HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Service Single No. 2485 of 2024

28 October, 2026

Sunil Kumr Rana
1. 1: Usha Devi
1. 2: Siya Rana
1. 3: Swayam Rana

--Petitioner

Versus

State Of Uttarakhand Through Secretary Department Of Secondary Education, Dehradun
2: Director
Secondary Education
U. K. Dehradun
3: Chief Education Officer
Pauri Garhwal
4: Principal
Atal Utkrisht Government Intermediate College
Chaubattakhal
Distt. Pauri Garhwal

--Respondent

Presence:-
Mr. C.D. Bahuguna, learned senior counsel (through V.C), learned counsel for the petitioner.
Mr. R.C. Joshi, learned Brief Holder for the State.

Hon'ble Mr. Justice Rakesh Thapliyal, J.

1. The instant writ petition originally preferred by the petitioner, Sunil Kumar Rana, however, during the pendency of the writ petition he died on 02.02.2026. After the death of original petitoner substitution application was moved for

impleading the legal heirs-wife, daughter and son and the Coordinate Bench allowed the substitution application on 20.04.2026 and now the wife, daughter and son of the original petitioner are impleaded as petitioner nos. 1/1, 1/2 and 1/3 respectively.

2. Now, at this juncture, first of all the relief as sought in this petition by the original petitioner (deceased employee) *namely* Sunil Kumar Rana are being reproduced herein as under:

> "I. Issue a writ, order or direction in the nature of Mandamus, declaring the act of respondents in discontinuing the petitioner from the statutory status of Ad-hoc Lecturer, Mathematics, without notice and opportunity of being heard w.e.f. 21-11-2014, as arbitrary and illegal and violative of principal of natural justice.
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> II. Issue a writ, order or direction in the nature of Mandamus, declaring the act of respondents in removing the petitioner from the post of Lecturer, Mathematics, as violative of the mandate of law, underlined under Section 41 of the 'Uttaranchal Schools Education Act, 2006' as also violative of Article 14, 16 and 21 of the constitution of India.
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> III. Issue a writ, order or the petitioner direction in the nature of certiorari, quashing the impugned order dated 25-07-2019 passed by the respondent no. 3, the Chief Education officer, Pauri Garhwal, contained in Annexure-10 to this writ petition.
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> IV. Issue a writ, order or direction in the nature of Mandamus, commanding the respondents to re-instate the petitioner in service forthwith with all consequential benefits of service on the post of Lecturer, Mathematics in the provincialised Institution, namely, Atal Utkrishta Government Intermediate College, Chaubattakhal, Pauri Garhwal.
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> V. Issue a writ, order or direction in the nature of Mandamus, commanding the respondents to pay arrears of salary to the petitioner w.e.f. 21-11-2014 with interest @ 12% per annum. The petitioner may also be held entitled to claim seniority and notional promotion in the manner it has been granted to one Mr. Bhuwan Chandra Papnai by judgment dated 18.01.2022 passed in WPSS No. 2144 of 2019."

3. Since, on the previous date learned counsel for the petitioner take a plea that the issue is similar to **"Bhuwan Chandra Papnai"**, who approached to this court by way of WPSS No. 2194 of 2019, which was allowed and the judgment was also affirmed by the Apex Court and subsequently given all benefits with reinstatement and on such submission the State Counsel was directed to get instruction from the concerned Secretary and the Director whether the issue as raised is covered by the judgment of the Coordinate Bench dated 18.01.2022 passed in WPSS No. 2144 of 2019, however, today, on instructions Mr. R.C. Joshi, learned Brief Holder for the State, submits that the issue is not covered. In addition to this, learned Brief Holder for the State, submits that the petitioner is no more and in his place his legal heirs have been substituted and in the petition no consequential relief has been sought. In response to this Mr. C.D. Bahuguna, learned senior counsel submits that since during the pendency the original petitioner died, therefore, there is no need to amend the relief clause for the consequential relief since relief (iv) covered consequential reliefs.

4. Now, the brief facts of the case are that the original petitioner (deceased employee) was initially appointed as PTA (Lecturer) in Janta Intermediate College, Chaubattakhal, Pauri Garhwal on 01.07.1996 and in March, 2004 he was paid honorarium of Rs. 4,000/- per month from the Government Exchequer.

5. Subsequently, pursuant to the Government Order dated 03.02.2009 the District Education Officer, Pauri Garhwal on 29.06.2009 granted approval for giving adhoc status and on such approval the deceased employee was given adhoc status

in regular pay scale of Rs. 9,300-34,800 in terms of section 41 of Uttarakhand School Education Act (In short Act No. 06 of 2006) vide Order dated 30.06.2009.

6. Thereafter, pursuant to Government Order dated 05.03.2014 the State Government have decided to provincialize some of the Institution and pursuant thereto the Janta Inter College, Chaubattakhal, Pauri Garhwal was also provincialized on 21.11.2014.

7. Surprisingly, On the date when the Institution was provincialized the petitioner was removed from service on the ground that he is not eligible since he is not B.Ed. qualified.

8. In the meantime, the deceased employee completed B.Ed. in the year of 2016 and subsequently preferred a Writ Petition (SS) No. 1213 of 2019 against his removal and the said writ petition was disposed of finally on 27.05.2019 with the direction to the Chief Education Officer to decide his representation. Subsequently, the Chief Education Officer, Pauri Garhwal, rejected the representation on 25.07.2019.

9. In the meantime, one another person *namely* "Bhuwan Chandra Papnai" also filed a writ petition by raising similar issue, which was allowed by the Coordinate Bench on 18.01.2022 and the Director of Secondary Education was directed to reinstate him in service with all consequential benefits including the arrears of salary with effect from the date of removal i.e. 11.03.2014 till the date of his reinstatement in service with all consequential benefits including seniority and notional promotion.

The said judgment was assailed in Special Appeal No. 310 of 2022 and the same was also dismissed by the Division Bench on 07.03.2024 and the order of the Coordinate Bench was affirmed.

Subsequently, a Special Leave Petition was also filed that too was also dismissed by the Hon'ble Supreme Court on 25.10.2024.

Consequently, in compliance of the directions of writ court the said incumbent *namely* "Mr. Bhuwan Chandra Papnai" was given all benefits including his reinstatement in service by order dated 07.11.2024, the copy of which is also placed on record.

10. Now, for the purposes of claiming the similar benefits as was given to "**Mr. Bhuwan Chandra Papnai**" the original petitioner submit again a representation to the Director of Secondary Education on 20.11.2024, wherein, he has requested to reinstate him in service by giving all benefits, which was given to Mr. Bhuwan Chandra Papnai, but no action was taken thereon and then the instant petition was filed on 30.12.2024 wherein the respondents filed their counter affidavit and rejoinder affidavit is also filed.

11. Mr. C.D. Bahuguna, learned senior counsel, who appears for the petitioner, vehemently argued that firstly when the petitioner was given the adhoc status he was eligible as per the existing rules. He submits that the deceased petitioner was removed on the ground that he is not holding B.Ed. qualification, though, as a matter of fact, the B.Ed. qualification was included under Chapter II of the Regulations of 2009 (framed under Uttarakhand School Education Act, 2006), which

came into force w.e.f. the date of it's publication in the official gazette i.e. 10.07.2009, hence, the amended eligibility criteria in terms of 2009 regulations was applicable prospectively and not retrospectively, hence, it will not invalidate the adhoc status of the deceased petitioner, which infact was given Adhoc Status in terms of section 41 of Uttarakhand School Education Act, 2006.

12. Mr. C.D. Bahuguna further submits that the sole ground for rejecting the petitioner's representation was that he lacks B.Ed qualification, though as a matter of fact the B.Ed qualification was inserted from the date of enforcement of regulations of 2009, which came into force from the date of its publication in the official gazette i.e. 10.07.2009 though much prior to that the petitioner was granted Adhoc Status on 30.06.2009. He submits since the adhoc status was granted on 30.06.2009 under the prevailing norms and the criteria of B.Ed. qualification under Chapter II of Regulation 2009 came into force on 10.07.2009, therefore, the amended rules of 2009 should applied strictly prospectively and retrospectively and as such it cannot invalidate the adhoc status of the deceased petitioner.

13. In addition to this, Mr. C.D. Bahuguna further submits that in an identical issue one Bhuwan Chandra Papnai preferred a Writ Petition (SS) No. 2144 of 2019, which was allowed on 18.01.2022 by the Coordinate Bench, which attains finality since finally the SLP was also dismissed and subsequently he was given all benefits including reinstatement in service on 07.11.2024, therefore, the petitioner cannot be discriminated also on this account also.

In furtherance of his argument, Mr. Bahuguna also submits that one another person *namely* Raghuveer Singh Negi

was granted 3 years time to obtain B.Ed. degree without removing him from service and a specific averment has been made in this regard which has not been denied but at the relevant point of time no such opportunity was given to the petitioner to obtain B.Ed. degree though subsequently the deceased petitioner obtained B.Ed degree in the year of 2016. Thus, the denying the similar benefits to the petitioner constitute a violation of Article 14 of the Constitution of India.

14. In reference to the laches Mr. C.D. Bahuguna submits since the issue as involved was settled by the Hon'ble Apex Court by dismissing the SLP on 25.10.2024 and the person concerned Mr. Bhuwan Chandra Papnai was subsequently reinstated on 07.11.2024 with all benefits and thereafter the petitioner immediately represent to the Director on 20.11.2024, therefore, the laches will not come to his way particularly when the issue was finally decided by the Hon'ble Apex Court on 25.10.2014.

15. On the other side, Mr. R.C. Joshi, learned Brief Holder for the State, strongly oppose the submissions of Mr. Bahuguna by submitting that in terms of Regulations 36, 37 and 38 of Chapter II of Regulation of 2009 as framed under Uttarakhand School Education Act, 2006 the minimum qualification for appointment of teachers in Government Aided Private Schools is the same as has been prescribed in the Government Secondary Schools. He submits that since Uttarakhand Special Sub Ordinate (Lecturer Cadre) Service Rules, 2008 provides the eligibility as Masters degree in the relevant subject as well as B.Ed degree, therefore, the B.Ed. is the essential qualification for appointment in the Government Aided Institution by virtue of Regulations 36, 37 and 38 under Chapter II of Regulation

2009, therefore, the petitioner was rightly removed on the ground that he was not B.Ed. qualified.

16. Mr. Joshi, learned Brief Holder for the State, further argues that so far as the case of "Bhuwan Chandra Papnai" is concerned, he was initially appointed as PTA Teacher on a proposal of the Management against vacant post of Lecturer with the approval of Parents Teacher Association whereas the deceased petitioner was appointed by the Manager of the Institution on the vacant post of Lecturer as a volunteer on 30.06.1996, therefore, his initial induction as PTA Teacher was not according to the rules since no such legal process was followed at the time of his induction as a PTA Teacher, therefore, the petitioner cannot take the parity of this incumbent.

In reference to another instance of Raghuveer Singh Negi Mr. Joshi submits that the said incumbent was appointed as a regular teacher by the management in Inter College, Seeku and continued as such for 23 years from 1989 till the Institution was provincialized on 22.12.2012, therefore, the petitioner cannot take the plea of this incumbent also.

17. Finally, Mr. Joshi, learned Brief Holder for the State, concluded his argument by submitting that the petition is heavily barred by the delay and laches as the petitioner approach this court nearly 5 years after his initial representation was rejected on 25.07.2019, therefore, the petition is liable to be dismissed on the ground of laches.

18. Having heard learned counsel for both the parties and having perused the materials on record there is no dispute that the original petitioner was given adhoc status after due

approval on 30.06.2009 whereas the Regulations of 2009 framed under the provisions of Uttarakhand School Education Act was came into force on 10.07.2009 the date when regulations were published in the official gazette, therefore, the requirement of B.Ed. as introduced and inserted shall apply prospectively and will not apply retrospectively and there is no dispute that at the time when the adhoc status was given to the petitioner the B.Ed. was not the eligibility for appointment of Lecturer in Government Aided Institution, therefore, the requirement of B.Ed. qualification which came into force by virtue of Regulation of 2009 w.e.f. 10.07.2009 will not take away the adhoc status of the petitioner. Admittedly, while rejecting the representation of the petitioner this aspect is nowhere has been dealt with by the officer concerned.

No doubt, the Regulations 36, 37 and 38 under Chapter II of Regulation of 2009 mandates Masters degree with B.Ed. for appointment as Lecturer in Government Aided Private Secondary Schools but the fact remains the Regulation came into force w.e.f. 10.07.2009 whereas prior to that the petitioner was given adhoc status in terms of section 41 of Uttarakhand School Education Act, therefore, any subsequent amendment of change in eligibility criteria will not take away a legal and enforceable right, which accrued in favour of incumbent prior to such amendment.

19. So far as the issue of Bhuwan Chandra Papnai is concerned, the submissions as advanced by the learned Brief Holder for the State cannot be accepted for the simple reason that the original petitioner (deceased employee) was given adhoc status in terms of section 41 of the Uttarakhand School Education Act, which was never been cancelled or recalled.

Therefore, the arguments as advanced on behalf of the respondents that the case of "Bhuwan Chandra Papnai" is distinguishable is not acceptable. Since the issue as raised is dealt with by the Coordinate Bench which attains finality in the case of Bhuwan Chandra Papnai, who subsequently in compliance of the order of writ court reinstated with all benefits, therefore, the petitioner (deceased employee) cannot be discriminated on this account also and, as such, this court holds that the original petitioner (deceased employee) is entitled to get the same benefit as was given to "Mr. Bhuwan Chandra Papnai" in terms of the judgment passed by the Coordinate Bench dated 18.01.2022 in WPSS No. 2144 of 2019.

20. So far as the instance of Raghuveer Singh Negi is concerned, it has some relevance particularly when the petitioner also obtained B.Ed. degree in the year of 2016 after his removal. Therefore, the question is if Mr. Raghuveer Singh Negi was given sufficient time to obtain B.Ed. degree why the original petitioner was not given opportunity to obtain B.Ed. degree, therefore, on this account also the petitioner (deceased employee) cannot be discriminated.

21. So far as the argument of learned counsel for the respondents with regard to the delay and laches is concerned there is no dispute that identical issue was dealt with by the Coordinate Bench in the case of Bhuwan Chandra Papnai, which now attains finality after dismissal of the SLP by the Hon'ble Supreme Court on 25.10.2024 and thereafter the said incumbent was given all benefits on 07.11.2024 and, therefore, the legitimate claim of the original petitioner (deceased employee) cannot be rejected only on account of laches. The original petitioner (deceased employee) approach to this court

under Article 226 of the Constitution of India by taking plea that other similarly situated incumbent has been given all benefits in compliance of the order of the Writ Court, therefore, when a legal and enforceable right is accrued in favour of a person his claim cannot be rejected merely on the ground of laches, hence, the submissions as advanced by the respondent is outrightly rejected.

22. So far as the consequential relief after death of the original petitioner is concerned the learned State counsel submits that there is no such amendment with regard to consequential reliefs. This court will not go on to all those technicalities particularly in view of relief (iv), which in the opinion of this court covers all consequential reliefs.

23. Consequent upon the observation and the finding as recorded above, the instant writ petition is allowed. A writ of certiorari is issued and the impugned order dated 25.07.2019 passed by the Chief Education Officer is hereby quashed, and now this court issues the following directions to the respondents:

i. The respondents are directed to treat the original petitioner (deceased employee) Late Sunil Kumar Rana to be in service as Lecturer at Janta Inter College w.e.f. 21.11.2014 (the date of provincialization) by giving the same parity as given to “Mr. Bhuwan Chandra Papnai” with continuity in service for all purposes upto his death.

ii. The respondents are directed to calculate the arrear of salary and other consequential benefits from the date of his removal till his death and release all the benefits equally to the substituted petitioners i.e. 1/1, 1/2 and 1/3

(within a period of eight weeks from the date of receipt of certified copy of this order).

iii. The respondents are further directed to compute and release all death-cum-retiral benefits including gratuity and leave encashment to the legal heir the wife.

iv. The respondents are further directed to finalize and sanction family pension in favour of the widow petitioner no. 1/1 within a period of three months along with arrears of pension from 03.02.2026 onwards.

It is made clear that in the event of non compliance within the stipulated period all monitory benefits shall carry an interest rate of 6 percent per annum till the actual payment is made.

24. No order as to costs.

(Rakesh Thapliyal, J.)

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