2008) 7 SCC 153. The relevant extract of the judgment reads as under:-

"18. If the essential educational qualification for recruitment to a post is not satisfied, ordinarily the same cannot be condoned. Such an act cannot be ratified. An appointment which is contrary to the statute/statutory rules would be void in law. An illegality cannot be regularized, particularly, when the statute in no unmistakable term says so."

6. In view of the admitted fact that the petitioner does not possess the requisite educational as well as professional qualification at the time of her appointment as Assistant Teacher, Primary School, this Court does not find any infirmity in the orders impugned in the writ petition, as the petitioner does not possess the requisite educational as well as professional qualifications to hold the post. Therefore, this Court refrains to entertain this writ petition, as it lacks merit.



There shall be no order as to costs.

(ALOK MAHRA, J.)

BALWAN T SINGH