



HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Service Bench No. 408 of 2026

16 July, 2026

Kapil Sharma

--Petitioner

Versus

State Of Uttarakhand and Others

--Respondents

Presence:

Mr. Sarthak Raizada, learned counsel holding brief of Mr. Jitendra Chaudhary, learned counsel with Mr. Navneet Singh, learned counsel for petitioner.

Mr. N.S. Pundir, learned D.A.G. for the State of Uttarakhand/respondent Nos.1 to 3.

Mr. Priyansh Mittal, learned counsel accepts notice on behalf of respondent No.6.

Mr. Pankaj Miglani, learned counsel for respondent No.7-Selecting Body, through V.C.

**Coram: Hon'ble Manoj Kumar Tiwari, J. (Oral)
Hon'ble Pankaj Purohit, J.**

According to learned counsel, petitioner and respondent No.6 participated in a selection for appointment to the post of Medical Officer (Ayurveda) held pursuant to advertisement dated 25.08.2010; Uttarakhand Public Service Commission recommended the selected candidates for appointment in November, 2012; both petitioner and respondent No.6 were offered appointment vide order dated 26.07.2013; petitioner joined duties on 26.08.2013, however respondent No.6 did not join duties and sought extension of joining time. Respondent No.6 reportedly joined on 15.07.2017.

2. In this writ petition, petitioner has sought for the following reliefs:

- i. Issue a writ of certiorari or any other appropriate writ, order or direction, quashing and setting aside the Certificate dated 15.07.2017 (Annexure-19 Page No.185 to 185) issued by District Ayurvedic and Unani Officer, Pauri Garhwal/Respondent No.5 permitting the Respondent No.6, Dr. Krishnakant Pandey, to join the post of Medical Officer (Ayurveda) in the Uttarakhand Ayush, Ayurvedic and Unani Services purportedly effected on 15.07.2017, and call for the records of the case pertaining to Order No. Vya.Pa./Chi/Adhi./2017-18/2094-99 dated

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- 15.07.2017 issued by the District Ayurvedic and Unani Officer, Pauri Garhwal permitting Respondent No.6 to join and thereafter quash and set aside the same as being wholly illegal, without authority of law and void ab initio;
- ii. Issue a writ of quo warranto or any other appropriate writ, order or direction, calling upon Respondent No.6, Dr. Krishnakant Pandey, to show under what authority he continues to hold the post of Additional Ayurvedic and Unani Officer/Medical Superintendent/Senior Medical Officer in the Uttarakhand Ayush Ayurvedic and Unani Services pursuant to the promotion order dated 26.06.2024 (Annexure-2 Page No.67 to 82), when his foundational appointment/joining itself was void, his candidature stood cancelled by order dated 21.11.2015, and the subsequent joining on 15.07.2017 was without lawful authority; and thereafter, to quash and set aside the said promotion order dated 26.06.2024 (Annexure-3 Page No.83 to 85)/appointment of Respondent No.6(Annexure-19 Page No.185 to 185) as being illegal and without jurisdiction.
 - iii. Issue a writ, order or direction in the nature of Certiorari, quashing Paragraph 3 of the Government Order dated 27.07.2016 (Annexure-1 Page No.64 to 66) permitting the reckoning of the period of non-joining/extraordinary leave/MD course period of Respondent No.6 and other similarly situated candidates as qualifying service for the purpose of promotion/seniority;
 - iv. Issue a writ, order or direction in the nature of certiorari, thereby calling for the records of the case and quashing the impugned Office Memorandum dated 11.05.2023/Seniority List dated 11.05.2023 (Annexure-2 Page No.67 to 82) issued by Respondent No.4/Respondents, whereby the final seniority list of Ayurvedic and Unani Medical Officers has been prepared and published, being illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India, and consequently quash the same;
 - v. Issue a writ, order or direction in the nature of Certiorari, quashing the Government, vide order No.266/XL-1-2024-97/2011 dated 19.02.2024, issued by Respondent No.3 (Annexure-23 Page No.198 to 198);
 - vi. Issue a writ, order or direction in the nature of Certiorari, quashing the impugned promotion order dated 26.06.2024 (Annexure-3 Page No.83 to 85) issued by Respondent No.3, promoting Respondent No.6 Dr. Krishnakant Pandey to the Group 'A' post in the Uttarakhand Ayush Ayurvedic and Unani Services;
 - vii. Issue a writ, order or direction in the nature of Mandamus directing the Respondent Nos.1, 2, 3 and 4 to prepare a fresh, proper and lawful seniority list of Medical Officers Ayurveda eligible for promotion to Group 'A' posts in the Uttarakhand Ayush Ayurvedic and Unani Services, strictly in accordance with the applicable rules and government orders, excluding the period of non-joining/extraordinary leave of Respondent No.6 and other similarly situated candidates from their qualifying service for promotion, and thereafter to convene a fresh D.P.C./Selection Committee for consideration of promotion to the post of Additional District Ayurvedic and Unani Officer and other consequential promotional posts, strictly in order of seniority and eligibility, on the basis of the corrected seniority position, in accordance with law;

3. Learned counsel for petitioner relies upon a judgment rendered by this Court in WPSB No.12 of 2017 for contending that joining submitted by respondent No.6 upon expiry of joining time should not have been extended. Learned counsel for petitioner submits that since respondent No.6 did not join duties within the



extended time, therefore, appointment offered to respondent No.6 was cancelled vide order dated 21.11.2015.

4. He submits that respondent No.6 challenged the cancellation order by filing writ petition (S/B) No.12 of 2017, which was dismissed by this Court vide judgment dated 14.03.2024. Relevant paragraphs of the said judgment are extracted below:-

“5. Learned counsel appearing for petitioner submits that she has lost contact with her client. She submits that petitioner, by now, must have joined somewhere else. Petitioner, therefore, seems to be not interested in pursuing the matter.

6. Since appointment offered to petitioner was withdrawn on account of his failure to join duties within the extended time, therefore, we find no reason to interfere in the matter.

7. Accordingly, the relief, as claimed for in the writ petition, cannot be granted.

8. The writ petition fails and the same is, accordingly, dismissed.”

5. Thus, it is contended that since writ petition filed by respondent No.6 challenging cancellation of offer of appointment, was dismissed by this Court, therefore, joining submitted by respondent No.6 could not have been accepted by the authorities, as such the certificate/order passed by respondent No.5 on 15.07.2017 permitting him to join duty deserves to be set aside.

6. Per contra, learned State Counsel submits that State Government took a policy decision, which was notified vide Government Order dated 27.07.2016, providing that persons who are pursuing Post Graduate Medical Course shall be permitted to join duty once they complete their Post Graduation. He submits that pursuant to that Government Order, respondent No.6



was given permission to join duty on the post of Medical Officer (Ayurveda), upon his completing Post Graduation. He submits that there were many other persons who were not able to join as they were in the midst of Master's Degree Course, and all such persons were permitted to join upon completing Master's Degree Course.

7. Learned State Counsel further submits that petitioner is challenging acceptance of charge certificate submitted by respondent No.6 after 9 years and further that petitioner do not have any *locus standi* in the matter and merely because there is seniority dispute between petitioner and respondent No.6 will not be sufficient to maintain this writ petition.

8. Learned State Counsel points out that in relief clause No.(iv) in the writ petition petitioner has challenged the seniority list published on 11.05.2023. He submits that if petitioner is dissatisfied with the rank given to him in the seniority list, then he can approach Public Service Tribunal, therefore, writ petition is ill advised and petitioner cannot question acceptance of joining report submitted by respondent No.6 after 9 years.

9. We find substance in the submission made by learned State Counsel. Acceptance of joining report submitted by respondent No.6 by the Competent Authority pursuant to Government Order dated 27.07.2016 cannot be questioned by petitioner merely because he also participated in the same selection. Acceptance of joining report is a matter between a selected candidate and the employer. In the present case, respondent No.5 accepted the joining submitted by



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respondent No.6 upon completing his Post Graduation Medical Course as per policy decision of the Government, therefore, the decision of accepting joining submitted by respondent No.6 cannot be questioned by another candidate. Moreover, there is inordinate delay of 9 years in challenging the certificate issued by respondent No.5. State Counsel is right in submitting that petitioner wants to settle seniority dispute with respondent No.6 by filing this writ petition. Thus, the relief as claimed in Prayer No.(i) cannot be granted. For other reliefs, petitioner shall be at liberty to approach the Tribunal.

10. Accordingly, the writ petition is dismissed *in-limine*.

11. Pending application stands disposed of.

(Pankaj Purohit, J.)

(Manoj Kumar Tiwari, J.)

16.07.2026

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