



2026:UHC:3603-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL
HON'BLE THE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA
AND
HON'BLE SRI JUSTICE SUBHASH UPADHYAY
12TH MAY, 2026
WRIT PETITION (S/ B) NO. 250 OF 2026

Aniruddha Sharma & others Petitioners.

Versus

Union of India & others ...Respondents.

Counsel for the Petitioners : Mr. Abhijay Negi and Mr. Harsh Vardhan Bhatt, learned counsel.
Counsel for the Respondents : Mr. Lalit Sharma, learned Deputy Solicitor General with Mr. Manoj Kumar, learned Standing Counsel.

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

1. The present writ petition is directed against the order of Central Administrative Tribunal, Principal Bench, New Delhi, dated 07.04.2026, in O.A./1242/2026 (Nainital), by which, the Tribunal has rejected the prayer of the petitioners for interim relief at the said stage and fixed 20th May, 2026 as the next date of hearing.

2. The petitioners are working as Senior Nursing Officers and Nursing Officers at AIIMS, Rishikesh. They had challenged an order dated 10.03.2026, issued by the office of respondent no.1 and order dated 29.08.2025, issued by the office of respondent no.2 to the extent these orders direct for holding of Review DPC for promotion of Nursing Officer to Senior Nursing Officer for the panel year 2022 &



2023 and for restraining the respondents from holding Review DPC for promotion of Nursing Officer to Senior Nursing Officer for the panel year 2022 & 2023 by following the principle of 'own merit'. The petitioners, some of whom had been promoted to the post of Senior Nursing Officer in the past, apprehend that in case Review DPC is conducted on the principle of 'own merit', it would result in promotion of officers junior to them, although the very concept/ principle of 'own merit' is sub-judice before the Supreme Court in SLP No.30621 of 2011, titled "*Jarnail Singh & others vs. Lachhmi Narain Gupta & others*".

3. The case of the petitioners was that, in the said case, Punjab & Haryana High Court had quashed Office Memorandum dated 10.08.2010 stipulating for promotion on the concept/ principle of 'own merit'. The same was subjected to challenge before the Supreme Court in the afore-said SLP and, wherein on 03.02.2015, the Supreme Court passed an interim order in the following terms:-

"Let the matter be listed in the second week of March 2015 on a non-miscellaneous day. Status quo existing as on today in respect of the promotional matters that are covered by the impugned judgment shall be maintained till the next date of hearing."

4. Thereafter, in the contempt petitions filed for alleged violation of the said order, the learned Solicitor General had given an undertaking before the Supreme



Court that till such time the main matter along with the Contempt Petition is decided, no further promotions of reserved category persons to unreserved posts would be made.

5. It is submitted that on basis of interim order passed by Supreme Court on 03.02.2015 and the undertaking given by learned Solicitor General of India, the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi, issued an Office Memorandum dated 30.09.2016, directing that no further promotions of reserved category persons to unreserved posts would be made based on DoPT OM dated 10.08.2010 and Railway Board circular dated 14.09.2010.

6. The petitioners are all from general category and in the past, some of them were also some of them were also promoted against unreserved posts, however, in view of the impugned orders of respondent nos.1 and 2, as Review DPC is likely to be held, the candidates belonging to reserved category would be considered against unreserved vacancies, which would be against the undertaking given by the learned Solicitor General of India.

7. Learned counsel appearing on behalf of the



Union of India and AIIMS Rishikesh, do not dispute that the issue relating to merit promotion, arising out of similar situation, is sub-judice before the Supreme Court and wherein an undertaking was given by learned Solicitor General in course of hearing of the contempt petition that no further promotions of reserved category persons to unreserved posts would be made.

8. The Tribunal has rejected the prayer for interim relief holding that the petitioners are preempting the action, as so far no promotions have been made in pursuance of the orders impugned before it. It is not disputed before us that the orders impugned before the Tribunal direct for holding of Review DPC and as the main matter has already been fixed for hearing on 20th May, 2026, we are of the considered opinion that till the time the main matter is decided, the holding of Review DPC on the concept/principle of 'own merit' should be kept in abeyance, having regard to the O.M. dated 30.09.2016, issued by the Government of India in a similar situation.

9. Accordingly, the order of the Tribunal is, hereby, set-aside. The Tribunal may decide the main matter finally. The petitioners would not seek any unnecessary adjournments.



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10. Accordingly, the writ petition stands disposed of.

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

MANOJ KUMAR GUPTA, C.J.

SUBHASH UPADHYAY, J.

Dated: 12th May, 2026

NISHANT

NISHANT KUMAR