

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL****Writ Petition (SB) No.54 of 2024**

Atul Saxena

..... Appellant

Vs.

State of Uttarakhand

.....Respondent

Presence:

Mr. Sandeep Kothari, learned counsel along with Mr. Shakti Saurabh Purohit, learned counsel for the petitioner.

Mr. Rajeev Singh Bisht, learned DAG along with Mr. Narayan Dutt, learned Standing Counsel for the State.

Coram: Hon'ble Ravindra Maithani, J.
Hon'ble Siddhartha Sah, J.

Hon'ble Siddhartha Sah, J. (Oral)

By means of the present writ petition, the petitioner seeks the following relief:-

“a) Issue a writ, order or direction in the nature of mandamus directing the respondents to consider the case of the petitioner for appointment on the post of Medical Superintendent, Dr. Susheela Tiwari Government Hospital and Government Medical College, Haldwani and to consequently appoint him on aforesaid post.”

2. The facts of the case of the petitioner as pleaded in the petition are that the petitioner was appointed as a Medical Officer in the Medical Health Department of Uttarakhand and served in District Almora from 17.12.2003 till 06.01.2006. On 07.01.2006, the petitioner was appointed on contractual basis as a Casualty Medical Officer (CMO) in Forest Hospital Trust, Haldwani, District Nainital and he was permanently appointed in the Forest Hospital Trust,

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Haldwani, on 02.03.2007. On 1st May 2010, the Forest Hospital Trust was taken over by the State Government on an "as is where is basis" and since then the petitioner has been working as a Casualty Medical Officer (CMO), Level-11 of the pay scale in Government Medical College. The said College does not have a permanently appointed Medical Superintendent. Relying upon the Uttarakhand Medical Education Service Rules, 2014, which provide for the terms and conditions, qualifications, posts, and the manner of filling the posts prescribed therein, it is stated that there is one post of Medical Superintendent, which is to be filled by deputation or service transfer. The prescribed criteria/qualification is a Postgraduate degree from recognized Medical College and 10 years of administrative experience. The petitioner claims that he is effectively overall in charge and has a pivotal role in the management of casualty and emergency services.

3. That, it is further pleaded that the petitioner submitted 19 letters in this regard from 9th May 2017 till 4th October 2023 and none of such letters have been forwarded by the Principal to the State Government and any such request were not forwarded to respondent no. 1 through respondent no. 2. The petitioner further claims that the Principal of the Medical College, Haldwani, referring to Chapter 1, Clause 1.22 of the Hospital Manual issued by the Ministry of Health vide letter dated 18.12.2021 recommended that the discharge of his duties as a Casualty Medical Officer can be treated as administrative experience and that his case can be considered. The same was again reiterated vide letter dated 22nd March 2022, which is contained in Annexure No. 6 to the writ petition. It is further stated that, presently, Dr. G.S. Titiyal (Assistant

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Professor) HOD (Head of Department) and Professor Ophthalmology Department is working as the Medical Superintendent. It is further pleaded in the petition that only the petitioner and one Dr. Sadhana Awasthi have requested the State Government to appoint them as Medical Superintendent, however, the aforesaid aspect has not been considered despite the fact that no regular Medical Superintendent appointed in Sushila Tiwari Hospital and Government Medical College. Thus, on these pleadings, the petitioner has sought consideration of his case for appointment to the post of Medical Superintendent of Dr. Sushila Tiwari Government Hospital and Government Medical College, Haldwani, and, consequently, his appointment on the aforesaid post.

4. A counter affidavit has been filed on behalf of respondent no. 3, wherein, inter alia, it has been stated that, vide notification dated 14th February 2022, the National Medical Commission (NMC) promulgated the Teachers Eligibility Qualifications in Medical Institutions Regulations, 2022 which provides for the qualification for Medical Superintendent of affiliated teaching hospital of Medical Colleges. Clause 3.7 of the said Regulations, 2022, prescribes the qualifications for the Medical Superintendent of affiliated teaching hospitals of medical colleges, and is being reproduced hereinbelow:-

“3.7- The Medical Superintendent of the affiliated teaching hospital shall possess a recognised post graduate medical degree from a recognised Institution with a minimum of ten (10) years teaching experience as Professor/Associated Professor in the relevant departments of the Hospital, out of which at least five (5) years should be as Professor. Appointment to these posts shall be made on seniority-cum merit basis. Medical Superintendent shall not occupy the position of the Head of the Department. However, he can head the unit.”



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5. Reference has been made to the Uttarakhand Medical Service Rules, 2014, and the Appendix thereto, Serial No. 9 whereof prescribes the eligibility criteria for appointment/posting/transfer to the post of Medical Superintendent of the affiliated teaching hospital of respondent no. 3, Government Medical College, Haldwani and the relevant portion thereof is quoted hereinbelow:-

Sl. No.	Post	Pay Scale	Total Post	Source of recruitment	Eligibility Qualification & experience
9	Medical Superintendent/ Director teaching hospital	15600-39100 Grade Pay-6600	01	On Deputation or Transfer	A recognized PG Medical degree from a recognized institution with minimum 10 years administrative experience

Remarks: *In case of Gazette Notification issued by Government of India on notification of MCI (NMC) regarding the amendment, the same shall be included herein from time to time.”*

6. It is further the case of respondent no. 3 in the counter affidavit that the petitioner was appointed as a Medical Officer working as a Casualty Medical Officer, which is a non-teaching post in the Emergency Medical Service Department of the teaching hospital. The prescribed minimum qualification for the post of Casualty Medical Officer is an MBBS degree. The petitioner subsequently acquired a Postgraduate medical degree; however, he was appointed as a Medical Officer working as a Casualty Medical Officer, which is a non-teaching post in the Emergency Medical Service Department, and the petitioner has no teaching experience as medical faculty. It is further the case of respondent no. 3 that the eligibility qualifications and experience for appointment to the post of

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Medical Superintendent of a teaching hospital are a recognized Postgraduate medical degree from a recognized institution, along with a minimum of 10 years' teaching experience as Professor/Associate Professor in the relevant departments of the hospital, out of which at least 5 years should be as Professor. Since the petitioner was appointed as a Casualty Medical Officer, which falls under the non-teaching cadre of the medical college, and as the service conditions and work responsibilities of both the cadres are altogether different, the petitioner is not eligible for the post of Medical Superintendent of the teaching hospital of respondent no. 3, Government Medical College, Haldwani.

7. It is further the case of respondent no. 3 that the petitioner was appointed as a Casualty Medical Officer, which falls under the non-teaching cadre of the medical college, and as the service conditions and work responsibilities of both the cadres are altogether different, a person belonging to one cadre cannot claim transfer to another cadre. It is further submitted that the petitioner is being granted the benefits of Assured Career Progression as per the rules applicable to his cadre. It is further submitted that the Emergency Service Department of respondent no. 3, namely Government Medical College, Haldwani, operates in three shifts, and accordingly, three Deputy Medical Superintendents, including the petitioner, were nominated with a view to ensuring better supervision and control of the emergency medical services in each shift. This nomination is a purely temporary arrangement and can be withdrawn at any time without prior notice. The petitioner has no right whatsoever in respect of such nomination, as is clearly mentioned under Clause 4 of the said order. Therefore, the order

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dated 14.06.2023 does not prejudice the petitioner in any manner, and the same has been issued to improve the day-to-day functioning of the emergency services of the hospital.

8. The petitioner has filed a rejoinder affidavit to the counter affidavit filed by respondent no. 3; however, with regard to Clause 3.7 of the 2022 Regulations, no direct answer is forthcoming in the said rejoinder affidavit.

9. Learned counsel for the parties were heard at length, and the record was perused.

10. Learned counsel for the petitioner invited the attention of the Court to Clause 1.22 of the Hospital Manual (issued by Directorate General of Health Services), which reads as under:-

“1.22. The department should be headed by Officer incharge of a rank of Addl. Medical Superintendent, supported by C.M.O. for delivery of efficient health care to the patient and further supported by Nodal Officer (Specialist/C.M.O.) available round the clock in the casualty to solve the day to day administrative problems.”

11. Learned counsel for the petitioner would submit that since the petitioner, as a Casualty Medical Officer, was supporting the Additional Medical Superintendent, he was, therefore, having the administrative experience as contemplated under Serial No. 9 of the Appendix to the 2014 Rules.

12. In reply, learned Deputy Advocate General, Mr. Rajeev Singh Bisht, would submit that Clause 1.22, being relied upon by learned counsel for the petitioner, pertains only to the administration of a hospital, whereas, in the present context, it is



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not only a hospital but also a medical college, and, as such, Clause 1.22 does not come to the rescue of the petitioner.

13. Learned Deputy Advocate General for the State has also furnished written instructions from the office of the Principal, Government Medical College, Haldwani, which read as under:-

Reply to para no.-21 of the writ petition-

It is stated that the petitioner had quoted clause no.-1.22 of the Hospital manual of Ministry of Health and Family Welfare Department, Government of India, which is not relevant to government medical colleges of Uttarakhand State Government. The NMC is the regulatory body for medical education. However, the then Principal of the respondent medical college had referred the clause in his reply sent to Director Medical Education Uttarakhand to take appropriate decision in the matter of representation submitted by the petitioner. As such, it was not a recommendation to consider the petitioner for the post of Medical Superintendent. Because, the petitioner is working in the capacity of Casualty Medical Officer comes under ancillary services as per MCI/NMC regulations, is not a faculty position and does not carry any administrative function.

Reply to para no.-24 of the writ petition-

That in reply to contents of para no.-24 of the writ petition it is stated that the petitioner quoted names of certain persons who had been medical superintendent of the teaching Hospital of the Medical College whose



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qualification/administrative experience is under lined as follows:-

a. Sl. No.-1 and 3 i.e. Dr. AK Tiwari and Dr. AK Pandey both possess medical qualification and having sufficient administrative experience of Armed Forces Medical Service and were eligible for the post of medical superintendent.

b. Persons placed at sl. No.- ii, iv, v, vi, and vii all were and are senior faculty members possess relevant experience.

Moreover, the petitioner does not meet the minimum prescribed qualification for the post of medical superintendent of teaching hospital of a medical college.

Further, it is also pertinent to submit that to government of Uttarakhand medical health and medical education Department has amended medical education service rules, 2014 vide notification dated 06/01/2026 wherein the qualification of medical superintendent is- as decided by NMC New Delhi and amended form time to time. Also the source of recruitment is- any Professor of Uttarakhand Medical Colleges who fulfil the NMC regulations meant for medical superintendent. A copy of amended service rules and NMC regulation is annexed here with marked as Annexure no.-1 & 2.”

14. Learned Deputy Advocate General would submit that the petitioner does not possess the minimum prescribed qualification for the post of Medical Superintendent of the teaching hospital of a medical college. He has further drawn the attention of the Court to the notification dated 6th January 2026 issued by the Government

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of Uttarakhand, Department of Health and Medical Education. In Serial No. 6 of Appendix B to the said notification, it is provided that, for the medical colleges in the State of Uttarakhand, the post of Medical Superintendent shall be filled from among the Professors of the colleges who fulfil the criteria prescribed by the National Medical Commission (NMC), Delhi. He has also referred to the Gazette Notification dated 30th June 2025 issued by the National Medical Commission, and Clause 5 thereof provides that, for the post of Medical Superintendent in any recognized medical institution, the eligibility shall be at least 10 years' teaching experience, including 5 years as a Professor. Thus, learned Deputy Advocate General would submit that the petitioner does not fulfil the eligibility criteria for being posted as the Medical Superintendent and, as such, the writ petition has no merit and deserves to be dismissed.

15. After hearing learned counsel for the parties, it is apparent from the record that the eligibility criteria under the 2014 Rules for the post of Medical Superintendent in the Sushila Tiwari Government Medical Trust is a Postgraduate degree from a recognized medical college and 10 years of administrative experience.

16. Learned counsel for the petitioner would rely upon Clause 1.22 of the Hospital Manual. A close perusal of Clause 1.22 of the Hospital Manual reveals that the CMO is to assist the Additional Medical Superintendent in the delivery of efficient healthcare to patients. Learned counsel for the petitioner would rely upon this Clause 1.22 to submit that the petitioner has the requisite 10 years' administrative experience and, therefore, is fully qualified to be appointed as the Medical Superintendent of the said college.

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17. Learned Deputy Advocate General would deny and dispute the said contentions raised on behalf of the petitioner.

18. It is clear from the aforesaid Clause 1.22 that the CMO forms part of the chain of administrative functioning in support of the Additional Medical Superintendent and, as such, does not work in any independent administrative capacity. Therefore, in view of the aforesaid facts and circumstances, he does not possess the administrative experience contemplated under Serial No. 9 of the Appendix to the 2014 Rules. Hence, he does not have the requisite administrative experience to be appointed to the post of Medical Superintendent of Dr. Sushila Tiwari Government Hospital and Government Medical College, Haldwani.

19. Thus, there is no force in the submissions made on behalf of learned counsel for the petitioner, and the petition deserves to be dismissed and is, accordingly, dismissed.

(Siddhartha Sah, J.)
15.07.2026

(Ravindra Maithani, J.)
15.07.2026

BS