HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE ACTING CHIEF JUSTICE MR. MANOJ KUMAR TIWARI

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

October 26, 2026

Writ Petition (S/B) No.138 of 2022

Hari Krishan Semwal & Others ----Petitioners

Versus

State of Uttarakhand & Others ----Respondents

Presence:-

Mr. M.C. Pant, learned counsel for the petitioners.

Mr. J.C. Pandey, learned Standing Counsel for the State.

Mr. C.D. Bahuguna, learned Senior Counsel assisted by Mr. C.S. Dalakoti, learned counsel for the applicant in Intervention Application (IA No.5/2025).

The Court made the following:

JUDGMENT: **(per Hon'ble Justice Sri Manoj Kumar Tiwari, A.C.J.)**

1. By means of this writ petition, petitioners have sought the following reliefs:-

> *"(i) Issue a writ, order or direction in nature of mandamus directing the respondents to consider the case of the petitioners for regularisation with all consequential benefits pursuant to the regularisation rules 2011 keeping in view their continuous and 25 years long service as Lecturer in Government Degree Colleges of the respondent no.3 after calling the entire record from the respondents before making any appointment on the posts occupied by the petitioners from the open market or in alternate pass any appropriate orders keeping in view of the facts highlighted in the body of the petition or mould the relief appropriately.*
>
> *(ii) Issue order or direction in the nature of mandamus to direct the respondents to allow the benefit of regular pay and other*

benefits at par to the regular employees keeping in view the fact highlighted in the body of the petition."

2. According to petitioners, they were appointed as part-time teacher in erstwhile HNB Garhwal University established under U.P. State Universities Act, 1973, and upon its conversion as Central University in the year 2009, they continued to serve in the campus colleges of HNB Garhwal Central University. Our attention is drawn to order dated 11.05.2017 issued by Director, Higher Education, Uttarakhand, which provides for adjustment of petitioners in government degree/post graduate colleges as contract teacher. Petitioners submit that they were adjusted in different government colleges within Uttarakhand against available vacancies and they are thereafter discharging duties as Assistant Professor.

3. Learned counsel for the petitioners submits that all the petitioners were appointed in HNB Garhwal State University in the year 1997 and they have completed about 29 years of uninterrupted service as teacher. It is, thus, contended that after serving for about 29 years to the satisfaction of concerned authorities, petitioners have earned a right to be considered for regularization. Reliance is placed upon Regularisation Rules framed by Uttarakhand Government in 2011, as amended from time to time.

Reliance is also placed upon a judgment rendered by Hon'ble Supreme Court in the case of *Sukhendu Bhattacharjee vs. State of Assam, Civil Appeal No(s). 4514 of 2025*.

4. Learned State Counsel, per contra, submits that University teachers are not governed by Service Rules framed under Proviso to Article 309 of the Constitution and they are governed by Uttarakhand State Universities Act, 1973. He further submits that Section 31 of the said Act lays down the mode of appointment of teachers of the University and Section 31 (3)(c) of the Act provides for regularization of part-time / ad-hoc teachers. He further submits that upon conversion of HNB Garhwal University as Central University w.e.f. 2009, petitioners served in the campus college of the Central University between 2009 to 2017. He further submits that adjustment of the petitioners was made in government colleges with certain conditions set out in the adjustment order and thus submits that petitioners are not eligible for regularization against teaching posts in government post graduate colleges.

5. If what is contended by learned counsel for the petitioners is correct and petitioners are serving as teachers in government degree/post graduate colleges and campus colleges of the University for last nearly 29 years, then it

creates a legitimate expectation that their claim for regularization shall be considered as per law.

6. Learned counsel for the petitioners submits that as the State Government has framed Rules for regularization of ad-hoc, part-time and contract employees, therefore, case of the petitioners is required to be considered under the said Rules.

7. Reportedly, petitioners were adjusted in Government Degree/PG Colleges by State Government against available vacancies, therefore, the claim staked by petitioners for regularization, cannot be cursorily brushed aside. It requires examination by the Competent Authority.

8. Having regard to the facts and circumstances of the case, writ petition is disposed of with a direction to Secretary, Higher Education to examine the claim of petitioners and decide whether petitioners are eligible to be considered for regularization under the Regularization Rules framed in 2011, as amended from time to time. If the Secretary, Higher Education finds that petitioners' case is covered by the said Rules, then he shall have their claim placed before the Regularization Committee, which shall be constituted within four weeks from the date a decision on the question of their eligibility is taken. The Regularization Committee shall

thereafter examine the claim of petitioners as per the scheme of Regularization Rules and pass appropriate order as per law within six weeks thereafter. This Court hopes and expects that this entire exercise shall be completed within four months. Till final order is passed by the Competent Authority, *status quo* as regards service of the petitioners shall be maintained.

MANOJ KUMAR TIWARI, A.C.J.

SUBHASH UPADHYAY, J.

Dt: 26.10.2026

Rajni/KK