

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.329 of 2022
24 March, 2026

Nathu Lal Koli

-----Appellant

Versus

State of Uttarakhand and Others

----Respondents

Presence:-

Mr. Amar Murti Shukla, learned counsel for the appellant.

Mr. Puran Singh Bisht, learned C.S.C. along with Ms. Mamta Bisht, learned Deputy Advocate General for the State of Uttarakhand/ respondent nos.1 to 3.

Mr. Saurabh Budhori, learned counsel holding brief of Mr. Yogesh Kumar Pacholia, learned counsel for respondent no.4

JUDGMENT : (per Mr. Subhash Upadhyay, J.)

Delay Condonation Application (IA/1/2022)

1. Appeal is reported to be beyond time by 82 days. The explanation given for the delay is found to be satisfactory. Even otherwise, learned counsel for the respondents do not oppose the delay condonation application. Accordingly, delay condonation application is allowed and delay in filing the appeal is condoned.

SPA No.329 of 2022

2. Heard learned counsel for the parties.

3. By the present intra-court appeal, the appellant has assailed the judgment and order dated 06.06.2022 passed by learned Single Judge in WPSS No.2608 of 2019 whereby the writ petition filed by the appellant/writ petitioner was dismissed.

4. The appellant had filed the writ petition for the following reliefs:

“(i) Issue a writ, order or direction in the nature of certiorari for quashing the impugned orders dated 21-09-2019 (Annexure-2) & 4-11-2019 (Annexure-3) passed by the respondent no.2 i.e. the Director Urban Development Department Dehradun.

(ii) Issue a writ, order or direction in the nature of mandamus, directing and commanding the respondents that they shall absorb to the petitioner on the post of executive office in the respondent municipality and thereafter, re-fix his pensionary benefits treating him as an retired employee from the post of executive officer i.e. centralized post from the date of his retirement and grant all the consequential benefits to him accordingly.”

5. By the orders impugned in the writ petition, the claim of the appellant for absorption of his services in the Palika Centralized Cadre as Executive Officer and for the grant of retiral benefits admissible to members of Palika Centralized Cadre was rejected.

6. The appellant was appointed as Work Agent (class-iv post) in Nagar Palika Parisad, Rudrapur, District Udham Singh Nagar on 03.01.1974 and his services were later regularized on the said post.

7. Vide order dated 16.09.1997, appellant was sent on deputation on the post of Executive Officer at Nagar Palika Didihat, District Pithoragarh. The appellant submitted an application on 12.03.2012 for absorption of his services on the post of Executive Officer (a post under the Palika Centralized Services Rules) and the said

representation was rejected on 24.07.2012 by the Director, Urban Development, Dehradun. By the same order, the appellant was also repatriated to his original post of Work Agent and posted at Nagar Palika Parisad, Rudrapur.

8. The said order dated 24.07.2012 was put to challenge in WPSS No.1104 of 2012 in which an interim order was passed on 14.08.2012, however, the aforesaid writ petition was decided on 20.11.2015 and the order dated 24.07.2012 by which claim of the appellant for absorption on the post of Executive Officer was rejected was not interfered and the Court further recorded a finding that the case of the absorption of the petitioner was rightly rejected and the petitioner /appellant cannot be regularized on the post of Executive Officer. Paragraph no.5 and 6 of the said order reads as under:

"5. The centralized Rule applicable in Uttarakhand are known as "The Uttarakhand Urban Development Directorate (on the posts of Junior Engineer (Technical) Chief Assistant, Accounts Clerk, Junior Assistant Cashier and Peon) Absorption Rules, 2009" (hereinafter referred to as the "Absorption Rules, 2009). The petitioner relies upon the rule 4(1) of the Absorption Rules, 2009. The Rules does not specify that such posts of Executive Officer can be regularized or absorption. Moreover, this Court has already held that the very sending of the petitioner on deputation in the year 1997 was in the violation of law for the reason that the petitioner was neither working on the pay scale of Executive Officer nor he was graduate at the relevant time. Therefore, as far as the case of absorption of the petitioner is concerned, it has rightly been rejected and this Court is also of the view that the petitioner

cannot be regularized on the post of Executive Officer/

6. The matter relates to the reversion of the petitioner. This matter was stayed by this Court. During the pendency of the writ petition the petitioner already reached the age of superannuation and retired from service on 31.10.2012. Nothing further needs to be said on this aspect. It is further made clear that the pension, as applicable to the petitioner shall be determined and the same be calculated by respondent No. 2 within a period of six weeks from the date of production of a certified copy of this order. No further relief is granted to the petitioner."

9. The appellant during the pendency of the WPSS No.1104 of 2012 had retired on 31.10.2012 and he preferred another writ petition i.e. WPSS No.1586 of 2013 for grant of pensionary benefit on the post of Executive Officer.

10. The said writ petition was disposed of on 08.05.2018 by which directions were issued to the Director, Urban Development to decide the representation of the appellant.

11. In pursuance to the said direction, the representation of the petitioner was rejected vide order dated 21.09.2019 and 04.11.2019 and the said orders were impugned in the WPSS No.2608 of 2019 which was dismissed on 06.06.2022 against which the present special appeal has been preferred.

12. Learned counsel for the appellant submits that in case of similarly situated employee, namely, Prakash Chandra Harbola, his services were regularized as

Executive Officer after his retirement whereas the appellant who is similarly situated has been discriminated. He further refers to the case of other employees whose name has been referred in paragraph no.22 of the writ petition to contend that their services were also regularized in the Palika Centralized Cadre after their retirement, as such, the rejection of the claim of the appellant for absorption was unjustified.

13. Per contra, learned State Counsel supports the judgment passed by the learned Single Judge and submits that the case of the appellant for absorption on the post of Executive Officer was rejected vide order dated 24.07.2012 and the said decision was not interfered by the Court in WPSS No.1104 of 2012 and in absence of any challenge to the said order the same has attained finality.

14. Learned State Counsel further submits that in pursuance to the order passed in the present special appeal on 04.09.2024, the services of the appellant for the period while he was working on deputation has been considered for the calculation of pension to be paid under the non-centralized cadre. He refers to paragraph no.5 of the supplementary affidavit which reads as under:

“5. That in reference to point number 2 of interim order dated 04.09.2024 of the Hon'ble High Court, it is requested that in compliance with the earlier order dated 20.11.2015 passed by the Hon'ble High Court, as per the provision of government orders, the calculation chart of pay fixation of the petitioner from 01.07.1986 to 01.07.2012 is given to the petitioner Shri Nathu

Lal Koli, which also includes the period of deputation from the year 1997 to 2012. On this basis, after retirement on 31.10.2012, the petitioner is being paid pension every month by the Municipal Corporation Rudrapur.”

15. We have heard learned counsel for the parties and on perusal of the records, we find that the learned Single Judge has held that the orders passed by the Director, Urban Development rejecting the claim of the appellant, records valid reasons for denying petitioner's claim for grant of benefit as admissible to members of Palika Centralized Services.

16. The learned Single Judge also took note of the orders passed in the earlier writ petitions filed by the appellant and held that as the services of the appellant were never absorbed in the Palika Centralized Services, therefore, his claim for retiral benefits admissible to the members of the Palika Centralized Services is untenable. Moreover, facts narrated in the preceding paragraphs of this judgment reveals that the case of the appellant for absorption on the post of Executive Officer was rejected by the Director, Urban Development vide order dated 24.07.2012 and the said decision was not interfered by the writ court in WPSS No.1104 of 2012 and the finding recorded by the Court that the appellant cannot be regularized on the post of Executive Officer has become final in absence of any challenge to the order dated 20.11.2015 passed in the said writ petition.

17. As the services of the appellant were not absorbed on the post of Executive Officer, as such, the appellant's claim was rightly rejected by the Director Urban Development holding that the appellant was not entitled for the benefit of retiral benefit as admissible to the members of Centralized Cadre.

18. The reliance placed by the appellant on the case of other employees is also bereft of any merit as in their case there was no order of rejection of their claim for absorption in the Palika Centralized Services whereas in the case of appellant his case was rejected vide order dated 24.07.2012 which was upheld by the writ court.

19. Thus, viewed from any angle, we do not find any good ground to interfere in the order passed by the learned Single Judge. The appeal fails and is hereby dismissed.

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

(MANOJ KUMAR GUPTA, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 24.03.2026

SS

**SUKHBANT
SINGH**

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