



2026:UHC:3249-DB

Judgment Reserved on:07.04.2026

Judgment Delivered on :29.04.2026

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

Special Appeal No.79 of 2025

State of Uttarakhand and Others -----Appellants

Versus

Madhav Prasad Dobhal and Another ----Respondents

Presence:-

Mr. Gajendra Tripathi, learned Standing Counsel for the State of Uttarakhand.

Mr. Bhagwat Mehra, learned counsel for the respondents.

JUDGMENT: (per Mr. Subhash Upadhyay J.)

1. This intra-court appeal is directed against the judgment and order dated 07.07.2022 passed by the learned Single Judge in WPSS No.1733 of 2016, 'Madhav Prasad Dobhal and another Vs. State of Uttarakhand and Others' whereby the writ petition filed by the respondents /writ petitioners challenging the Government Order dated 17.12.2015 was allowed and directions were issued to the appellants to pay the respondents/writ petitioners who were working as Lab Technicians the revised pay-scale of ₹9300-34800(Grade Pay ₹4200) as was being paid to the



Dental Hygienist w.e.f. 15.04.2010.

2. The brief facts, which led to the filing of the writ petition by the respondents/writ petitioners, are that respondent no.1 and 2 were appointed as Lab Technician in the Medical Health and Family Welfare Department on 22.12.1977 and 05.01.1989 respectively. They claimed pay parity with the X-ray Technician and Dental Hygienist working in the same department on the ground that the educational qualification and the work performed by them was similar to that of X-ray Technician and Dental Hygienist.

3. It was the case of the respondents/ writ petitioners that under the 5th Pay Commission and 6th Pay Commission i.e. with effect from 01.01.1996 and 01.01.2006, the pay-scale of Lab Technician and X-ray Technician was similar whereas the Dental Hygienist were placed in the lower pay-scale, however, w.e.f. 15.04.2010 the Dental Hygienist were placed in the higher pay-scale. Later on, the X-ray Technician were also given the higher pay-scale w.e.f. 01.09.2010, however, the pay-scale of the Lab Technician was not revised.

4. The pay-scale of Lab Technician, X-ray Technician and Dental Hygienist w.e.f. 01.01.1996,



01.01.2006, 15.04.2010 and 01.09.2010 is detailed in the chart below:

	Lab Technician	X-ray Technician	Dental Hygienist
Pay scale w.e.f. 1.1.1996	Rs.4500-7000	Rs.4500-7000	Rs.4000-6000
Pay scale w.e.f. 1.1.2006	Rs.5200-20200 (Grade Pay 2800)	Rs.5200-20200 (Grade Pay 2800)	Rs.5200-20200 (Grade Pay 2400)
After upgradation	No upgradation upto 16.12.2015	Rs.9300-34800 (Grade Pay 4200) w.e.f. 1.9.2010	Rs.9300-34800 (Grade Pay 4200) w.e.f. 15.4.2010

5. It was the case of the respondents/ writ petitioners that the Lab Technicians working in the Government Medical College Haldwani and the SGPGI Medical College, Lucknow were also getting pay scale of ₹9300-34800(Grade Pay ₹4200) whereas the Lab Technicians working in the Medical Department were discriminated and the representation submitted by the Lab Technicians was not considered by the appellants.

6. It appears that when the grievance of the Lab Technicians was not redressed then a WPSS No.118 of 2013 was filed by some of the Lab Technicians wherein directions were issued to consider their case for grant of revised pay-scale, however, their representation was



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rejected vide order dated 28.03.2013 by the Principal Secretary, Medical Health on the basis of the order dated 19.07.2012 passed by the Secretary (Finance).

7. The said orders were put to challenge by certain Lab Technicians in WPSS No.811 of 2013, 'Pawan Kashyap and Others Vs. State of Uttarakhand and Others'. The said writ petition filed by Shri Pawan Kashyap and other Lab Technicians was allowed on 04.06.2014 whereby the impugned orders were quashed and directions were issued to grant pay-scale of ₹9300-34800(Grade Pay ₹4200) to the Lab Technicians as being given to the Dental Hygienist w.e.f. 15.04.2010.

8. The said order dated 04.06.2014 was challenged in SPA No.43 of 2015. It appears that during the pendency of the special appeal a Government Order dated 17.04.2015 was issued whereby pay-scale of Lab Technician was upgraded to ₹9300-34800(Grade Pay ₹4200) in purported compliance of the order dated 04.06.2014 passed by the writ court. However, benefit of the said pay-scale was provided to the Lab Technicians with immediate effect rather than providing the said pay-scale w.e.f. 15.04.2010.

9. After the issuance of the Government Order



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dated 17.04.2015, the special appeal filed by the State Government was dismissed as infructuous. As by the Government Order dated 17.04.2015 the upgraded pay-scale of ₹9300-34800(Grade Pay ₹4200) was provided to the Lab Technicians with immediate effect, as such, the aforesaid Government Order was put to challenge by the respondents/ writ petitioners in WPSS No.1733 of 2016 which was allowed on 07.07.2022 against which the present special appeal has been filed by the State Government.

10. Learned counsel for the State submits that the respondents/ writ petitioners have though challenged the Government Order dated 17.04.2015, however, their case was decided in terms of the order dated 04.06.2014 passed in earlier writ petition i.e. WPSS No.811 of 2013 filed by the other Lab Technicians. He submits that the State Government challenged the order dated 04.06.2014 in special appeal and during the pendency of the Special Appeal an Order dated 17.04.2015 was issued whereby the pay-scale of ₹9300-34800(Grade Pay ₹4200) was provided to the Lab Technicians on the basis of the decision taken by the Central Government whereby the pay-scale of the Lab Technicians working with the Central Government was revised.



11. He submits that the Lab Technicians working in the State of Uttarakhand were given parity with the Lab Technicians working in the Central Government and when the pay-scale of the Lab Technicians was revised by the Central Government then similar benefit was provided to the Lab Technicians working in the State Government.

12. He further submits that the members of the Lab Technicians Association and also the petitioners in WPSS No.811 of 2013, Pawan Kashyap gave an affidavit to the effect that they are agreeable to avail the benefit of pay-scale of ₹9300-34800(Grade Pay ₹4200) w.e.f. 17.04.2015 i.e. the date of issuance of the Government Order and, accordingly, the special appeal filed by the State was dismissed as infructuous.

13. He submits that the Pay Anomaly Committee has taken a decision whereby the case of the Lab Technicians was not found to be similar as the case of the X-ray Technicians and Dental Hygienist, as such, also the respondents/writ petitioners were not entitled for the benefit of the said pay-scale w.e.f. 15.04.2010.

14. Per contra, learned counsel for the respondents /writ petitioners submits that on the basis of the decision of the Pay Anomaly Committee, the



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Secretary (Finance) passed an order on 19.07.2012 and the Principal Secretary, Medical Health consequently passed the order dated 28.03.2013 which were put to challenge in WPSS No.811 of 2013 and the said orders were quashed and directions were issued to the State Government to pay the pay-scale of ₹9300-34800(Grade Pay ₹4200) to the Lab Technicians w.e.f. 15.04.2010. The special appeal of the State against the said order was also dismissed as infructuous, as such, the directions issued by the writ court became final.

15. He further submits that the veracity of the G.O. dated 17.12.2015 was examined by the Court in their case and after detailed deliberations, the claim of the respondents/ writ petitioners was allowed.

16. We have heard learned counsel for the parties and perused the record.

17. The facts which are not in dispute in the present case are that Dental Hygienists, X-ray Technicians and Lab Technicians are working in the Department of Medical Health and Family Welfare under the Government of Uttarakhand. The pay-scale of the Dental Hygienist was in the lower scale than the pay-scale of the Lab Technician and X-ray Technician under the 5th and 6th Pay Commission. The Dental Hygienist



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were, however, placed in the pay-scale of ₹9300-34800(Grade Pay ₹4200) w.e.f. 15.04.2010 and, similarly, X-ray Technicians were placed in the said pay-scale w.e.f. 01.09.2010.

18. The Lab Technicians claimed the benefit of pay-scale of ₹9300-34800(Grade Pay ₹4200) and the writ court in WPSS No.811 of 2013 dealt with the said issue in detail. Writ court also took cognizance of the fact that the employer i.e. Director General of Medical Health and Family Welfare more or less supported the case of the Lab Technicians and the State Government denied the pay-scale only on the objection of the Finance Department.

19. The Secretary (Finance) in its counter affidavit filed in the said writ petition took a stand that parity between Lab Technician vis-à-vis the X-ray Technician and Dental Hygienist could not be established, as such, the pay-scale cannot be given to the Lab Technician. The aforesaid stand of the State Government was discussed and discarded by the Court. The writ court dealt with the said issue in paragraph no.5 to 8 of the judgment which reads as under:

“5. In the counter affidavit, which was initially filed by the respondent No. 2 i.e. Director General, Medical Health & Family Welfare,



Dehradun which more or less supported the case of the petitioners and had said that he had recommended the case of the petitioners for the pay scale of ₹9300-24800 (Grade Pay 4200), but the State Government had denied such pay scale to the petitioners on the ground that when the matter came up before the State Government, Secretary (Finance) has raised objection that such parity cannot be given to the petitioners and on the basis of that objection, the increase in pay scale has been denied to the petitioners.

6. Since the only Department who has raised objection is a Finance Department, therefore, this Court passed an order on 21.04.2014 directing the Secretary, Finance Department, Government of Uttarakhand to file his counter affidavit or appear in person in the Court. Consequently, thereafter the Secretary (Finance) has filed his counter affidavit. He merely stated that the objection of the Finance Department to increase their (present petitioners/Lab Technicians) pay scale is that the parity between the petitioners and other Technicians such as, X-ray Technicians and Dental Hygienist has not been established and since the parity has not been established, the pay scale cannot be given to them.

7. Apart from stating that such parity has not been established, no other reason has been assigned by the Finance (Secretary) as to why this parity cannot be given, particularly in view of the fact that earlier the pay scale of all the three branches of Technicians (Lab Technician, X-ray Technician and Dental Hygienist) were the same, in fact, the pay scale of Dental Hygienist was lower than the petitioners (Lab Technicians). The main question as to how parity could not be established still remains unanswered. Since no reason has been assigned and only a bald assertion has been made, regarding parity, this can only be called arbitrary. The denial of the parity of the higher pay scale to the petitioners, as is given to other Technicians, is clearly violative of Article 14 of the Constitution of India, particularly in view of the fact that earlier they had the same pay



scale. It is also not a case that the nature of work of Lab Technician has now decreased or undergone a change as compared to other technicians.

8. Therefore, the writ petition succeeds. The impugned office memo dated 28.03.2013 issued by respondent No. 1 and letter dated 19.07.2012 issued by respondent No. 3 are hereby quashed. A mandamus is issued to the respondents to give pay scale of Rs. 9300-34800 (Grade Pay Rs. 4200) to the petitioners, as being given to the other Technicians in other Government Hospitals w.e.f. 15.04.2010 i.e. from the date which was given to the Dental Hygienist. It is further made clear that the order passed by this Court shall be complied with, within a period of three months from today.”

20. The writ court thus quashed the order dated 19.07.2012 passed by the Secretary (Finance) and 28.03.2013 passed by the Secretary, Medical Health and directed the State Government to grant the pay-scale of ₹9300-34800(Grade Pay ₹4200) to the Lab Technician w.e.f. 15.04.2010. The special appeal filed by the State Government against the said judgment was dismissed as infructuous.

21. The appellants contend that as the members of the Lab Technicians' Association and the petitioners in WPSS No.811 of 2013 had given an affidavit and showed their willingness to accept the pay-scale from the date of issuance of the Government Order dated 17.04.2015, as such, the respondents/writ petitioners cannot claim parity with the order passed in WPSS



No.811 of 2013.

22. The said submission is bereft of any merit as the order dated 17.04.2015 which was passed in purported compliance of the order passed by the writ court cannot override the decision of the writ court. The said decision dated 17.04.2015 was put to challenge in the subsequent writ petition filed by the respondents/writ petitioners and the writ court considered the aforesaid issue and by a reasoned order came to a conclusion that the respondents / writ petitioners were entitled to the pay-scale w.e.f. 15.04.2010 when the Dental Hygienist were provided the said pay-scale.

23. The question of pay parity of the Lab Technician with X-ray Technician and Dental Hygienist was concluded in WPSS No.811 of 2013 and the same could not be reopened in the subsequent writ petition filed before the writ court or before us in the appellate jurisdiction. The only issue which could be considered by the writ court in the subsequent writ petition filed by the respondents / writ petitioners assailing the order dated 17.04.2015 was to the effect as to whether the pay-scale of ₹9300-34800(Grade Pay ₹4200) was to be given w.e.f. 15.04.2010 as directed by the writ court in



the earlier writ petition or the grant of the said pay-scale to the Lab Technician with immediate effect from 17.04.2015 was justified.

24. The writ court came to the conclusion that the matter of pay parity has been concluded in the earlier writ petition and there was no justification for denial of the enhanced pay-scale to the Lab Technician w.e.f. 15.04.2010. The contention of the learned Counsel for the State that the grant of revised pay-scale to the respondents/ writ petitioners w.e.f. 15.04.2010 would create two class of persons as except the respondents/ writ petitioners other Lab Technicians have accepted the pay-scale w.e.f. 17.04.2015 cannot be a ground to deny the pay-scale to the respondents / writ petitioners as they have agitated the matter by assailing the G.O. dated 17.04.2015 and were granted relief by the writ court on merits.

25. The decision of the writ court in the case of respondents / writ petitioners is a judgment in *personam* and the persons who are not similarly situated such as those who have forgone their claim after having accepted the decision of the government cannot be said to be similarly situated like or equated with the respondents / writ petitioners.



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26. In view of the above discussion, we are of the considered view that the judgment and the order passed by the writ court does not suffer from any illegality and we are not inclined to take a different view than the view taken by the writ court. The special appeal filed by the State fails and the same is dismissed.

27. Pending application, if any, also stands disposed of.

(MANOJ KUMAR GUPTA, C. J.)

(SUBHASH UPADHYAY, J.)

Dated:29.04.2026

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