



2026:UHC:4671-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA

AND

THE HON'BLE JUSTICE SHRI SUBHASH UPADHYAY

11th June, 2026

Special Appeal No. 116 of 2026

Sushil Kumar

-----Appellant

Versus

State of Uttarakhand and others

----Respondents

Presence:-

Mr. Akashy Pradhan, learned counsel for the petitioner.

Mr. B.P.S.Mer, learned Standing Counsel State of Uttarakhand/respondent nos. 1 to 3.

Mr. Pankaj Chaturvedi, learned counsel for respondent no. 4.

Mr. B.S.Adhikari, learned counsel for respondent no. 5.

JUDGMENT: (per Manoj Kumar Gupta, C.J.)

1. The present *intra court* appeal is directed against the order of learned Single Judge dated 27.03.2025 in Writ Petition (S/S) No. 27 of 2023, filed by non-appellant no.5, i.e., Saurav Panwar, (hereinafter referred to as "the writ petitioner"). Therein, he challenged the order dated 01.09.2022, passed by the Director, Intermediate Education, Uttarakhand, Dehradun as well as the order dated 08.05.2019, passed by the Chief Education Officer, Haridwar and also prayed for a direction to the official respondents to pay to him enhanced honorarium of Rs.10,000/- on the post of Assistant Teacher (Vyayam).



2. The case of the writ-petitioner was that he was appointed on 20.02.2016 against the post which fell vacant on the retirement of one Man Singh for an honorium of Rs.2,000 per month. Subsequently, there was also approval of Chief Education Officer dated 23.05.2018 for payment of enhanced honorium of Rs.10,000/- per month to the petitioner. Later, it transpired that proceeding for regularization of service of the appellant herein was in progress against the same post. Consequently, the order dated 23.05.2018, approving the grant of enhanced honorium to the writ-petitioner was cancelled by the Chief Education Officer by order dated 08.05.2019. The writ petitioner challenged the said order by filing the writ petition.

3. Before the Writ Court, the Committee of Management admitted that the other post of Assistant Teacher (Vyayam) and Kala was abolished upon the promulgation of the Uttarakhand Education Act, 2006. Thus, only one post of Assistant Teacher (Vyayam) was left in the institution. It was also not disputed that against the said post exercise for regularization of services of the appellant, who was appointed on 15.10.2009 on adhoc basis was in progress at the time of passing of the order dated 23.05.2018. However, the Writ



Court taking notice of the pleadings in the writ petition that the post against which, the writ petitioner was appointed was created on account of superannuation of Man Singh, a different post, and also finding that there was no apparent illegality in the appointment of the petitioner, allowed the writ petition. In para 13 of the writ petition, the Writ Court has returned the following finding:-

“13. If there were two positions of the Assistant Teacher (Vyayam), how does it matter that if one Sushil Kumar is working in another position of Assistant Teacher (Vayayam/Kala/PT)? The petitioner was appointed as PTA Assistant Teacher (Vyayam) only. Therefore, this rejection, it appears was not on the valid grounds.”

4. The appellant herein was not party to the writ proceeding, however, when the writ petition filed by the original writ petitioner was allowed, the appellant feeling aggrieved thereby filed Special Appeal No. 84 of 2025 before this Court. On 09.06.2025, the appeal was got withdrawn with liberty to avail other suitable remedies. Thereafter, the petitioner filed an application for recall before the learned Single Judge. The said application was opposed by the writ petitioner on the ground that the services of the appellant had been terminated on 10.10.2019. The appellant filed Writ Petition (S/S) No. 2854 of 2019 challenging his termination but the said writ petition was withdrawn by him. It was also



contended by the writ petitioner that the order of termination of the appellant dated 10.10.2019 was confirmed by Additional Director of Education on 15.12.2021.

5. On the other hand, the appellant contended that by order of the Additional Director of Education dated 24.08.2024, the order of termination has been held to be illegal and the Management was directed to give joining to the appellant. However, the Recall Application has been rejected by the learned Single Judge by order dated 20.03.2026 observing that the observations in para no. 13 and 14 of the judgment dated 27.03.2025 were made only in the context of the claim of the writ petitioner for payment of honorarium and the order of the Additional Director of Education would have no bearing on the matter.

6. The order passed on the Recall Application dated 20.03.2026 is also under challenge in the instant special appeal. The appellant has also filed an application for leave to appeal as he was not party to the writ proceedings.

7. We have heard learned counsel for the parties



and gone through the record.

8. It is not disputed before us by learned counsel for the writ-petitioner that after promulgation of the Uttarakhand Education Act, 2006, only one post for Assistant Teacher (*Vyayam*) was left in the college and against which, the services of the appellant has been directed to be regularized by the Additional Director of Education vide order dated 24.08.2024, while holding his termination to be illegal. The said order has been challenged by the Committee of Management in WPSS No.1796 of 2024 and therein by order dated 24.09.2024, the operation of the order of the Additional Director of Education dated 24.08.2024 has been stayed. The said order is still in operation. Consequently, as on date, the appellant is also not entitled to reinstatement.

9. In such a scenario, the Management is still taking work from respondent no.5. Consequently, payment of the honorarium to him which has been directed by the Writ Court cannot be said to suffer from any illegality. However, undisputedly the observation made by learned Single Judge in para nos. 13 and 14 of the order dated 27.03.2025 are likely to have adverse impact on the claim of the appellant in relation to his re-



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instatement and in case, the order of re-instatement passed by the Additional Director of Education is upheld, on his claim for the payment of arrears and other emoluments to him. We therefore, allow the application for Leave to Appeal and dispose of the Appeal by clarifying that, in case, the writ petition filed by the Committee of Management is dismissed, the appellant herein would be entitled to re-instatement in terms of the order of Additional Director of Education and in such an event, no observation made by learned Single Judge in the orders dated 27.03.2025 and 20.03.2026 would have any adverse impact on the rights and entitlements of the appellant.

10. Accordingly, the Special Appeal stands disposed of.

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

(MANOJ KUMAR GUPTA, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 11.06.2026
Kaushal