



सत्यमेव जयते

UTTARAKHAND COURT NEWS

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High Court of Uttarakhand, Nainital

EDITORIAL BOARD

Hon'ble Mr. Justice Sudhanshu Dhulia

Hon'ble Mr. Justice U. C. Dhyani

COMPILED BY

Kanta Prasad, Registrar General, High Court of Uttarakhand

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View of Nainital

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UTTARAKHAND HIGH COURT

LIST OF JUDGES (As on 1st April, 2016)

SL. No.	Name of the Hon'ble Judge	Date of Appointment
1.	Hon'ble Mr. Justice K.M. Joseph (Chief Justice)	31.07.2014
2.	Hon'ble Mr. Justice V.K. Bist	01.11.2008
3.	Hon'ble Mr. Justice Sudhanshu Dhulia	01.11.2008
4.	Hon'ble Mr. Justice Alok Singh	26.02.2013
5.	Hon'ble Mr. Justice Servesh Kumar Gupta	21.04.2011
6.	Hon'ble Mr. Justice Umesh Chandra Dhyani	13.09.2011

* * * * *

Transfer, Promotions & Appointments of Judicial Officers

S. No.	Name & Designation of the Officer	Place of Posting	Date of Order
1	Smt Monika Mittal Registrar, State Consumer Redressal Commission, Uttarakhand	Addl. Dist. Judge, Khatima, U. S. Nagar	28.04.16
2	Sri Manoj Garbyal . 2 nd A. D. J. , Rishikesh, Dist. Dehradun	Addl. Dist. Judge, Laksar, Haridwar	28.04.16
3	Sri Sujeet Kumar A.D.J. Laksar, Haridwar	Addl. Dist. Judge, Ramnagar, Nainital	28.04.16
4	Sri Mithilesh Jha, OSD/ Dep. Secretary, S L S A, Uttarakhand, Nainital	Chief Judicial Magistrate, Uttarkashi	28.04.16
5	Sri Rajoo Kumar Srivastava, Chief Judicial Magistrate, Pauri Garhwal	Civil Judge (S.D.), Khatima, U.S.Nagar	28.04.16
6	Sri Dharmendra Singh Adhikari, Civil Judge(S.D.), Roorkee, Haridwar	Chief Judicial Magistrate, Pauri Garhwal	28.04.16
7	Sri Manindra Mohan Pandey, Addl. Judge, Family Court, Rishikesh, Dehradun	Civil Judge (S.D.), Laksar, Haridwar	28.04.16
8	Sri Sudhir Tomar, Addl. Civil Judge (S.D.), Roorkee, Haridwar	Civil Judge (S.D.), Roorkee, Haridwar	28.04.16
9	Sri Laxman Singh, Civil Judge(S.D.), Vikas Nagar, Dehradun	Civil Judge(S.D.), U.S. Nagar	28.04.16
10	Sri Mohd. Yusuf, 3 rd Addl. Civil Judge(S.D.), Dehradun	Principal Magistrate/Judicial Magistrate(1 st Class), Juvenile Justice Board, Dehradun	28.04.16
11	Smt Gunjan Singh, 1 st A.C.J.M, Dehradun	Civil Judge (S.D.), Pauri Garhwal	28.04.16
12	Sri Yogendra Kumar Sagar, Civil Judge (S.D.)/Secretary, D.L.S.A., Pauri Garhwal	2 nd Addl. Civil Judge (S.D.), U.S. Nagar	28.04.16
13	Sri Mohammad Yaqoob, Civil Judge(J.D.), Rishikesh, Dehradun	Civil Judge(J.D.), Dehradun	28.04.16

14	Ms Chhavi Bansal, Civil Judge(J.D), Dehradun	Civil Judge(J.D.), Ramnagar, Nainital	28.04.16
15	Ms Ritika Semwal, 1 st Addl. Civil Judge (J.D.), Haldwani, Nainital	Principal Magistrate/Judicial Magistrate(1 st Class), Juvenile Justice Board, Haridwar	28.04.16
16	Sri Sayed Gufran, Principal Magistrate/Judicial Magistrate (1 st Class), Juvenile Justice Board, U.S. Nagar	Civil Judge(J.D.), Srinagar, Pauri Garhwal	28.04.16
17	Sri Harsh Yadav, Civil Judge(J.D.), Roorkee, Haridwar	Civil Judge (J.D.), Chamoli	28.04.16
18	Sri Ravi Shankar Mishra, Civil Judge (J.D.), Haridwar	Civil Judge (J.D.), Bageshwar	28.04.16
19	Sri Sandip Kumar Tiwari, Civil Judge (J.D.), Ramnagar, Nainital	Civil Judge (J.D.), Roorkee, Haridwar	28.04.16
20	Ms Shweta Rana Chauhan, 1 st Addl. Civil Judge (J.D.), Dehradun	1 st Addl. Civil Judge (J.D.), Nainital	28.04.16
21	Sri Avinash Kumar Srivastava, Civil Judge (J.D.), Pithoragarh	1 st Addl. Civil Judge (J.D.), Dehradun	28.04.16
22	Ms Tricha Rawat, Judicial Magistrate-I, Haridwar (Principal Magistrate, J J B, Haridwar)	Civil Judge(J.D.), Narendra Nagar, Tehri Garhwal	28.04.16
23	Sri Sanjeev Kumar, Civil Judge (J.D.), Tharali, Chamoli	Principal Magistrate/Judicial Magistrate(1 st Class), Juvenile Justice Board, U.S. Nagar	28.04.16
24	Ms Shama Nargis, 1 st Addl. Civil Judge(J.D.), Haridwar	1 st Addl. Civil Judge(J.D.), Kashipur, U.S. Nagar	28.04.16
25	Ms Neha Kushwaha, Civil Judge(J.D.), Garur, Bageshwar	1 st Addl. Civil Judge(J.D.), Haldwani, Nainital	28.04.16
26	Ms Anita Kumari, 1 st Addl. Civil Judge(J.D.), Roorkee, Haridwar	Civil Judge(J.D.), Almora	28.04.16
27	Ms Neha Qayyum, 2 nd Addl. Civil Judge(J.D.), Dehradun	Judicial Magistrate, Pithoragarh	28.04.16
28	Sri Akram Ali, Judicial Magstrate-II, Dehradun	Civil Judge(J.D.), Pithoragarh	28.04.16

29	Sri Neeraj Kumar, Civil Judge(J.D.),Chamoli	2 nd Addl. Civil Judge(J.D.), Dehradun	28.04.16
30	Sri Ashok Kumar, Civil Judge (J.D.), Almora	Civil Judge (J.D.), Karnprayag, Chamoli	28.04.16
31	Smt Payal Singh, Civil Judge (J.D.), Karnprayag, Chamoli	Civil Judge(J.D.), Haridwar	28.04.16
32	Ms Rashmi Goyal, Civil Judge(J.D.), Narendra Nagar, Tehri Garhwal	Civil Judge(J.D.), Rishikesh, Dehradun	28.04.16
33	Ms Afiya Mateen, 1 st Addl. Civil Judge(J.D.), Kashipur, U. S. Nagar	Judicial Magistrate-II, Dehradun	28.04.16
34	Sri Ravindra Dev Mishra, Judicial Magistrate, Pithoragarh	1 st Addl. Civil Judge(J.D.), Haridwar	28.04.16
35	Ms Anamika, 1 st Addl. Civil Judge(J.D.), Nainital	2 nd Addl. Civil Judge(J.D.), Nainital	28.04.16

1	Sri D.P. Gairola, Registrar General, High Court of Uttarakhand, Nainital	Dist. & Sessions Judge, Hardwar	02.05.16
2	Sri N. S. Dhanik, Dist. & Sessions Judge, Hardwar	Dist. & Sessions Judge, Dehradun	02.05.16
3	Sri Kanta Prasad, Registrar (Vigilance), High Court of Uttarakhand, Nainital	Registrar General, High Court of Uttarakhand, Nainital	02.05.16
4	Sri G.S. Dharamshaktu, Principal Judge, Family Court,Dehradun	Dist. & Sessions Judge, Uttarkashi	02.05.16
5	Ms Kahkasha Khan, Addl. Secretary-cum-Addl. L.R., Govt. of Uttarakhand, Dehradun	Dist. & Sessions Judge, Chamoli	31.05.16
6	Sri Alok Verma Dist. Judge Chamoli	Secretary-Cum addl. L.R. Govt. of Uttarakhand Dehradun	01.06.16
7	Sri Ritesh Kumar Srivastava Civil Judge (S. D.) Pithoragarh	Joint Secretary-Cum-Joint L.R. Govt. of Uttarakhand Dehradun	07.06.16
8	Sri Bharat Bhushan Pandey Registrar, High Court of Uttarakhand Nainital	Addl. Secretary, Legislative & Parliamentary affairs, Govt. of Uttarakhand Dehradun	17.06.2016

Newly Recruited Civil Judge (J.D.) 2014 Batch

S. No.	Name & Designation of the Officer	Place of Posting	Date of Order
1.	Ms. Bushra Kamal	Judicial Magistrate III Dehradun	20.06.16
2.	Sri. Sachin Kumar	Judicial Magistrate II Rudrapur , U.S. Nagar	20.06.16
3.	Sri. Ramesh Chandra	Civil Judge (J.D.) Gangolihat, Pithragarh	20.06.16
4.	Ms. Meenakshi Sharma	2 nd Addl. Civil Judge (J.D.), Hardwar	20.06.16
5.	Ms. Ashalika Pandey	5 th Addl. Civil Judge (J.D.), Dehradun	20.06.16
6.	Ms. Bharti Mangalani	Judicial Magistrate III, Hardwar	20.06.16
7.	Sr. Vishal Vashisht	Civil Judge (J.D.) Barkot, Uttarkashi	20.06.16
8.	Ms. Aishwarya Bora	3 rd Addl. Civil Judge (J.D.), Hardwar	20.06.16
9.	Ms. Parul Thapliyal	3 rd Addl. Civil Judge (J.D.), Kashipur U.S. Nagar	20.06.16
10.	Sri Amit Bhatt	Civil Judge (J.D.) Gairsen, Chamoli	20.06.16
11.	Ms. Chandreshwari Singh	Judicial Magistrate-IV, Dehradun	20.06.16
12.	Sri. Rajendra Kumar	Judicial Magistrate, Champawat	20.06.16
13.	Ms. Sonia	1 st Addl. Civil Judge (J.D.) Roorkee, Hardwar	20.06.16
14.	Ms. Krishtika Gunjyal	2 nd Addl. Civil Judge (J.D.) Roorkee, Hardwar	20.06.16
15.	Ms. Kalpana	Civil Judge (J.D.) Pratap Nagar, Tehri Garhwal	20.06.16
16.	Sri Rajnish Mohan	4 th Addl. Civil Judge (J.D.) Hardwar	20.06.16
17.	Sri Puneet Kumar	2 nd Addl. Civil Judge (J.D.) Rudrapur, U.S. Nagar	20.06.16
18.	Sr. Prakash Chandra	Civil Judge (J.D.) Bazpur, U.S. Nagar	20.06.16

INSTITUTION, DISPOSAL AND PENDENCY OF CASES

➤ **HIGH COURT OF UTTARAKHAND (from 01.04.2016 to 30.06.2016)**

						Pendency (As on 01.04.2016)		
						Civil Cases	Criminal Cases	Total Pendency
						19453	8268	27721
Institution (01.04.2016 to 30.06.2016)			Disposal (01.04.2016 to 30.06.2016)			Pendency (As on 30.06.2016)		
Civil Cases	Criminal Cases	Total Institution	Civil Cases	Criminal Cases	Total Disposal	Civil Cases	Criminal Cases	Total Pendency at the end of 30.06.15
3007	2445	5452	1503	1132	2635	20957	9581	30538

* * * * *

➤ District Courts (From 01.04.2016 to 30.06.2016)

SL. No	Name of the District	Civil Cases				Criminal Cases				Total Pendency at the end of 30.06.16
		Opening Balance as on 01.04.16	Institution from 01.04.16 to 30.06.16	Disposal from 01.04.16 to 30.06.16	Pendency at the end of 30.06.16	Opening Balance as on 01.04.16	Institution from 01.04.16 to 30.06.16	Disposal from 01.04.16 to 30.06.16	Pendency at the end of 30.06.16	
1.	Almora	418	182	174	426	715	455	397	773	1199
2.	Bageshwar	96	64	60	100	489	546	601	434	585
3.	Chamoli	254	71	93	232	514	691	579	626	858
4.	Champawat	161	68	73	156	837	724	749	812	968
5.	Dehradun	10875	1870	1544	11201	68922	16326	12253	72995	84196
6.	Haridwar	9212	1236	903	9545	32506	7647	6030	34123	43668
7.	Nainital	2680	649	617	2712	7436	4366	3505	8297	11009
8.	Pauri Garhwal	1028	217	236	1009	2723	999	901	2821	3830
9.	Pithoragarh	331	84	53	362	845	832	801	876	1238
10.	Rudraprayag	155	41	55	141	1616	526	552	1590	1731
11.	Tehri Garhwal	412	122	114	420	1360	1137	983	1514	1934
12.	U.S. Nagar	5089	1375	1212	5252	23739	7090	6578	24251	29503
13.	Uttarkashi	336	108	91	353	690	550	461	779	1132
	Total	31047	6087	5225	31909	142392	41889	34390	149891	181800

➤ Family Courts (from 01.04.2016 to 30.06.2016)

SL. No	Name of the Family Court	Civil Cases				Criminal Cases				Total Pendency at the end of 30.06.16
		Opening Balance as on 01.04.16	Institution from 01.04.16 to 30.06.16	Disposal from 01.04.16 to 30.06.16	Pendency at the end of 30.06.16	Opening Balance as on 01.04.16	Institution from 01.04.16 to 30.06.16	Disposal from 01.04.16 to 30.06.16	Pendency at the end of 30.06.16	
1.	Dehradun	1495	393	271	1617	893	159	138	914	2531
2.	Rishikesh	159	66	41	184	151	41	24	168	352
3.	Nainital	502	92	127	467	722	91	99	714	1181
4.	Hardwar	625	192	182	635	582	104	131	555	1190
5.	Roorkee	417	155	118	454	508	104	96	516	970
6.	Pauri	234	58	55	237	274	51	48	277	514
7.	Udham Singh Nagar	747	137	132	752	739	140	85	794	1546
	TOTAL	4179	1093	926	4346	3869	690	621	3938	8284

**CIRCULAR LETTERS/ NOTIFICATIONS
HIGH COURT OF UTTARAKHAND
NAINITAL**

From

Registrar General,
High Court of Uttarakhand,
Nainital.

To

1. All the District Judges, Subordinate to High Court of Uttarakhand.
2. Principal Secretary Law-cum-L.R., Government of Uttarakhand, Dehradun.
3. Principal Secretary Legislative & Parliamentary Affairs, Government of Uttarakhand, Dehradun.
4. Director, Uttarakhand Judicial And Legal Academy, Bhowali, Distt. Nainital.
5. Chairman, Commercial Tax Tribunal, F-6, Nehru Colony, Hardwar Road, Dehradun.
6. Chairman, State Transport Appellate Tribunal, 3/5 A, Race Course, Near Rinku Medicose, Dehradun.
7. Secretary, Lokayukt, 3/3, Industrial Area, Patel Nagar, Dehradun.
8. Principal Judge, Family Court, Dehradun and Judges, Family Court, Hardwar, Nainital, Pau Garhwal & Udham Singh Nagar.
9. Registrar, State Consumer Disputes Redressal Commission, Uttarakhand, House No. 176, Ajabpur Kalan, Near Spring Hills School, Mothrowala Road, Dehradun, 248415.
10. Member-Secretary, Uttarakhand State Legal Services Authority, Nainital.
11. Presiding Officer, Industrial Tribunal-cum-Labour Court, Haldwani, Distt. Nainital.
12. Presiding Officer, Labour Courts, Dehradun, Hardwar and Kashipur, Distt. Udham Singh Nagar.
13. Presiding Officer, Food Safety Appellate Tribunal, Dehradun and Haldwani, District Nainital.
14. Registrar, Public Service Tribunal, Uttarakhand, Dehradun.
15. Chairman, Uttarakhand Co-operative Tribunal, Dehradun.
16. Registrar-cum-Secretary, State Level Police Complaint Authority, Dehradun.
17. Additional Secretary (Law), Public Service Commission, Gurukul Kangari, Hardwar.

C.L. No. 05 /UHC/Admin.A/2016

Dated: April 11 ,2016.

Subject: Posting of Judicial Officers, whose spouse is serving as Judicial Officer in any of the adjoining States.

Sir,

On the subject noted above, I have to inform that the Hon'ble Court is pleased to resolve that, posting of such Judicial Officers of the State Judiciary of Uttarakhand, whose spouse is serving as Judicial Officer in any of the adjoining States will be given in the border area adjacent to those States, as far as possible and practicable, provided his/her spouse is also posted in border area. However, this facility will not be provided as a matter of right and the matter regarding such posting will be considered only subject to paramount interest of the State Judiciary.

You are therefore, informed accordingly.

Registrar General

Some Recent Judgments of Uttarakhand High Court

Division Bench Judgments

1. In *Special Appeal No. 80/2016, Ajay Singh Maurya V. State of Uttarakhand*, decided on 02.05.2016, the petitioner's mother died, his father remarried. The father of the petitioner was employed under the State of Uttarakhand and his step mother was employed under the State of U.P. The father of petitioner died in the year 2009 when he was 23 years old. The Petitioner applied for compassionate appointment under the Rules but was denied appointment on the ground that the 'spouse' of his father was in Government job. His writ petition claiming compassionate appointment was also dismissed. In Special Appeal it was contended that he was not brought up of his step mother and he was living separately.

The bench, while dismissing the Special Appeal, observed that Dying in Harness is matter to be decided with reference to the Rules, orders or scheme, applicable to the particular case under the relevant Rules. The step mother of petitioner who was in Government job, fell in the category of 'spouse' of his father and it would make no difference if the petitioner was living separately and he was not brought up by his step-mother.

2. In *W.P.(S. B.) No. 370/2015, Dr. Nebedita Pryidarshani and other Vs. State of Uttarakhand and others* with W.P. (S.B.) NO. 337/2015, decided on 05.05.2016, the petitioners are working in Higher Education Department of the State. They have worked for long period in remote areas and sought transfer but was not considered. Their representations were disposed of by the department holding that they will be considered for transfer in next transfer session as per guidelines. Under the said guidelines, continuance of a person at a particular place for a period of three to five years would entitle him to be considered for transfer. The petitioner fulfill the said requirement. On 30.07.2015, the amendment was effected to the guidelines and the bar was raised to three to five years to completion of ten years as the requirement for being considered for transfer. According to the petitioners, these guidelines are arbitrary and illegal. Hence, this writ petition filed.

The bench, while dismissing the writ petition, observed that it is true that in a hilly state like State of Uttarakhand where the state, for the most part, lies in its hills, public services are to be

maintained in those areas as much as they required in the plain areas. It is true that the 2008 guidelines are of general application but when peculiarities of a department call for differential treatment, with the approval of Competent Authority, it is open to the state to devise other principles. It is true that under these guidelines, on completion of three to five years, a person could aspire for being transferred, but the fact of the matter appears to be that there are large number of teachers, who have completed ten or more number of years. Apparently, it became necessary to incorporate the condition that in place of three to five years, a person should complete ten years in order to seek transfer. The vacancy position in the hills require raising the bar from three to five years to ten years. In this process, public interest was secured in as much as, the vacancies continue to be manned by persons, who would have been in a position to secure transfer to the plain areas on completion on a period of three to five years. Thus, by raising the bar three to five years to ten years the state would in a position to secure the services of the teachers in the Higher Education Department in hill areas, as, otherwise, it may not be possible to supply the vacancies in those areas. The bench, further held that public interest cannot be overlooked. It cannot be treated as arbitrary as such.

3. In *Habeas Corpus Petition No. 15/2016, Joginder Kumar Vs. State of Uttarakhand and Others*, decided on 03.06.2016, the petitioner sought a writ commanding the respondent to produce the body of petitioner in the Court and to set him at liberty. Three separate cases were lodged against the petitioner under Section 138 of Negotiable Instruments Act, 1881 by three different persons. The petitioner was convicted and thereafter he filed appeals before Additional Sessions Judge, where he was acquitted. Against it, different appeals before High Court where Single Judge allowed the appeals set aside the order of acquittal passed by Additional Sessions Judge and the restored the order of Trial Court. The said judgment has become final as the SLPs have been rejected. Thereafter, the petitioner surrendered before Court and sent to jail. Then, the petitioner moved an application that all the three sentences be directed to the run concurrently which was dismissed. Against this order, he approached the High Court under Section 482 of Cr. P.C., where the Single Judge disposed of the application. According to the petitioner, he has already served the sentence for a period more than what is required to be served. So, his continuous detention is illegal.

While dismissing the petition, the bench observed that the jurisdiction of Habeas Corpus is to scrutinize, whether a person is in illegal detention. Continued detention of the petitioner is quite clearly premised on the petitioner not having complied with the terms of the judgment rendered in petition under Section 482 of Cr.P.C. In the Habeas Corpus jurisdiction, the Court cannot sit over the judgment of Single Judge rendered in a petition under Section 482 of the Code. The Court cannot possible that the detention is illegal. In fact, the direction of Single Judge is that the petitioner shall not be released without the compensation being paid, the detention of petitioner is legal in terms of the judgment rendered in petition under Section 482 of Cr. P.C.

4. In *Special Appeal No. 218/2015 Mohd. Annees Vs. State of Uttarakhand and Others*, decided on 20.06.2016, the petitioner is a proprietor of M/s Pakija Fruit Company and is engaged in wholesale of fruits and vegetables. A licence was issued to him on 14.12.2009 by the Secretary of Krishi Udpadan Mandi Samiti, Niranjanpur, Dehradun which was valid till 30.06.2016. By the impugned notice dated 01.10.2014 he was asked to remove the encroachment from the front of canteen where he was doing the business. The Single Judge dismissed the writ petition taking the view that the appellants were not able to establish any legal right to occupy the place of his choice without being any allotment, consent or approval of Managing Director. Hence, the appeal.

The bench, while dismissing the appeal, observed that perusal of Section 13 would only show that after declaration of an area as a market area, no person can, within the market, carry on business except in terms of the licence granted by the Committee. The licence of appellants is valid till 30.06.2016 on the basis of yearly renewal. The question of allotment of a shop is a matter to be governed by the allotment Rules. Therefore, the appellants are mixing up the issue of restriction on carrying on trade within the market area without a licence with the issue relating to the right to a shop. That he has a licence and he can carry on the business within the market area only in terms thereof will not entitle him automatically to a particular shop or space as such. As far as the three shop rooms to which the claim is made by the appellants, are concerned, taking the Rules as they are, placing the appellants at the 15th position and there being three shop rooms, clearly appellants are not entitled to get allotment of any of the three shop rooms.

5. In *Special Appeal No. 50/2016, Principal, Jawahar Navodaya Vidyalaya and Others Vs. Abhay Chaudhari and Another* decided on 21.06.2016, the petitioner sat for entrance test held

by appellants in Feb.2016 for admission to class 6th for session 2015-16. By letter dated 22.06.2015, father of petitioner was informed that his son was selected for 6th standard. The maximum age limit for admission to class 6th is 13 years. His date of birth 07.12.04 and on the date of entrance test he was less than 13 years. The appellant conducted a medical fitness test. The CMO submitted indicating that age of writ petitioner appears to be approx 13 to 15 years. The Single Judge allowed the writ petition holding that the document under Rule 12 (3) (b) of Juvenile Justice Rules would prevail over any medical certificate. It was relied upon the extract of family register which showed that the petitioner was born in years 2004. The petitioner certainly below 13 years at the time admission so admission was ordered to be granted to 6th standard for year 2015-16. feeling aggrieved, the appellants file Special Appeal.

The bench while allowing the appeal, observed that it is apparently that no student is denied admission on the basis of objection raised to age, that the Act provides that for the purpose of admission, the age is to be determined on the basis of birth certificate issued under the provisions of the Birth, Deaths, Marriages Registration Act., or on the basis of such documents, which have been prescribed in the Rule. The provisions of the Juvenile Justice Act and the Rules would become in applicable in view of specific provision contained in the Act and the Rules. It was further held that there can be no dispute with the proposition that it always open to the Court to mould a relief but it does not include the authority to disregard a decision and grant relief. The appellants have clearly acted in the teeth of Section 14 of Act. So in such circumstances, the appeal is allowed and the order of Single Judge is set aside.

Single Bench Judgments

1. In *Criminal Misc. Application No. 41/2016 (U/S 482 Cr.P.C.) Annu Yadav Vs. State of Uttarakhand and Another*, decided on 19.04.2016, the applicant is facing trial under Section 302,354 I. P. C. and Section 8 of POCSO Act. The charge-sheet has been filed against the applicant. An application was filed by the applicant for conducting a Narco Analysis Test which was rejected by Trial Court. During the trial, all the prosecution witnesses have been examined, the applicant was also examined under Section 313 of Cr. PC. AT this stage, an application was moved by applicant before the Court stating that a Narco Analysis Test be conducted on him for which he had volunteered earlier. This application has also been rejected by the Court. The

applicant challenges the validity of said order and submits that being an accused he has volunteered for a Narco Analysis Test in order to prove his innocence. The application is rejected by Trial Court on the ground that it is highly belated. Hence, applicant filed present application under Section 482 Cr.PC invoking the inherent jurisdiction of this Court.

The bench, while dismissing the application held that the application has been filed by the applicant at the fag end of the trial when the entire prosecution witnesses have been examined. The accused himself was examined under Section 313 Cr.PC and the sole defence witness was also examined. Therefore, the application itself is at a highly belated stage. The bench cited the judgment of Hon'ble Apex Court in *Smt. Selvi and Others Vs. State of Karnataka AIR 2010 SC 1974* in which the Hon'ble Apex Court has considered all the aspects of criminal jurisprudence. The bench further observed that a law as it stands today is that the evidence produced before the Court in shape or under the process of Narco Analysis Technique is not a full proof evidence particularly now, in the present case, where the evidence will not be given before the Court from the side of prosecution but on the insistence of the defence as whether it is inculpatory or exculpatory evidence, it would not amount to any benefit being given to the prosecution or to the defence, therefore, at such a belated stage again there is absolutely no purpose of such and evidence. It is for the prosecution to prove its case beyond reasonable doubt. If there are any loopholes, it is for the prosecution to take care of that and amend or rectify it at appropriate stage. It is not given to the defence to point out anomalies or weakness in the case of prosecution and get an order from the Court.

2. In *W.P.(S/S) No. 1155/2016, Bhuwan Chandra Arya Vs. State Bank of India and Others*, decided on 14.06.2016, the petitioner prayed to issue a writ to quash the impugned order dated 25.01.2011 passed by respondent no -2 Disciplinary Authority/ AGM (Admin) SBI, Almora and order dated 21.06.2011 passed by respondent no. 3 Appellate Authority/DGM (Operations) SBI, New Delhi. The petitioner was Assistant Accountant in SBI Kalligair, Branch Bageshwar, where the disciplinary proceedings have been initiated against him regarding charges of embezzlement from 17.11.2008 to 26.03.2009. The Disciplinary Authority, vide order 25.02.2011, dismiss the service of petitioner. Thereafter, appeal has also been preferred which was rejected vide order 21.06.2011. Meanwhile, a criminal case was also filed against the petitioner in which he was

convicted under Section 420,467,468,471,408 of IPC by C J M, Bageshwar and the appeal against this order was also dismissed. Aggrieved by said order the petitioner file criminal revision before High Court where the Single Judge did not interfere with the findings of Courts below, but as far as sentence was concerned the petitioner was given the benefit of Probation of Offenders Act., 1958.

While dismissing the petition, the bench observed that a departmental proceedings is different from a criminal proceeding in its appreciation of evidence, manner of procedure and finally in the establishment of guilt. The charges in this case have been fully established against the applicant in departmental proceedings and his appeal has already been rejected. He was also convicted by the Criminal Courts and the High Court has not interfered with the findings but only given the petitioner a benefit under the law on sentence. In other words, the petitioner's guilt has been established both in the departmental proceedings as well as before the Criminal Court.

The bench further observed that whether the conviction by the Criminal Court would entail and automatic dismissal or removal from services or something else needs to be done by the Appointing Authority. The fact that once an employee has been charged and convicted by a Criminal Court, the Appointing Authority can take a decision regarding his removal and dismissal without even resorting to a disciplinary inquiry is not in doubt. In fact, this is clear in the Constitution under Article 311 where it is mandatory to conduct an inquiry against a Government servant before his removal or dismissal or reduction in rank, but this is not a requirement, when a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on criminal charges. Since the petitioner found guilty in departmental proceedings as well as in criminal proceedings, nothing less than a dismissal from service was hence required.

3. In *WP(S/S) No. 1110/2014 Harswaroop and Others Vs. State of Uttarakhand*, decided on 18.06.2016, the petitioners are Class-IV employees in the Public Works Department Uttarakhand. All were appointed between 1985 to 1990 on daily rated basis and their services were regularized between 2006 to 2012. A fix amount from their salary was being deducted after the regularization under the Contributory Pension Scheme, so there is apprehension that they will not be given pension under the old pension after retirement. They have been informed that they

will not be governed under the old pension scheme but will be given benefit under the Contributory Pension Scheme and for this reason, the contribution is being taken from them. The petitioners filed the writ petition against it. The stand of the Government is that under the new pension scheme, that is applicable since 01.10.2005 a 'new entrant' in public service will not be given regular pension but he will be given pension under the Contributory Pension Scheme. The petitioners have entered in regular service only after 01.10.2005, as their services were regularised from 2006 onwards. Hence, all of these governed under new pension schemes.

The bench, while allowing the writ petition, observed that a 'new entrant' would be an incumbent who has joined his service recently. In the present case, the effective date of government order is w.e.f. 01.10.2005. The present petitioners are definitely not 'new entrants' as they were already working in the Public Works Department, though under a different category of employment that is work charge and prior to that on daily rated basis. Therefore, the stand of the Government that the petitioners being the 'new entrants' in service and will be governed under Contributory Pension Scheme is wholly erroneous. A mandamus is issued to the respondent authorities to give the petitioners regular pension under the old pension scheme, as is applicable to the other employees employed prior to 01.10.2005.

4. In *Appeal from Orders No. 443/2010, Oriental Insurance Company Limited Vs. Smt. Phool Mala and Others* with A.O. No. 442/2010, decided on 16.05.2016, a tractor, attached with trailer, came in front of deceased and dashed him, causing his death. The mother of the deceased aged 50 years and his other dependents filed claim petition. The Tribunal awarded compensation against the insurer of the tractor. In the appeal of insurer, it was argued that the insurer was not liable to pay compensation because the trailer, attached to the tractor, was neither registered separately and nor insured and further, the driver of the tractor was holding the licence to drive light motor vehicle and not a transport vehicle.

The bench, while disposing the appeals, held that though a tractor is a light motor vehicle when a trailer is attached thereto, it becomes a goods carrier and comes under the category of transport vehicle and even though the trailer was not insured and the driver had licence for a light motor vehicle, the entire liability could not be fastened on the owner in the driver of the tractor, exonerating the insurance company. Accordingly, it was ordered that 50 % of the compensation

would be paid by the insurance company, 35% by the owner and rest 15 % by the driver. The bench also observed that in view of the law laid down in the case of *Sarla Verma*, appropriate multiplier could be '13' and further it would be quite appropriate to grant Rs. 1 lakh to the old aged mother towards love and affection.

5. In *A.O. No. 413/2010, The New India Assurance Company Ltd. Vs. Smt. Premwati and Others*, decided on 11.05.2016, as a result of motor accident occurred due to rash and negligent driving of the offending vehicle, the claimant/deceased sustained grievous injuries, causing 65 % disability to him and though he joined his duties in Government service after treatment, he died during pendency of the claim petition and his heirs substituted in his place. The Tribunal awarded compensation against the insurer of the offending vehicle. An appeal was filed by the insurer, it was argued that the claim petition filed by the injured for his personal injuries had been abated on his death. It was found that due to the injuries, sustained by the deceased/claimant in the motor accident, he was suffering with anemia as well as other bodily infirmities leading to development of tuberculosis of highest degree and paralytic attack which caused his death.

The bench, while dismissing the appeal, observed that merely because the deceased/claimant had joined his duties, it could not be inferred that he was fit to discharge his duties or he died for some other reason. So, merely the fact that he had joined back his official duties, cannot be a conclusive factor leading to an inference that he had become physically fit to discharge to his official duties.

6. In *A.O. No. 409/2010, The Oriental Insurance Company Ltd. Vs. Bachan Singh Khati and Others*, the deceased was driving a truck on a hilly road in slow speed in peak rainy season, in his effort to give pass to a scooter coming from back side, the wheel of the truck came on the retaining wall of the road and the wall broke down causing the accident, in which the deceased driver died. The Tribunal awarded compensation against the insurer of the offending vehicle. The insurer filed appeal against the order submitting the fact that for compensation under Section 166 of Motor Vehicle Act, rash and negligent driving was necessarily to be proved.

The bench observed that the degree of care and skill in driving a particular vehicle can never be at a fixed stand point in a particular set of facts and that in the case at hand, the driver could have driven the truck with more care and skill by taking care in assessing the nature of road and its rights in peak rainy season and could have avoided the accident and this way still the driver could be said to be rash and negligent, and the petition under Section 166 of the Act did not suffer with any infirmity.

7. In *A.O. No. 266/2010, Smt. Deepa Rautela Vs. J.K. Saukat Cement Pipe Private Ltd.*, decided on 22.07.2016, the deceased employed as driver of the respondent. He had been provided an accommodation (barrack) by the respondent employer. When he was sleeping in the said barrack, at about 5 A.M., he suffered cardiac arrest and when he was being shifted to hospital, he died. His widow filed claim petition for the compensation under Workmen's Compensation Act., 1923 which was dismissed.

While dismissing the appeal, the bench held that the deceased suffered cardiac arrest while he could not have left his bed in the morning and by no stretch of imagination, it could be inferred that he died during the course of his employment and that the appeal had no force.

8. In *A.O. No. 180/2016, Civil and Soyam Van Prabhag Vs. Smt. Shawatri Devi and Others*, decided on 12.04.2016, the deceased, an employe of Forest Department working as Forest Guard and drawing salary Rs. 7424/- per month. When he was boarded Government vehicle, the same met with an accident and he died. The Government vehicle was not insured. The Tribunal awarded Rs. 1160424/- as compensation. In appeal of the State, it was pointed out that besides other benefits arising out of death of the deceased employe, his widow had been provided compassionate appointment and pension of Rs. 5813/- per month.

The bench, while allowing the appeal, observed that the claim for compensation in the case of Government employe, dying in accident of Government vehicle, could not be compared in parity with the accident claims, arising out of motor accidents of private vehicle which are compulsorily required to be insured for the claims of third parties and passengers. Further it is held that had the deceased been alive, his wife would not have been given pension and further the Government employees remained insure during their employment. In the case at hand, the

difference of salary of the deceased and pension granted to his widow (Rs. 7424-Rs. 5813= Rs. 1611/-) ought to have been taken into consideration for assessing compensation. Accordingly, deducting 1/4th thereof towards personal expenses of deceased and applying the multiplier of 14, Rs. 327986/- awarded as compensation (including consortium of Rs. 1 lakh, Rs. 25000 towards funeral expenses and Rs. 1 lakh towards loss of care and guidance, awarded by Tribunal.

9. In *W.P. No. 808/2009 (M/S) Bhushan Kumar Vs Ramesh Nankani and Others*, decided on 07.04.2016, the petitioner challenged the judgment and order dated 12.05.2009 passed by Additional District Judge in which the Court allowed an application under Section 5 of Limitation Act., on payment of costs. By the same order, an application under Order-9 R-13 CPC r.w. Section 151 CPC was allowed in the suit was restored to its original No. and the order dated 29.09.1993, whereby the suit was decided in terms of compromise, was set aside.

The bench, while allowing the petition, observed that if a suit has been decreed on the basis a compromise, arrived at between the parties and a party to the suit is willing to challenge such compromise decree, he has two courses available viz either he can file a petition under the 'proviso' to R-3 of Order 23 of the Code to recall this order recording the compromise or he can file an appeal under Section 96(1) of the Code against the decree in which he can question the validity of the compromise in view of R-1 A of Order 43 of the Code.

10. In *W.P. No. 1551/2016 (M/S) Girish Chandra Dhasmana Vs. Smt. Madhavi Rawat*, decided on 13.06.2016, the petitioner challenged the impugned order dated 02.06.2016 passed by Civil Judge (J.D.) in petitioner's suit by which interim injunction has not been granted. The petitioner had constructed double-story house over a free hold plot. The respondent's house existed to the south of the petitioner's plot. On 08.05.2016 with the aid of JCB machine, respondent started digging earth for erecting columns at four corners of her land. Due to this, the water connections started leaking and water started pouring out to the petitioner's southern foundation that caused great damaged to the petitioner's house. On 01.06.2016, respondent started constructing beams and columns that again damaging the foundation of the house of the petitioner. Thereafter, petitioner filed suit before the Court. The Court posted the interim application for 01.07.2016, so the present petition filed by the petitioner.

The bench, while disposing of the petition, held that this fact is not under dispute that the defendant/respondent is constructing house in her own land. It is also not in dispute that the plaintiff and defendant (petitioner and respondent therein) are the neighbours. A duty is, therefore, cast upon the defendant (respondent therein) to construct her home in such a way that it does not cause damage to his neighbour i.e. the petitioner. The bench held that the writ petition is disposed of in the light of principle of law laid down by House of Lords in *Rylands Vs. Fletcher*. It is made clear that this order was mainly for the *interregnum*, in as much as the suit is already pending adjudication before the court below.

11. In *W.P. No. 862/2016 (M/S) Shri Ashwin Chaudhary Vs. Smt. Kiran Chaudhary*, decided on 20.06.2016, the petitioner has filed a matrimonial suit under Section 13 of Hindu Marriage Act., against the respondent on the ground of adultery. The child Kushagra Chaudhary was staying with the parents at Nainital till Dec.'2014. In March, 2016 respondent along with child shifted to Dehradun where the child admitted to Asian School. When Summer vacation started in Asian School, the petitioner moved an application under Sections 26 of Act. for custody of his child. The Trial Court postponed the hearing of same on the ground that it will be decided at the time of final disposal of matrimonial suit under Section 13 of the Act. That order is under challenged in present writ petition.

The bench, while setting aside the impugned order, observed that in any proceeding under the Act., the Court may, from time to time, pass such interim order with respect to the custody, maintenance and education of the minor children, consistently with their wishes. In the instant case, application under Section 26 of the Act is pending and decree in matrimonial suit under Section 13 of the Act. is yet to be passed. It was, therefore, incumbent upon the trial court to decide the matter first and ought not to have kept the matter pending to be decided along with the final disposal of the suit. A direction is accordingly given to court below to take up the issue of custody of child moved under Section 26 of the Act. at the earliest possible and decide the matter by 28th June, 2016. The visitation rights granted to the petitioner to visit his child at his mother's home at Dehradun till such time the application under Section 26 of the Hindu Marriage Act. is decided by the court below.

Major Events & Initiatives

1. On 15.05.16, Hon'ble Mr Justice R. F. Nariman, Judge, Supreme Court of India, visited the the High Court of Uttarakhand and met Hon'ble the Chief Justice & Hon'ble Judges of High Court. J Nariman took the round of High Court campus & appreciated the heritage building of the High Court. An official dinner was hosted by the High Court in the honour of Hon'ble Judge.

Full Court Reference

1. A Full Court obituary reference was held on 21.04.2016 in Chief Justice's Court at 3.30 p.m. to mourn the sad demise of Mr M. C. Bansal, Senior Advocate, High Court Of Uttarakhand, Nainital.
2. A Full Court obituary reference was held on 30.05.2016 in Chief Justice's Court at 3.30 p.m. to mourn the sad demise of Mr. Mohit Kumar Agarwal, Advocate, High Court Of Uttarakhand, Nainital.

ACTIVITIES OF STATE LEGAL SERVICES AUTHORITY(SLSA)

MONTHLY NATIONAL LOK ADALATS

As per directions of National Legal Services Authority and under the valuable guidance of Hon'ble the Executive Chairman, Uttarakhand State Legal Services Authority, three Monthly National Lok Adalats were organized in different Courts of the State of Uttarakhand. In the months of April, 2016, total 833 cases relating to labour and family matters were taken up and out of them 205 cases were decided amicably and Rs. 7,30,092/- was settled. In the monthly National Lok Adalat organized in the month of May 2016 and June 2016, out of 453 cases relating to motor accident claims and insurance claims, 54 cases were settled and an amount to the tune of Rs. 1,56,15,500/- was settled.

FOREST FIRE IN STATE OF UTTARAKHAND

During the period, in most of the districts of Uttarakhand State succumbed to the forest fire, which not only caused damages to the valuable forest produce but also to the living animals. Hon'ble the Executive Chairman had taken a serious view on this directing all the District Legal Services Authorities to convene the meetings with the responsible officers of forest department of their districts to know-how the reasons for forest fire, damages caused due to it and the prevention measures adopted by the Forest Department.

VISIT OF SHELTER HOMES

As per directions of NALSA, the Member Secretary, Uttarakhand State Legal Services Authority and Secretary of District Legal Services Authorities made spot inspection of the urban shelters being constructed under the National Urban Livelihood Mission (NULM) Scheme. Thereafter by way of a consolidated report the NALSA was apprised about present status of the construction sites of urban shelters.

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LEGAL AWARENESS CAMPAIGN THROUGH MOBILE VAN

So as to provide legal aid and advice at the doorsteps, legal awareness and sensitization camps are being organized through mobile van throughout the State at various villages of different districts. During the months of April, 2016 to June, 2016 State Legal Services Authority's mobile van visited District-Chamoli and District-Uttarkashi covering 39 villages whereby 4295 persons were benefited.

In the said camps documentary films on the subjects of mediation, lok adalat and legal aid prepared by National Legal Services Authority and State Legal Services Authority were displayed. The queries raised by the villagers were also resolved on the spot. The applications were also received for legal aid which were either disposed of at the level of State Authority or were sent to the authorities concerned for appropriate and necessary action. During the aforesaid visits of mobile van, two Mobile Lok Adalats were also conducted in the abovementioned districts.

LEGAL AWARENESS ON COMMEMORATIVE DAYS

Between the months of April, 2016 to June, 2016, the World Day for Safety and Health at Workplace, Labour Day, Anti Tobacco Day, World Environment Day, World Day against Child Labour and Observation of International Day against Drug Abuse and Illicit Trafficking were observed throughout the State. During these occasions, 107 legal literacy and awareness camps were organized.

STATISTICAL INFORMATION

STATEMENT SHOWING THE PROGRESS OF LOK ADALATS HELD IN THE STATE OF UTTARAKHAND FOR THE PERIOD FROM APRIL, 2016 TO JUNE, 2016

S. No.	Name of DLSA's	No. of Lok Adalats Held	No. of Cases Taken up	No. of Cases Disposed off	Compensation Awarded	Amount Realized As Fine (in Rs.)	No. of Persons Benefited in Lok Adalat
01	ALMORA	02	42	05	3,11,792=00	2,000=00	05
02	BAGESHWER	04	687	344	5,50,000=00	2,04,000=00	344
03	CHAMOLI	03	24	02	4,50,000=00	6,000=00	02
04	CHAMPAWAT	03	143	58	1,40,000=00	95,300=00	58
05	DEHRADUN	05	5999	2066	74,54,200=00	3,99,202=00	2027
06	HARDWAR	05	3522	1037	55,18,646=00	7,73,800=00	1039
07	NAINITAL	03	1217	322	46,41,598=00	2,87,050=00	300
08	PAURI GARHWAL	02	109	11	1,49,100=00	-	23
09	PITHORAGARH	05	696	217	1,08,000=00	3,03,060=00	231
10	RUDRAPARYAG	04	96	13	1,27,400=00	17,200=00	13
11	TEHRI GARHWAL	02	34	08	2,50,000=00	-	08
12	U.S. NAGAR	05	2089	662	13,71,600=00	11,48,550=00	674
13	UTTARKASHI	06	217	78	9,30,000=00	1,04,050=00	104
14	HCLSC, NTL	01	123	10	1,04,06,678=00	-	15
	TOTAL :-	50	14998	4833	3,24,09,014=00	33,40,212=00	4843

**STATEMENT SHOWING THE PROGRESS OF CAMPS ORGANIZED IN THE
STATE OF UTTARAKHAND FOR
THE PERIOD FROM APRIL, 2016 TO JUNE, 2016**

S. No.	Name of DLSA's	No. of Camps Organized	No. of Persons Benefited in Camps
01	ALMORA	17	4930
02	BAGESHWER	52	8193
03	CHAMOLI	14	913
04	CHAMPAWAT	12	1764
05	DEHRADUN	40	3952
06	HARDWAR	35	7508
07	NAINITAL	22	2515
08	PAURI GARHWAL	32	3660
09	PITHORAGARH	11	1558
10	RUDRAPARYAG	08	450
11	TEHRI GARHWAL	10	3066
12	U.S. NAGAR	24	3435
13	UTTARKASHI	17	1920
	TOTAL :-	294	43864

**STATEMENT SHOWING THE PROGRESS OF LEGAL AID/ADVICE
PROVIDED IN THE STATE OF UTTARAKHAND
FOR THE PERIOD FROM APRIL, 2016 TO JUNE, 2016**

S. No.	Name of DLSA's	No. of Persons Benefited through Legal Aid & Advice	
		Legal Aid	Legal Advice
01	ALMORA	18	01
02	BAGESHWER	12	-
03	CHAMOLI	18	-
04	CHAMPAWAT	04	-
05	DEHRADUN	87	16
06	HARDWAR	99	07
07	NAINITAL	19	03
08	PAURI GARHWAL	11	02
09	PITHORAGARH	02	01
10	RUDRAPARYAG	02	-
11	TEHRI GARHWAL	11	05
12	U.S. NAGAR	67	29
13	UTTARKASHI	02	01
14	H.C.L. S. C. NTL	38	16
15	U.K. S.L.S.A., N.T.L.	25	49
	TOTAL :-	415	130

UTTARAKHAND JUDICIAL AND LEGAL ACADEMY, BHOWALI, NAINITAL

Training Programmes held in the month of April, May and June, 2016 :-

S. No.	Name of Training Programmes/ Workshops	Duration
1.	Foundation Training Programme for Newly Recruited Civil Judges (J.D.) 2013 Batch (04 April, 2016 to 09 July, 2016) <i>Uttarakhand Darshan Programme (09 May, 2016 to 04 June, 2016) for 27 days (Final/ IIIrd phase)</i>	04 April, 2016 to 09 July, 2016 (two and half months & 21 days)
2.	Workshop on Emerging Trends and Recent Developments in Criminal Laws for CJM's/Judicial Magistrates (1 st phase)	25 April to 29 April, 2016 (Monday to Friday) (for five days)
3.	One day Training Programme of Referral Judges for Mediation (1 st phase)	07 May, 2016 (Saturday) (for one day)
4.	Workshop for Prescribed Authority under 'U.P. Act No. 13 of 1972'	19 May & 20 May, 2016 (Thursday & Friday) (for Two days)
5.	One day Training Programme of Referral Judges for Mediation (2 nd phase)	21 May, 2016 (Saturday) (for one day)
6.	Workshop on emerging trends and recent developments in Criminal Laws for CJM's/Judicial Magistrates (2 nd phase)	28 June, 2016 to 02 July, 2016 (Tuesday to Saturday) (for five days)

* * * * *

**FOUNDATION TRAINING PROGRAMME
FOR NEWLY APPOINTED CIVIL JUDGES (Jr.
Div.) BATCH- 2013**

(3rd Phase of Institutional Training)

DURATION : 04 APRIL, 2016 to 09 JULY, 2016



**One Day Referral Judges training programme
on
date 07.05.2016**



**UTTARAKHAND JUDICIAL AND LEGAL ACADEMY, BHOWALI, DISTRICT- NAINITAL
Workshop for Prescribed Authority under
'U.P. Act No. 13 of 1972'**

for Civil Judges (Sr. Div. & Jr. Div.)

Duration: 2 Days (19 May, 2016 & 20 May, 2016)



**WORKSHOP ON EMERGING TRENDS AND
RECENT DEVELOPMENTS IN CRIMINAL
LAWS FOR CHIEF JUDICIAL MAGISTRATES
/ ADDL. CHIEF JUDICIAL MAGISTRATES /
JUDICIAL MAGISTRATES**

Duration: 5 Days (25 April, 2016 to 29 April, 2016)



**WORKSHOP ON EMERGING TRENDS AND
RECENT DEVELOPMENTS IN CRIMINAL
LAWS FOR CHIEF JUDICIAL MAGISTRATES
/ ADDL. CHIEF JUDICIAL MAGISTRATES /
JUDICIAL MAGISTRATES**

Duration: 5 Days (28 June, 2016 to 02 July, 2016)





Panchchuli Peaks on Himalaya