SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			SPA/1034/2018 Rajkumar Tiwari --Appellant **Versus** State Of Uttarakhand & Ors. --Respondents **Hon'ble Manoj Kumar Tiwari, A.C.J.** **Hon'ble Subhash Upadhyay, J.** ***(Per: Hon'ble Manoj Kumar Tiwari, ACJ)*** 1. Mr. Nitin Tewari, Advocate, holding brief of Mr. C.K. Sharma, learned counsel for the appellant. 2. Mr. Rajeev Singh Bisht, learned Deputy A.G. with Mr. Sachin Mohan Singh Mehta, learned Standing Counsel for the State. 3. For the reasons indicated in the affidavit accompanying the Delay Condonation Application (CLMA No.136/2019), delay of 02 days in filing the appeal is condoned. Delay Condonation Application stands allowed. 4. This intra-court appeal is filed by the writ petitioner. Learned Single Judge dismissed the Writ Petition (S/S) No.2087 of 2015 filed by him, vide judgment dated 04.10.2018. Learned Single Judge has made observation, regarding conduct of the petitioner in para-1 of the judgment, which is reproduced below:- *"1. Petitioner's step mother namely late Ms. Prema Tiwari was serving as Assistant Teacher in Primary*

			School, Reyuni, Majhkhali, Ranikhet, District Almora. She died during her service period. After the death of his mother, petitioner applied for compassionate appointment under the Dying in Harness Rules. Respondent Department rejected the claim of the petitioner inter alia on the ground that as per High School Certificate, petitioner's date of birth is 30.06.1977 while as per school record, Ms. Prema Tiwari, joined her duties on 01.07.1977 after summer vacation and she did not avail any maternity leave. Therefore, petitioner cannot be son of Ms. Prema Tiwari. Against the order of District Education Officer (Basic) Almora, petitioner approached this Court stating therein that his date of birth is 03.10.1976. This Court, after going through record, vide order 19.08.2002 held the petitioner guilty under Section 340 CrPC and imposed a fine of Rs. 5,000/-. No appeal was filed against the order dated 19.08.2002, therefore, it attained finality. On 24.08.2002, alleged appointment letter was issued pursuant to which, petitioner sought joining. On this, District Education Officer (Basic), Almora issued direction to Assistant Education Officer (Basic) Tarikhet Almora to lodge an FIR, as he has not issued any appointment letter in favour of the petitioner. Consequently, an FIR was lodged. Petitioner was acquitted in the said case by giving benefit of doubt. Petitioner approached the respondent Department to give him joining, as he has been acquitted. District Education Officer once again rejected the claim of the petitioner. Feeling aggrieved, petitioner has approached this Court." 5. It transpires that appellant claimed compassionate appointment on account of death of his mother Late Ms. Prema Tiwari, who was serving as Assistant Teacher in Government Primary School, District Almora. His claim was rejected on the ground that his date of birth, as recorded in high school certificate, is 30.06.1977, while his mother

			joined duties after summer vacation on 01.07.1977 and she did not avail maternity leave, which falsifies his claim that he is son of Late Ms. Prema Tiwari. Against rejection of his claim, appellant filed a writ petition and a Division Bench of this Court dismissed his writ petition with costs of ₹ 5,000/- for making false averment on affidavit; the said judgment attained finality. 6. Appellant thereafter sought joining on the strength of an appointment letter dated 24.08.2002, however, the Appointing Authority denied issuance of any such appointment letter in favour of the appellant. In Writ Petition (S/S) No.2087/2015, petitioner sought a direction to the authorities to allow him to work pursuant to the appointment letter dated 24.08.2002. Learned Single Judge held that since the Competent Authority denied issuance of any appointment letter in favour of the appellant, thus, no relief as sought in the writ petition, can be granted. 7. In para-7 of the counter affidavit filed before the Writ Court by Chief Education Officer, Almora, it is mentioned that District Education Officer (Basic), Almora, vide communication dated 19.10.2002

			informed that his office has not issued any appointment letter and the appointment letter relied upon by the appellant is not available in his office. In reply to para-7, appellant, in his rejoinder affidavit, referred to judgment rendered by Judicial Magistrate in the criminal trial which was initiated against him. 8. The finding returned by criminal court cannot create any right of appointment in favour of appellant, when the Appointing Authority has taken a specific stand that no appointment letter was ever issued in favour of the appellant. Thus, the view taken by learned Single Judge cannot be faulted. There is no scope for interference in the matter. Special appeal fails and is, accordingly, dismissed. No order as to costs. **(Subhash Upadhyay, J.) (Manoj Kumar Tiwari, A.C.J.)** 27.10.2026 Rajni/KK