

Judgment reserved on: 01.07.2026
Judgment delivered on: 07.07.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Service Single No.1347 of 2015

Bhopal Chandra Pancholi

--Petitioner

Versus

State Election Commission, through its Deputy Secretary & Ors.

--Respondents

Presence:-

Mr. Aditya Singh, learned counsel for petitioner.

None present for respondent Nos.1 and 2.

Mr. Anil Kumar Bisht, learned counsel for respondent No.3.

Mr. Bhupendra Singh Koranga, learned Brief Holder for the State of Uttarakhand/respondent No.4.

Hon'ble Pankaj Purohit, J. (Oral)

By means of present writ petition, petitioner has sought the following reliefs:-

- i) Issue a writ, order or direction, in the nature of certiorari quashing the impugned Government order no.770/XVII (7)/ (40)/2011 dated 6.11.2013 issue by the State Government being violative of Article 134, 39(1) (d) & 311-2 of the Constitution of India annexed as Annexure No.8 to the writ petition.
- ii) Issue a writ, order or direction, in the nature of certiorari quashing the impugned orders dated 13.5.2014 & 19.3.2015 issued by the respondents annexed as Annexure Nos.18 & 20 to the writ petition.
- iii) Issue a writ, order or direction in the nature of mandamus commanding the respondent to resettle the grant of III A.C.P. after taking into consideration the services rendered by the petitioner w.e.f. 1.4.1985 in Municipal Board, Pithoragarh prior to his retrenchment as surplus employee of Optroy Department and to pay all the arrears to which the petitioner is entitled.

2. The facts of the case are that petitioner was initially appointed as a Peon in Nagar Palika Parishad, Pithoragarh on 01.04.1985 and his services were regularized with effect from 02.04.1986. Thereafter, pursuant to an order dated 19.10.1996, he was appointed as a Class-IV employee in the State Election Commission and joined the office of District Election Officer (Panch Sthaniya), Pithoragarh on 07.11.1996, after being relieved from Nagar Palika Parishad, Pithoragarh. Petitioner claims that while computing the qualifying service for grant of third Assured Career Progression (A.C.P.), respondents failed to take into consideration the period of service rendered by him in

Nagar Palika Parishad from 01.04.1985 to 07.11.1996. According to him, the benefit of third A.C.P. was initially extended by order dated 10.03.2014 after counting the said period of service. However, the said benefit was subsequently withdrawn by order dated 13.05.2014 in view of Government Orders dated 08.03.2011, 01.07.2013 and 06.11.2013, whereby, earlier service rendered in the local body was excluded for the purpose of computing qualifying service for grant of A.C.P. Aggrieved thereby, petitioner has preferred the present writ petition seeking quashing of the Government Orders dated 06.11.2013 and the consequential order dated 13.05.2014, besides praying for a direction to the respondents to consider the service rendered by him in Nagar Palika Parishad for the purpose of grant of third A.C.P. along with all consequential benefits.

3. Learned counsel for petitioner submits that petitioner was initially appointed as a Peon in Nagar Palika Parishad, Pithoragarh on 01.04.1985 and was regularized on 02.04.1986. Thereafter, pursuant to an order dated 19.10.1996, he joined the services of the State Election Commission on 07.11.1996. It is contended that respondents have illegally ignored the period of service rendered by petitioner in Nagar Palika Parishad while determining his eligibility for the grant of third Assured Career Progression (A.C.P.). According to petitioner, previous service rendered in a statutory local body cannot be treated as non-existent merely because he subsequently joined another Government establishment, particularly when such service had been duly recognized for the purpose of pay protection at the time of his appointment in the State Election Commission.

4. He further submits that petitioner had rightly been granted the benefit of third A.C.P. vide order dated 10.03.2014 after taking into consideration his entire qualifying service. However, the said benefit was arbitrarily withdrawn by impugned order dated 13.05.2014 solely on the basis of Government Orders dated 08.03.2011, 01.07.2013 and 06.11.2013, which, according to petitioner, have been

misconstrued by respondents. He contends that the Government Orders do not contemplate exclusion of the service rendered by an employee in a statutory local body while computing qualifying service for the grant of A.C.P. and that respondents have adopted an erroneous interpretation, defeating the very object of the A.C.P. Scheme meant to remove stagnation in service.

5. It is also argued by the learned counsel for petitioner that the withdrawal of benefit already granted is arbitrary, retrospective in operation and violative of the principles of natural justice, as no opportunity of hearing was afforded to petitioner before passing the impugned order. It is further argued by him that respondents failed to consider the various recommendations and communications issued by the competent authorities, including Deputy Secretary, Housing Department, Executive Officer, Nagar Palika Parishad and other departmental authorities, recommending that petitioner's past service be counted for the purpose of third A.C.P. It is contended by him that petitioner's repeated representations were not decided in accordance with law and respondents mechanically relied upon departmental communications to deprive him of his legitimate service benefits.

6. Learned counsel for petitioner contends that the impugned Government Order dated 06.11.2013, insofar as it excludes the service rendered in a previous Government or statutory organization for the purpose of grant of third A.C.P., is arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India. He further contends that once petitioner's previous service has been acknowledged for pay protection and continuity of service, there exists no rational basis to disregard the same for the purpose of extending the benefit of A.C.P. Scheme.

7. Counter affidavit has been filed by respondent- State Election Commission, the main contesting party, as well as by the other respondents. In the counter affidavit respondent-State Election Commission stated that writ petition is misconceived and devoid of merit. It is further stated that petitioner was

initially appointed as a Peon in Nagar Palika Parishad, Pithoragarh and thereafter, joined the services of State Election Commission pursuant to a fresh appointment with effect from 07.11.1996. It is also stated that petitioner cannot claim the benefit of continuity of service for the purpose of grant of third Assured Career Progression (A.C.P.), as the services rendered in the Nagar Palika Parishad, being a local body, cannot be equated with service rendered under the State Government. It is further contends that petitioner has failed to point out any statutory provision or executive instruction entitling him to reckon the service rendered in the local body for the purposes of A.C.P. Scheme.

8. It is further contended in counter affidavit of respondent-State Election Commission that grant of A.C.P. is regulated by Government Orders dated 08.03.2011, 01.07.2013 and 06.11.2013, which specifically govern the eligibility criteria for grant of financial upgradation. It is contended that in view of the clarification issued by Finance Department vide Government Order dated 06.11.2013, only the regular service rendered under the State Government is liable to be counted for the purpose of A.C.P., whereas, the service rendered in local bodies, autonomous institutions and other organizations stands excluded. According to respondent-State Election Commission, the benefit of third A.C.P. was initially granted to petitioner due to an inadvertent error in calculating the qualifying service and, upon detection of the mistake, same was rightly withdrawn by the impugned order dated 13.05.2014. It is submitted that no vested or accrued right can arise from an order passed contrary to the applicable Government Orders.

9. It is further submitted by the respondent-State Election Commission that the petitioner's reliance upon the benefit of pay protection and the recommendations made by various departmental authorities is wholly misconceived. According to respondent-State Election Commission, principles governing pay protection and those regulating eligibility for A.C.P. operate in distinct fields and are governed by different executive instructions. It is also submitted that because

petitioner's previous service was taken into consideration for pay fixation does not confer any right to count such service for the purpose of grant of A.C.P. It is also submitted that the recommendations or communications issued by the Housing Department, Election Department or other authorities do not create any enforceable right in favour of the petitioner, as the Finance Department alone is competent to prescribe the policy governing the A.C.P. Scheme, which is binding upon all departments.

10. Respondent-State Election Commission submitted that, pursuant to the directions of this Court, respondents have also placed on record petitioner's appointment order, regularization order and other service records by way of supplementary counter affidavit, which establish that petitioner initially served under the Nagar Palika Parishad before joining the State Election Commission. It is also submitted that the Urban Development Department has merely clarified the factual position and has supported the stand of Finance Department regarding the applicability of Government Orders. The impugned action is stated to have been taken strictly in accordance with the applicable Government Orders and uniformly applied to all similarly situated employees. It is, therefore, submitted that there is no violation of Articles 14 or 16 of the Constitution of India or of the principles of natural justice, and the writ petition, being devoid of merit, deserves to be dismissed.

11. Having heard learned counsel for the parties and having perused the material available on record, this Court finds that the principal issue arising for consideration is whether the service rendered by petitioner in Nagar Palika Parishad, Pithoragarh, prior to his appointment in the State Election Commission can be reckoned as qualifying service for the purpose of grant of third Assured Career Progression (A.C.P.). The claim of petitioner is founded on the premise that his previous service in the Nagar Palika Parishad ought to be counted towards qualifying service for the grant of A.C.P. However, the grant of A.C.P. is governed by the Government Orders issued by Finance Department, namely Government

Orders dated 08.03.2011, 01.07.2013 and 06.11.2013, which regulate the eligibility criteria for financial upgradation. Petitioner has failed to point out any statutory provision or executive instruction entitling him to count the service rendered in the Nagar Palika Parishad for the purpose of grant of A.C.P. after his appointment in the State Election Commission. The contention that previous service was taken into consideration for pay protection also does not advance petitioner's case. Pay protection and financial upgradation under the A.C.P. Scheme operate in distinct fields and are governed by different provisions. Merely because petitioner's past service was recognized for pay fixation cannot, by itself, confer a right to claim the benefit of A.C.P. by considering the said service. Likewise, initial grant of the third A.C.P., if made contrary to the applicable Government Orders, did not create any vested right in favour of petitioner, and the competent authority was justified in rectifying the error by passing the impugned order.

12. This Court also finds no merit in the challenge to the Government Order dated 06.11.2013, as no material has been placed on record to demonstrate that the same is arbitrary, discriminatory or violative of any statutory or constitutional provision. The impugned order dated 13.05.2014 has been passed in consonance with the applicable Government Orders governing the A.C.P. Scheme and, therefore, warrants no interference in exercise of the writ jurisdiction.

13. Accordingly, the writ petition is dismissed.

14. Pending application(s), if any, stands disposed of.

(Pankaj Purohit, J.)
07.07.2026