



2025:UHC:10532-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE MR. G. NARENDAR

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

Special Appeal No. 380 of 2025

26-November, 2025

Chief Education Officer Chamoli and Others --Appellants

Versus

Balwant Singh --Respondent

Presence:-

Mr. C.S. Rawat, learned C.S.C. and Mr. Gajendra Tripathi, learned Standing Counsel for the State of Uttarakhand/Appellants.

Mr. Anil K. Bisht, learned counsel for the respondent.

JUDGMENT : (Per Sri G. NARENDAR, C.J.)

Heard Mr. C.S. Rawat, learned Addl. C.S.C., Mr. Gajendra Tripathi, learned Standing Counsel for the State of Uttarakhand and Mr. Anil K. Bisht, learned counsel for the respondent.

2. The facts are not in dispute. The petitioner was initially appointed in and around 1995 and continued in service till 2018 which is more than 23 years long service thereby entitling him to the pension as the post in which he was appointed was a pensionable job. The learned Single Judge has noted that the proceedings were commenced three months prior to the date on which the respondent



was to demit his office.

3. That upon challenge, the said order was stayed by this Court and now the petitioner has completed his tenure of service and superannuated as on December, 2018.

4. Learned counsel for the State would try to impress upon the Court to appreciate the fact that the petitioner did not possess the stipulated qualification i.e. Pass in the intermediate course; that the petitioner is in possession of Prathma and Madhyama certificate issued by an organization called Hindi Sahitya Sammelan, Allahabad; that the said society and the degrees awarded by it is not recognized either by the State of U.P. or the Uttarakhand.

5. The learned Single Judge taking note of the argument has held that the appointment was made fair and square and that it is not a case of suppression of information or selecting body or appointing authority being misled by the respondent /petitioner.

6. The learned Single Judge has further fortified its finding by terming the belated action as a *mala fide* one. There is substance in the observations of the learned Single Judge. Though it is quite clear that no person, who does not possess the qualification, cannot be appointed yet the fact remains and, as pointed out by the learned Single



Judge, the lapse was on the part of the selecting and appointing authority and no act or omission or commission can be attributed to the petitioner and the action after nearly passage of 23 years in our considered opinion is wholly unsustainable.

7. If the then selecting and appointing authority have contrived to equate the qualifications possessed by the petitioner as equivalent to the stipulated qualification then the employee cannot be faulted.

8. Be that as it may, even in terms of equity, the order of the learned Single Judge appears to be an equitable order. The learned Single Judge has been swayed by the fact that the impugned action has commenced three months before the respondent was to demit his office on attaining the age of superannuation.

9. The fact that no other proceedings or wrong doings in the course of his career would also aid this Court to uphold the equitable order passed by the learned Single Judge. After having rendered continuous service in a pensionable post the benefits cannot be denied to such persons who have diligently discharged their duties. It would be a travesty of justice if the allegation of lack of eligibility criteria is to be appreciated three months before a person is to demit his or her office. In that view and the



delay also not being satisfactorily explained, the appeal is required to be dismissed on that ground alone.

10. Having adverted to the facts and merits of the case, we deem it appropriate to allow the application and condone the delay. Accordingly, the delay is condoned. In view of the above discussion, the appeal fails and the same is dismissed without being admitted.

11. It is made clear that the relief granted is only on the short ground that the petitioner was sought to be unseated on the verge of his retirement i.e. mere three months before the date he was to demit his office and which in our opinion is highly inappropriate.

12. Having rendered the decades of service, it is not only the respondent but also his dependents like wife and parents, who would have legitimate expectations of being supported by pensionary benefits.

(G. NARENDAR, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 26.11.2025
KK/SS