
(2026) 01 UK CK 1849

In the Uttarakhand High Court

Case No : Writ Petition Service Bench No. 793 Of 2024

Nagendra Prasad Sharma

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 05-01-2026

Acts Referred:

Uttar Pradesh State Universities Act, 1973 — Section 49
Constitution Of India, 1950 — Article 226

Citation : (2026) 01 UK CK 1849

Hon'ble Judges : Ravindra Maithani, J;Alok Mahra, J

Bench : Division Bench

Advocate : Vipul Sharma, P.S. Bist, Mamta Bisht

Final Decision : Allowed

Judgement

Alok Mahra, J

1. By means of the present writ petition under Article 226 of the Constitution of India, the petitioner seeks issuance of a writ in the nature of certiorari for quashing the impugned order dated 28.05.2024 passed by respondent no.3, whereby the date of superannuation of the petitioner has been fixed as 31.01.2025. A further prayer has been made for issuance of a writ in the nature of mandamus directing the respondents to grant the benefit of re-employment till the end of the academic session, i.e., 30.06.2025, in terms of paragraph 16.24 of the First Statute of Kumaun University.

2. Brief facts, as borne out from the record, are that the petitioner is presently working as Assistant Professor, Physical Education Department/Sports Officer, Kumaun University, Nainital. The date of birth of the petitioner is 01.02.1960, and he was shown to be superannuating on 31.01.2025 on attaining the age of 65 years. The petitioner was initially appointed as a Coach in the Physical Education Department in the year 1990. Subsequently, in the year 1998, he was appointed as Deputy Sports Officer/Deputy Sports Secretary. Thereafter, on

20.07.2008, after undergoing a regular selection process, the petitioner was appointed as Assistant Professor, Physical Education Department, Kumaun University, on a substantive basis. The grievance of the petitioner arises from the impugned order dated 28.05.2024, passed by respondent no.3, whereby the petitioner has been directed to retire on 31.01.2025, without granting him the benefit of continuation till the end of the academic session, as provided under paragraph 16.24 of the First Statute of Kumaun University.

3. Learned counsel for the petitioner would submit that the petitioner attained the age of 65 years on 31.01.2025, and since his date of superannuation does not fall on 30th June, he is statutorily entitled to continue till the end of the academic session, i.e., 30.06.2025, and such continuation is to be treated as re-employment; that, the petitioner is a teacher involved in classroom teaching, which is also evident from the letter dated 07.12.2024 issued by the Head of the Department, Physical Education, recommending the petitioner for re-employment; that, respondent no.3 has failed to consider Section 49 of the Uttar Pradesh State Universities Act read with paragraph 16.24 of the First Statute of Kumaun University, rendering the impugned order illegal and unsustainable. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in Naveen Chand Dhaundiyal vs. State of Uttarakhand, (2023) 12 SCC 463, wherein it has been held that teachers retiring mid-academic session are entitled to continue till the end of the academic year.

4. He would further submit that Section 49 of the Uttar Pradesh State Universities Act empowers the Statutes to govern service conditions of teachers, including age of retirement and the Paragraph 16.24 of the First Statute of Kumaun University provides as under:

"16.24 (1) The age of superannuation of a teacher of the University shall be sixty-five years.

(2) No extension in service beyond the age of superannuation shall be granted:

Provided that a teacher whose date of superannuation does not fall on June 30 shall continue in service till the end of the academic session, i.e., June 30 following, and shall be treated as on re-employment from the date immediately following his superannuation till 30th June."

5. Learned counsel for respondent nos.2 and 3 would submit that Paragraph 16.24 applies only to teachers who were in service prior to 01.08.1975, and since the petitioner was appointed much later, he is not entitled to the benefit; that, the petitioner has been rightly retired as per the impugned order dated 28.05.2024. She would further submit that that paragraph 16.24 has been deleted/amended vide memorandum dated 24.02.2025 with the approval of the Government/Chancellor, and therefore, no benefit can be granted.

6. Per contra, learned counsel for the petitioner would submit that the petitioner continued in service and was paid salary even on 30.01.2025, which clearly

indicates subsisting entitlement; that, the amendment dated 24.02.2025 can operate only prospectively and cannot divest the petitioner of a vested statutory right which had already accrued on the date of his superannuation.

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

8. It is undisputed that the petitioner is working as an Assistant Professor, having been appointed through a regular selection process, and is engaged in teaching activities. Thus, he squarely falls within the definition of a "teacher". Paragraph 16.24 of the First Statute, as it stood on the date of the petitioner's superannuation, clearly mandates that a teacher whose date of retirement does not fall on 30th June shall continue till the end of the academic session, and such continuation shall be treated as re-employment. The contention of the respondents that paragraph 16.24 applies only to teachers appointed prior to 01.08.1975 is misconceived, as the proviso relied upon has no application to the main statutory benefit of continuation till the end of the academic session.

9. The amendment/deletion of paragraph 16.24 vide memorandum dated 24.02.2025 is admittedly subsequent to the petitioner's superannuation on 31.01.2025. It is a settled principle of law that service benefits crystallized under an existing statute cannot be taken away retrospectively, unless expressly provided. The judgment of the Hon'ble Supreme Court in Naveen Chand Dhaundiyal (supra) squarely applies to the present case and fortifies the petitioner's claim.

10. In view of the aforesaid discussion, this Court is of the considered opinion that the impugned order dated 28.05.2024 is arbitrary, illegal, and contrary to the statutory provisions.

11. Accordingly, the writ petition is allowed. The impugned order dated 28.05.2024 passed by respondent no.3 is quashed. The petitioner shall be treated as continuing in service by way of re-employment from 01.02.2025 till 30.06.2025, with all consequential benefits.