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2026:UHC:9962-DB

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Special Appeal No. 363 of 2026**

Mahabir Singh and Ohers ..... Appellants

Vs.

State of Uttarakhand and Others ..... Respondents

Present:
Mr. S.S.Yadav, Advocate for the appellants.
Mr. Ganesh Kandpal, A.A.G. with Mr. Tarun Lakhera, Brief Holder for the State.

**Coram: Hon'ble Ravindra Maithani, J.**
**Hon'ble Siddhartha Sah J.**

**Hon'ble Ravindra Maithani, J. (Oral)**

The instant appeal has been preferred against judgment dated 24.07.2026, passed in WPSS No.1820 of 2026, Mahabir Singh and Others v. State of Uttarakhand and Others ("the writ petition") by this Court. In the writ petition, the petitioners had sought the following reliefs:-

(i) "i) Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 04.05.2024 (Annexure No.14 Page No.137 to 147 to the writ petition) passed by respondent no.3 and impugned order dated 13.02.2026 (Annexure No.16 Page No.149 to 156 to the writ petition) passed by respondent no.3.

(ii) Issue a writ, order or direction in the nature of mandamus directing the respondents to consider the case of the petitioners and issue the appointment order to the petitioners for the post of Teacher (Physical Education) in the tune of appointment of private respondents who are similarly situated to the petitioners.

(iii) Issue a writ, order or direction in the nature of mandamus directing the respondents to offer the appointment to the petitioners creating the superlunary post."

In the impugned order, it was observed that:-

> "7. There may be vacancies available with the respondent-department, but, since petitioners are claiming appointment against the vacancies which were advertised in 2004, therefore, at this juncture, after a period of 22 years, petitioners cannot be given appointment against those vacancies which, according to the respondent-State were filled up. In view of the fact that the matter has already been settled by the Apex Court, this Court finds no substance in the submission made by the learned counsel for the petitioners regarding availability of vacancy. They cannot claim appointments against the subsequent vacancies.
> 8. In such view of the matter, no interference is warranted. Writ petition is dismissed in-*limine*."

2. Heard learned counsel for the parties and perused the record.

3. The events, in chronological order, are as follows:-

(i) The petitioners applied pursuant to the advertisement issued in the year 2004 for appointment to the posts of Assistant Teacher, L.T. Grade (Physical Education). They were unsuccessful.

(ii) The petitioners filed WPSS No.190 of 2010, Anuj Kumar Chauhan and others v. State of Uttarakhand and others, ("the first writ petition"), which was disposed of on 13.10.2011, and the Court directed the respondents to accommodate the petitioners, who were diploma holders against the vacant posts.

(iii) Aggrieved by the judgment dated 13.10.2011, passed in the first writ petition, the State filed Special Appeal No.95 of 2012, State of

Uttarakhand and Others v. Prakash Bhatt and Others, and batch of Special Appeals ("the first special appeal"), which were decided on 19.07.2012. The Division Bench of this Court in the first Special Appeal directed the State to make a select list in respect of the posts, which were advertised and, in respect whereof, writ petitioners had applied and, in the event, writ petitioners are not within the select list in respect of those advertised posts, they must be informed individually in that regard. The Division Bench also observed that, **"It is made clear that, in the event, it is found that any of the writ petitioners was entitled to be appointed for he should have been selected, he be given an appointment in a post that will fall vacant in future without disturbing the appointments already given to the Diploma Holders."** Insofar as the petitioners are concerned, that litigation closed at that stage.

(iv) Thereafter, the private respondents filed various writ petitions, i.e. WPSS No.2426 of 2015, Surendra Singh Panwar v. State of Uttarakhand and Others, ("the second writ petition") and batch of writ petitions, which were dismissed on 19.11.2016. This dismissal order dated 19.11.2026 was challenged in Special Appeal No.7 of 2017, Asha Ram Chamoli v. State of Uttarakhand and Others, and batch of Special

Appeals (“the second special appeal”), which were also dismissed by the Division Bench of this Court on 28.06.2018.

(v) It was taken up to the Hon’ble Supreme Court by the private respondents in Special Leave to Appeal (C) Nos. 27802-27807 of 2018, Asha Ram Chamoli Etc. v. State of Uttarakhand and others, (“the SLP”). In the SLP, the Hon’ble Supreme Court, on 10.10.2023, passed the following order:-

> “After hearing learned counsel appearing on behalf of both the parties and considering the tenor of the order dated 19.07.2012 and also the order dated 26.10.2018 passed by this Court by which the six posts have been kept vacant, we are primarily of the view that the order dated 12.10.2012 is in the teeth of the order of the Division Bench dated 19.07.2012. Therefore, State Government has to work out the situation and accommodate the petitioners.”

(vi) It is admitted case that pursuant to the order dated 10.10.2023, passed by the Hon’ble Supreme Court in the SLP, the private respondents were given appointment by the respondent-department.

(vii) Finally, the SLP was dismissed on 03.11.2025.

4. It is the case of the petitioners that they filed impleadment/intervention application in the SLP with regard to which the Hon’ble Supreme Court, in its order dated 03.11.2025, observed as follows:-

> “2. Mr. Ravi Prakash Mehrotra, learned senior counsel, submits that application has been filed for impleadment/intervention and their grievance may also be ventilated. We are not inclined to

> entertain the application and grant liberty to the applicant(s) to approach the Government."

It is thereafter, the petitioners approached the Government by way of a representation, which was rejected by order dated 13.02.2026, *inter alia*, on the ground that the recruitment process, pursuant to the advertisement of the year 2004 has been completed. After noting all these factors, in the impugned order, it was held that the petitioners are not entitled to any relief now with regard to the appointment pursuant to the advertisement of the year 2012.

5. Learned counsel for the petitioners submits that the petitioners have been discriminated; they had secured more marks than three out of those six persons, who were given appointment by the respondent-department pursuant to the order dated 10.10.2023 of the Hon'ble Supreme Court passed in the SLP; in the SLP, the petitioners had filed an impleadment/intervention application, and they were given liberty to agitate the matter, which they agitated, and the representation has been dismissed on 13.02.2026. Therefore, mere on delay, the writ petition ought not to have been dismissed. He further submits that in the first Special Appeal, the Division Bench of this Court had, on 19.07.2012, made it clear that if those writ petitioners were entitled to be appointed, they should be given appointment to the posts, which shall fall vacant in future. He submits that the petitioners' case is covered by that dictum of the order dated 19.07.2012, passed in the first Special Appeal.

6. Learned State Counsel submits that the impugned order is in accordance with law; it does not warrant any

interference; the petitioners did not agitate the matter after 19.07.2012, when the first Special Appeal was decided. The petitioners moved impleadment/intervention application in the SLP before the Hon'ble Supreme Court post order dated 10.10.2023, but their impleadment/intervention application was not entertained by the Hon'ble Supreme Court; mere giving liberty does not revive the limitations. He further submits that the advertisement was issued in the year 2004, and within these 22 years, multiple recruitment processes have already undergone; there is no post vacant pursuant to the advertisement of the year 2004. Therefore, there is no question of offering any appointment to the petitioners now pursuant to the advertisement of the year 2004.

7. Admittedly, after disposal of the first writ petition on 13.10.2011, the State had filed the first Special Appeal, which was also decided on 19.07.2012. What is being argued today is that pursuant to the directions dated 19.07.2012, passed in the first Special Appeal, the petitioners were entitled to the appointment, and this, if the case of the petitioners is admitted, they agitated for the first time by way of filing impleadment/intervention application in the SLP post 10.10.2023, when an order was passed by the Hon'ble Supreme Court in the SLP. It, *per se*, is delayed. After 11 years, the petitioners did awake to file impleadment/intervention application. The private respondents admittedly agitated the matter in the year 2015 by way of the second writ petition, thereafter in the second special appeal and then in the SLP. So the petitioners cannot claim any parity with regard to the litigation with the private respondents.

The private respondents were given appointment pursuant to the order passed by the Hon'ble Supreme Court. Their appointment cannot be tested in the writ petition filed before this Court.

8. It is not the case that the claim of the petitioners, in any manner, entertained by the Hon'ble Supreme Court in the SLP. The Hon'ble Supreme Court on 03.11.2025, categorically held in the SLP on impleadment/intervention application of the petitioners that, **"We are not inclined to entertain the application."** That application was not even entertained. The Hon'ble Supreme Court merely redirected the petitioners to approach the Government. It does not absolve the delay and laches on the part of the petitioners. A process, which began in the year 2004 finally concluded by the order of the Hon'ble Supreme Court on 03.11.2025, cannot be revived.

9. Having considered, we do not see any reason to interfere with the impugned judgment. Consequently, the appeal deserves to be dismissed.

10. The appeal is dismissed.

**(Siddhartha Sah, J.)** **(Ravindra Maithani, J.)**

31.10.2026

Ravi Bisht