

Reserved on: 16.12.2025

Delivered on: 05.01.2026

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

WRIT PETITION (S/B) No. 379 of 2014

Govind Ram Jaiswal

.....Petitioner

Versus

State of Uttarakhand

And Another

.....Respondents

Mr. Vinay Kumar, learned counsel for the petitioner.

Mr. P.S. Bisht, learned Addl. C.S.C. for the State.

Coram: Hon'ble Ravindra Maithani, J.
Hon'ble Alok Mahra, J.

Per: Alok Mahra, J.

Petitioner was appointed on a Group B post in pay-scale of 8000-13500 in Uttar Pradesh Educational (General Services) in hill sub-cadre through direct recruitment pursuant to the selection held by the Uttar Pradesh Public Service Commission. Pursuant to his selection, he was posted as Principal, Government Inter-College, Dhaund, District Pauri Garhwal vide order dated 27.09.1999. At the time of the appointment of the petitioner, the service conditions of the post on which the petitioner was appointed was governed by Uttar Pradesh Educational (General Education Cadre) Service Rules, 1992.

2. After reorganization of State of Uttar Pradesh,

the Central Government issued an order dated 11.09.2001, whereby members of hill sub-cadre were automatically allotted to the State of Uttarakhand. As such, petitioner was allotted State of Uttarakhand.

3. Secretary Finance, Government of Uttarakhand issued a Government Order on 20.12.2001, whereby, the 5th Central Pay Commission was implemented in respect of Teachers/Principals of Primary and Secondary Institutions. The ordinary pay-scale of Principal with grade pay of Rs. 8000-13500 was enhanced notionally to Rs. 10000-15200 w.e.f. 01.01.1996 and actual payment was to be made w.e.f. 01.07.2001. Pursuant to this Government Order, petitioner was also placed in the pay-scale of 10,000-15200.

4. The State notified the Uttaranchal Educational (General Education Cadre) Service Rules, 2006 vide notification dated 19.06.2006. The cadre of service comprised of Group A and Group B posts in the Educational Department. The post of Principal, Government Inter College getting pay-scale of 10,000-15,200 was placed at senior pay-scale grade II.

5. As per Rule 5(v) of the Uttaranchal Educational (General Education Cadre) Service Rules, 2006, the post of Principal, Government Inter-College and Deputy Director, Headquarters was placed on the same pay-scale

i.e. 10,000-15,200.

6. Vide order dated 11.12.2008, petitioner was posted as Deputy Director, Directorate of School Education, Dehradun against vacant post.

7. That vide Government Order dated 01.03.2009, recommendation of 6th Pay Commission was made applicable in the Education Department w.e.f. 01.01.2006. The pay-scale of 10,000-15,200 was upgraded to pay band-3, 15,600-34,100 with grade pay of 7600 w.e.f. 01.01.2006.

8. That another Government Order dated 11.03.2011 was issued which provided that the pay-scale of 10,650-15,850 and 10,000-15,200 was revised to 15,600-39,100 with grade pay 7600 w.e.f. 01.01.2006. In pursuance of this, petitioner was placed in this revised pay-scale of 15600-39100 with grade pay 7600.

9. That vide Government Order dated 14.06.2011, the School Education Department was restructured. After re-structuring of the department, 297 posts were restructured into administrative cadre. The administrative cadre consisted of 297 posts, out of which, 40 posts of Deputy Directors in the pay-scale of 15,600-39,100 grade pay 7600 were created and 97 posts of Block Education Officer/equivalent posts in the pay scale of Rs. 15600-39100 with grade pay of Rs. 6600/- were

created. After re-structuring of the department, options were invited from the Principal and other officers serving in the Education Department regarding their choice to serve in Education cadre or in Administrative cadre.

10. Petitioner, who was posted as Deputy Director, Education gave his option for administrative cadre. An office-memorandum was issued by the State Government on 25.06.2012, whereby, list of members of administrative cadre and education cadre was published. The name of the petitioner figured at Serial No. 12 in the list of members of administrative cadre. Vide notification dated 20.12.2013, the Uttarakhand State Educational (Administrative Cadre) Service Rules, 2013 were notified.

11. An office-memorandum dated 10.01.2014 was issued whereby members of administrative cadre were transferred. By this order, petitioner was transferred from the post of Deputy Director in the Directorate of Secondary Education to the post of Block Education Officer. As per the Uttarakhand State Educational (Administrative Cadre) Service Rules, 2013, the post of Block Education Officer carries pay-scale of 15,600-39,100, grade pay 6600, while petitioner was serving in pay-scale 15,600-39,100, grade pay 7600.

12. Petitioner filed a writ petition challenging his transfer order and by means of the interim order, the

transfer order in respect of petitioner was stayed by this Court. Respondent no. 1 issued Government Order dated 07.07.2014, whereby employees who have opted for the administrative cadre were absorbed in the administrative cadre. Petitioner was absorbed in the post of Block Education Officer though the Government Order provided that the employees who are getting higher salary and are absorbed in the lower pay-scale will continue to get the present pay-scale as they are presently paid until they are promoted in the present pay-scale.

13. By means of the present writ petition, petitioner has challenged this Government Order wherein he has been absorbed in the lower post of Block Education Officer carrying grade pay 6600 whereas he was posted as Deputy Director, Education in the grade pay of 7600. Beside this, petitioner has also prayed that he be granted benefit of 1st ACP after completing ten years of regular, continuous and satisfactory service in the pay scale of Rs. 37,400-67000 with grade pay of Rs. 8700/- in terms of the Government Order dated 01.07.2013 w.e.f. 10.12.2009. Petitioner has further prayed for his candidature for promotion on the post of Joint Director Education in terms of mandate of Service Rules of 2013.

14. The petitioner was sent on deputation in the

Ministry of Micro, Small and Medium Enterprises and was relieved vide office memo dated 10.07.2014. In this order also, the designation of the petitioner was mentioned as Deputy Director and his pay-scale was also mentioned as 15,600-39,100 with grade pay 7600. Furthermore, after completion of his deputation period, petitioner was allowed to join Deputy Director, School Education vide order dated 12.10.2017 by the Joint Secretary, Secondary Education Department. The Director General of Schools have issued communications to the Secretary, School Education on 05.05.2018 wherein he has submitted the fact that petitioner was serving on the pay-scale of 15600-39100 grade pay 7600 w.e.f. 01.01.2006. Despite this, he was absorbed on the post of Block Education Officer in grade pay of Rs. 6600 and he has requested that the Government Order dated 07.07.2014 be amended and petitioner be absorbed on the post of Deputy Director.

15. Learned counsel for the petitioner has submitted that absorption of the petitioner on the lower post amounts to reduction in rank and entails civil consequences, inasmuch as, as per the Uttarakhand State Educational (Administrative Cadre) Service Rules, 2013, the feeding cadre for the post of Deputy Director is Block Education Officer, who have completed four years

of service in that post. Learned counsel has further submitted that since he was already getting the salary in the grade pay of 7600 and was working on the post of Deputy Director Education at the time when options were invited as such he could not have been absorbed in the lower post.

16. *Per contra*, learned counsel for the State has submitted that the absorption order clearly stipulates that the employees who are getting higher salary and are absorbed in the lower pay-scale will continue to get the present pay-scale as they are presently paid until they are promoted in the present pay-scale. Learned counsel further submitted that petitioner was only made In-charge Deputy Director and was not posted on a regular basis.

17. Heard learned counsel for the parties and perused the record.

18. A bare perusal of the transfer order dated 11.12.2008 would reveal that it was a regular transfer and it nowhere mentions that it is only a makeshift or a temporary arrangement.

19. After re-structuring, 40 posts of Deputy Directors were created and since more than 40 persons had opted for the said post and these 40 posts of Deputy Director were filled as per the seniority of the employees,

who had given their options to serve in the administrative department, therefore, petitioner's services were absorbed on the post of Block Education Officer.

20. When the matter was heard before the Coordinate Bench on 06.06.2024, learned counsel for the petitioner has submitted that out of the 40 posts, only 33 posts of Deputy Director were filled and 7 posts remained unfilled and the Coordinate Bench has directed the State to get instructions in this regard, but, even today, when the matter was heard finally, the State Counsel has no instructions in this regard. Be that as it may, since, the petitioner was appointed on the post of Principal, Inter-College in the year 1999 by direct recruitment in the pay-scale which was equivalent to that of Deputy Director and was also transferred from the post of Principal to the post of Deputy Director. Petitioner was sent on deputation wherein his designation was mentioned as Deputy Director, Secondary Education and after completion of his deputation, he was permitted to join on the post of Deputy Director, Education.

21. Taking into consideration the above facts, this Court is of the considered view that absorption of the petitioner on a lower post of Block Education Officer cannot be sustained, as an employee serving on a higher post cannot be absorbed on a lower post. Hence, the

Government Order dated 07.07.2014 insofar as it relates to the petitioner, is liable to be quashed and is hereby quashed. The respondents are directed to absorb the petitioner on the post of Deputy Director w.e.f. 07.07.2014 alongwith all consequential benefits.

22. With the above observation, the writ petition stands disposed of.

(Alok Mahra, J.)

(Ravindra Maithani, J.)

05.01.2026

Ujjwal