

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 350 of 2005 (S/B)

Government Pensioners' Welfare Organization,
Uttaranchal through its District President
Sri G.D. Upreti, aged about 76 years,
S/o late Sri Amba Dutt Upreti,
R/o Shankar Bhawan, Purvi Pokharkhali,
District Almora.

..... Petitioner

Versus

1. State of Uttaranchal through
Secretary (Finance) Dehradun,
District Dehradun.
2. State of Uttaranchal through
Secretary, Department of Education,
Dehradun, District Dehradun.
3. Director, Secondary Basic Education,
Uttaranchal, Dehradun, District Dehradun. Respondents

.....
Sri Rakesh Thapliyal, Advocate for the petitioner.
Sri J.P. Joshi, Additional Chief Standing counsel for the respondents.

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C.J. (Oral)

Sri Rakesh Thapliyal, Advocate for the petitioner.

Sri J.P. Joshi, Additional Chief Standing counsel for the respondents.

2. Sri J.P. Joshi, the learned counsel for the respondents has raised a preliminary objection about the maintainability of the writ petition on the ground that the petitioner has an alternative efficacious remedy of filing a claim petition before the Public Services Tribunal for the redressal of the grievances projected in the writ petition.

3. Sri Rakesh Thapliyal, the learned counsel for the petitioner could not demonstrate as to how the alternative remedy of filing the claim petition before the Public Services Tribunal is not efficacious in the present case.

4. In this view of the matter and following the Division Bench decisions of this Court in the cases of **Bhuwan Chandra Pandey and others Vs. State of Uttaranchal and others** reported in **2006 (2) U.D. 439**

and **Nanda Ballabh Pant Vs. State of Uttaranchal and others (W.P.No. 257 (S/B) 2005)**, we decline to exercise our discretionary jurisdiction under Article 226 of the Constitution of India.

5. The writ petition, therefore, is liable to be dismissed and is hereby dismissed with the liberty to the petitioner to avail the alternative remedy of filing a claim petition before the Public Services Tribunal and also seek the condonation of delay in filing the claim petition on the ground that the petitioner was pursuing this writ petition under *bona fide* belief.

(J.C.S. Rawat, J.)
30.03. 2007

(Rajeev Gupta, C.J.)
30.03.2007

A