



2026:UHC:2407-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA

AND

THE HON'BLE JUSTICE SHRI SUBHASH UPADHYAY

6th April, 2026

Writ Petition (S/B) No. 154 of 2025

Dr. Kuldeep Kholiya and another

-----Petitioners

Versus

State of Uttarakhand & others

-----Respondents

Presence:-

Mr.Dushyant Mainali, learned counsel for the petitioners.

Mr. B.S.Parihar, learned Additional Chief Standing Counsel for the State/respondent no. 1.

Mr. K.P.Upadhyaya, learned Senior Counsel, assisted by Mr. Hemant Pant, learned counsel for the respondents no. 2 & 3.

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

1. Petitioners were appointed as Assistant Professors in English and Physics in the department of Applied Sciences and Humanities at Bipin Tripathi Kumaun Institute of Technology, Dwarahat, District Almora, an institute engaged in technical education funded by the State Government. The appointment was through a regular selection process held in the year 2010-2011 and the petitioners have been working as Assistant Professor on basis of the selection since 26.09.2011. After the petitioners completed 6 years of service they made representation for grant of five advance Ph.D. increments. The Institute in pursuance



of the representations made by the petitioners for grant of five advance Ph.D. increments, constituted a Committee and based on its recommendations, released five advance Ph.D. increments retrospectively from the date of joining after obtaining written undertaking that if the payment is later found to be irregular/ inadmissible, recovery would be made.

2. It appears that a Public Interest Litigation bearing WPPIL No. 216 of 2020 came to be filed before this Court questioning the grant of five advance increments to the petitioners. The case of the PIL petitioner was that the petitioners were not having NET qualification and they were appointed as Assistant Professors by treating the alternative eligibility requirement of Ph.D. as the eligibility qualification. Consequently, the same could not be treated to be additional qualification to entitle the petitioners to five advance increments. The said writ petition was disposed of by an order dated 21.12.2020 directing the State to consider the representation of the PIL petitioner.

3. In order to consider the representation of the PIL petitioner, the State Government constituted a Committee consisting of Professor M.L. Sharma of IIT,



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Roorkee and Professor S.P.S. Rajput, NIT, Bhopal. It gave its report against the petitioners. The Board of Governors of the institute, on basis of the said inquiry report, took a final decision on the issue of grant of five advance increments to the petitioners and based on the said decision, the Director of the Institute issued directions for rectification of the pay fixation order of the petitioners. The consequence of the same was reduction of salary of the petitioners from the month of April, 2025 and aggrieved thereby the instant writ petition has been filed.

4. In the counter affidavit filed on behalf of respondents no. 2 and 3, the entire chronology of events leading to reduction in the salary of the petitioners has been given in detail. The recommendation made by the two members Committee constituted by the State Government has been extracted in paragraph 16 of the counter affidavit, which reads as follows:

“The selection of the teachers (Dr. R.K.Pandey, Dr. Kuldeep Kholiya and Dr. Arvind Bhatt) working in the Applied Science department of the Institute was made on the post of Assistant Professor by the appropriate Selection Committee in the year 2011. All these three Assistant Professors



are serving as Assistant Professor in the Institute. At the time of selection on the post of Assistant Professor in Applied Science, they were required to have the minimum qualification of NET or Ph.D. Since all the three teachers were not having NET and had the qualification of Ph.D., therefore, they possessed the eligibility for the post of Assistant Professor. In the recommendations of the Selection Committee there is no mention of granting any pay increments to all these three teachers. However, in the year 2019 after eight years of selection the benefit of five pay increments was given to these three teachers by the then Director, w.e.f. the year 2011. As per the Rules of the University Grants Commission and All India Council for Technical Education, pay fixation is made by the Selection Committee at the time of selection of the teachers as per the prevailing rules keeping in view qualifications and experience of the teachers and recommendation for benefit of advance pay increments is made in the event of the qualification being more than the minimum illegibility qualification. However, in this matter these rules were not followed. Therefore, grant of benefit of five pay increments to the aforesaid three teachers w.e.f. the date of appointment, after eight years in the year 2019 is totally against the Rules."

5. Learned counsel for the petitioners submits that the Committee, while making recommendation, has not taken into consideration Regulation 9.1 of the U.G.C. Regulations on Minimum Qualifications for Appointment of Teachers



and Other Academic Staffs in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010. He further submits that the petitioners were not communicated with any order in writing and the stand of the University has been disclosed for the first time in the counter affidavit. Therefore, the petitioners also did not get any opportunity to explain how they were rightly granted five advance increments.

6. It is not disputed before us that the deduction from salary has been made on basis of the recommendation made by two member Committee constituted for the purpose. Although advance increments were given reserving right to recover, if found to be not admissible but before any deduction is made, the respondents should have given opportunity to the petitioner and consider their stand. Therefore, we dispose of the writ petition with liberty to the petitioners to make representation in writing within two weeks from today and in the event, any such representation is made along with copy of the instant order, the same shall be decided by the Board of Governors of the respondent-institute within next two



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weeks and based on its outcome, any further deduction /refund shall be made.

7. It is clarified that while deciding the representation, the Board of Governors shall not be influenced by their previous decision and shall examine the claim independently.

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

(MANOJ KUMAR GUPTA, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 06.04.2026
Kaushal