

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Special Appeal No. 20 of 2009

Managing Director
Uttarakhand Power Corporation Ltd. & another

..... Appellants

versus

Rakesh Sharma and others

..... Respondents

Mr. Lok Pal Singh, Advocate for the appellants.
Mr. Sandeep Kothari, Advocate holding brief of Mr. Shobhit Saharia,
Advocate for the respondents.

JUDGMENT

Coram : Hon'ble Barin Ghosh, C. J.
Hon'ble U.C. Dhyani, J.

BARIN GHOSH, C.J. (Oral)

Written tests and interviews were conducted in the years 1977, 1979 and 1985 for promotion of Operating Staff (Technical Grade-II) to the post of Junior Engineer available in the Uttar Pradesh State Electricity Board (UPSEB). On a writ petition filed before the Hon'ble Allahabad High Court, an order was passed by a Division Bench on 28th August 1985 to declare the select list of the candidates who appeared in the 1977 examination and interview and, after exhausting the same to make appointments from the select list of the candidates who had appeared in the 1979 written examination and interview. The Division Bench did not say a word about those, who appeared in 1985, in the

written examination and interview. On 24th September 1999, UPSEB issued an office memorandum, cancelling the examination conducted in 1985. After creation of the State of Uttarakhand, Uttaranchal Power Corporation Limited (UPCL) became the successor of UPSEB, for the State of Uttarakhand. Where after, on 5th April 2003, UPCL held out that there was no hindrance for promotion of those who had been selected in the 1985 examination followed by interview. It appears that, subsequent thereto, the order of the Division Bench of the Allahabad High Court dated 28th August, 1989 as also the decision of UPCL dated 5th April, 2003 were implemented in that part of State of Uttar Pradesh, which became the State of Uttarakhand and, accordingly, employees, who succeeded in the examinations and interviews held in 1977, 1979 and 1985 were promoted to the post of Junior Engineer. Promotions accorded to the candidates, who appeared in the examination and interview held in 1985, were challenged successfully before a learned Single Judge of this court, in a group of petitions. The Division Bench with some modification retained the said order. The matter went before the Hon'ble Supreme Court, when the Hon'ble Supreme Court set aside the order of the learned Single Judge as well as the order passed by the Division Bench. Therefore, by reason of the judgment and order of the Hon'ble Supreme Court, the impediments created in the promotions of those, who succeeded in the examination and interview held in 1985, stood removed. In the meantime, in Writ Petition No. 1303 of 2008 (S/S),

some of those people, who had been examined and interviewed in 1985, filed a writ petition and asked for their placement in appropriate position of the seniority list. This writ petition has been dealt with by the judgment and order under appeal, where, however, it was held that seniority issue cannot be gone in, inasmuch as, the matter as to promotion of those people who were examined and interviewed in 1985, was still pending decision before the Hon'ble Supreme Court, but at the same time, permitted ad-hoc promotion / officiating posting, if need so arise. That judgment, on being assailed in the appeal, was stayed. The matter went to the Hon'ble Supreme Court and, the Hon'ble Supreme Court noticing its order mentioned above, remitted back the matter to this court.

2. Inasmuch as, the Hon'ble Supreme Court has upheld the examination and interview of Operating Staff (Technical Grade-II) who appeared in the examination and interview held in 1985 for promotion to the post of Junior Engineer, it must be deemed that promotions given to them are valid and those promotees also received all benefits attached to such promotion. At the same time, there is a judgment of the Hon'ble Allahabad High Court dated 28th August 1989, which has reached finality and, has not been interfered with. In terms of the said Judgment, the available posts shall be filled up by the candidates, who succeeded in the written test and interview held in 1977, and there after, by those who succeeded in the written examination and interview held

in compliance of
High Court order
28 Aug 1989 U.P.C.L.
Promote the candidates
as per 1977 exam
U.P.T. given by U.P.C.L.
by order dated 11/21/2004.
of 25 candidates
24 out of 25 was
not in the list

in 1979. Accordingly, the candidates, who succeeded in the examination and interview held in 1985 can only be placed in the seniority list after those, who had been inducted in the promotional post having succeeded in the written examination and interview held in 1977, followed by those who succeeded in the written examination and interview held in 1979.

3. With the observations as above, we dispose of the appeal and direct preparation of fresh seniority list and, accordingly, the seniority list dated 16th December 2008, is quashed. Let such seniority list be prepared as quickly as possible, but not later than three months from the date of service of a copy of this order upon respondent No. 1. It is also made clear that, the promotees shall be entitled to all consequential benefits attached to the post, including consideration of their right to be promoted in the next higher post, but in accordance with Rules governing the field.

(U.C. Dhyani, J.)

(Barin Ghosh, C.J.)

09.05.2012

Negi

(3)

Reserved

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No.1303 of 2008 (S/S)

Rakesh Sharma and four others.

... Petitioners.

Versus

Managing Director, Uttarakhand Power Corporation,
Dehradun and sixty two others.

... Respondents

Mr. U.K. Uniyal, Senior Advocate assisted by Mr. Sobhit Saharia, Advocate for the petitioners.
Mr. Alok Singh, Senior Advocate assisted by Mr. Lax Pal Singh. Advocate for the respondent nos. 1
& 2.
Mr. Manoj Tewari, Advocate for respondent nos. 6,8, 14, 35, 45.

Dated: January 2, 2009:

Hon'ble V.K. Bist, J.

Heard learned counsel for the parties and perused the entire material available on the record.

2. Petitioners were initially appointed as T.G.-2 with U.P. State Electricity Board. In the year 1986 the petitioners were working in Nainital Zone. They appeared in the promotional examination for the post of Junior Engineer and qualified the written examination and faced the interview. But when result of Nainital Zone was not declared the petitioners filed writ petition no. 4127 of 1997 before the Lucknow Bench of Allahabad High Court. Subsequently 1986 examination was cancelled vide order dated 24.09.1999. Thereafter vide office memorandum dated 21.12.2001 and 22.12.2001 the petitioners were posted as Junior Engineer at different places. These office memorandum were issued in pursuance of interview held for promotion on the post of Junior Engineer. After issuance of office memorandum dated 21.12.2001 and 22.12.2001 the petitioners filed writ petition no. 306 of 2002 for direction to respondents to make promotion order effective since 1986. Again on 11.02.2004 the respondents corporation passed another order making promotion of the petitioners on the post

of Junior Engineer from the date of passing of the order. But a condition no. 10 was also mentioned in the order providing therein that the employees who had preferred the writ petition in the High Court shall not be permitted to join on promotional post unless they file an affidavit to the effect that they withdrew their writ petition. The petitioner filed another writ petition no. 83 (ss) of 2004 and condition no. 10 of the order was stayed by this Court. Subsequently writ petition no. 83 (ss) of 2004 was disposed of on 21.07.2008 by making following direction:-

"Upon hearing the learned counsel for the parties, I am of the view that since the promotion to the post of Junior Engineer is subjudice in the S.L.P. (Civil) no. 6655 of 2006 before the Hon'ble Apex Court, therefore, if Uttaranchal Power Corporation, Dehradun is in sort of Assistant Engineer and the promotion is most urgent, in the public interest, they may make ad hoc promotion by preparing a zone of consideration list according to the date of substantive appointments of the petitioners. The said promotion shall purely be adhoc in nature subject to the decision of the aforesaid S.L.P."

3. On the other hand few employees of the respondent Corporation preferred few petitions including writ petition no. 803 (ss) of 2003 seeking direction to the respondent corporation to the effect that promoted employees be also directed to appear in the examination. These petitions were allowed on 25.10.2004 with the direction to the respondents to hold written and oral test afresh. Operative portion of the order is as follows:-

"In the circumstances and in view of the above discussions, the only course open for this Court, in the matter in dispute, is to direct the respondents to hold examination afresh complying the provisions

(7)

of Regulations 17 of the U.P. State Electricity Board Subordinate Electrical and Mechanical Engineering Service Regulations 1972, as the cancelled examination of 1985 cannot be recognized as a valid examination for the purposes of promotion. Therefore, all the four writ petitions are disposed of with the direction that the respondents shall hold written and oral test afresh, as required under the Rules within a period of three months from amongst the qualified members of the Technical Grade-II. However, those already promoted or holding the charge of Junior Engineers shall not be disturbed and their functioning shall be subject to the result of the fresh examination directed to be held as above. The seniority list dated 17.11.2001 is hereby quashed as far as it relates to the basis of examination held in the year 1985. The promotions made on the basis of examinations held in the year 1977 and 1999 shall remain unaffected. No order as to costs."

4. Special appeal filed by the petitioners against the judgment of Hon'ble Single Judge was also dismissed. Thereafter, the petitioner as well as respondent Corporation filed Special Leave Petitions before the Hon'ble Supreme Court. Following order was passed in the appeal filed by the respondent Corporation.

"Issue notice."

Tag with SLP No. 6655/2006. We make it clear that those already been promoted will not be disturbed until further orders."

5. Now during the pendency of Special Leave Petition before the Supreme Court the respondent Corporation has issued a seniority list on 16.12.2008 which is under challenge in the present writ petition.

(8)

6. Sri U.K. Uniyal, Senior Advocate argued that since petitioners stood promoted vide office memorandum dated 21.12.2001 and 22.12.2001, the respondent Corporation has wrongly prepared the seniority list and same deserves to be quashed. It was further argued that the respondent Corporation deliberately has not mentioned the date of joining of the petitioners for denying their valid claim of seniority. On the other hand Sri Alok Singh, Senior Advocate and Sri Manoj Tewari, Advocate have argued that after the judgment of Hon'ble Single Judge in writ petition no. 803 (ss) of 2004 the petitioners cannot claim seniority on the cadre of Junior Engineer and order cannot be passed as matter is subjudice before the Hon'ble Supreme Court.

7. After hearing counsel for the parties and in view of the fact that since matter relating to promotion to the post of Junior Engineer is subjudice before the Hon'ble Supreme Court, this Court is not inclined to pass order restraining the respondents from making any promotion to the post of Assistant Engineer. However, it is provided that the respondent Corporation will consider the claim of the petitioners also for adhoc promotion/officiating posting on the post of Assistant Engineer by considering substantive appointments of the petitioners as directed by this Court on 21.07.2008 in writ petition no. 83 of 2004 (S/S).

8. With the aforesaid observation Interim Relief Application no. 8664 of 2004 stands disposed of.

Sd/-
(V.K. Bist, J.)
02.01.2009

NCM:

Photostat
True Copy

Assistant Registrar (Copying)
High Court of Uttarakhand
NAINITAL

pared with original
Date

02

(9)

IN THE HON'BLE HIGH COURT OF UTTARAKHAND
AT NAINITAL

INDEX

IN

SPECIAL APPEAL NO.....20.....OF 2009
(Under Chapter VIII Rule 5 of High Court Rules)

District: Dehradun

Managing Director, Uttarakhand Power Corporation Ltd.,
Dehradun and another

.....Respondents

Versus

Rakesh Kumar Sharma and others

.....Respondents

Sl. No.	Particulars	Page No.
1.	Memo of Special Appeal	1-8
2.	Certified copy of the judgment and order dated 02-01-2009 passed by the Hon'ble Justice Mr. V.K. Bisht in Writ Petition No. 1303 of 2008 (S/S), Rakesh Sharma and others Vs. Managing Director, Uttarakhand Power Corporation, Dehradun and others.	9-12
3.	Stay Application	13-18
4.	Affidavit	19-20
5.	Affidavit of Service	21-27
6.	Vakalatnama	28-

Dated: Jan., 2009

LOK PAL SINGH
Advocate
Counsel for the appellants

Note:- Mr. Alok Singh, Senior Advocate will appear and argue the case.

10

IN THE HON'BLE HIGH COURT OF UTTARAKHAND
AT NAINITAL

SPECIAL APPEAL NO.....OF 2009
(Under Chapter VIII Rule 5 of High Court Rules)

District: Dehradun

1. Managing Director,
Uttarakhand Power Corporation Ltd., Dehradun.
 2. Director (H.R.D.),
Uttarakhand Power Corporation Ltd., Dehradun
-Appellants

Versus

1. Rakesh Sharma S/o Late Shri B.D. Sharma,
Posted as Junior Engineer, Urban Distribution Division (South),
Dehradun.
 2. L.S. Aswal S/o Late Shri M.S. Aswal,
Posted as Junior Engineer, Urban Distribution Division (South),
Dehradun.
 3. K.S. Aswal S/o Shri Narayan Singh,
Posted as Junior Engineer, Urban Distribution Division (South),
Dehradun.
 4. S.P. Juyal S/o Shri C.P. Juyal,
Posted as Junior Engineer, Electricity Distribution Division,
Tehri.
 5. D.S. Pawar S/o Shri Gabbar Singh,
Posted as Junior Engineer, Electricity Distribution Division,
Tehri
-Petitioners/Respondents
6. Shailendra Bisht S/o Shri Ganesh Singh Bisht,
Posted as Junior Engineer.
 7. Bhaskar Pandey S/o Shri Mohan Chandra Pandey,
Posted as Junior Engineer.
 8. Amit Saxena S/o Shri Gyan Prakash Saxena,
Posted as Junior Engineer.

9. Sandeep Kumar Sharma S/o Shri Premdatt Sharma,
Posted as Junior Engineer.
10. Vinay Kumar Singh S/o Shri Ravindra Nath Singh,
Posted as Junior Engineer.
11. Manoj Prakash Singh Rawat S/o Shri Bachhi Singh Rawat,
Posted as Junior Engineer.
12. Paryak Pandey S/o Shri Naveen Chandra Pandey,
Posted as Junior Engineer.
13. Manoj Kumar S/o Shri Narendra Kumar,
Posted as Junior Engineer.
14. Sunil Kumar Gautam S/o Shri Pavan Kumar Gautam,
Posted as Junior Engineer.
15. Rakesh Kumar Singh S/o Shri Bhavar Singh,
Posted as Junior Engineer.
16. Shashikant Singh S/o Shri Chand Deep Prasad,
Posted as Junior Engineer.
17. Manoj Kumar Pandey S/o Shri Kevalanand Pandey,
Posted as Junior Engineer.
18. Ved Prakash S/o Shri Parmanand,
Posted as Junior Engineer.
19. Manoj Kumar S/o Shri Satish Chandra,
Posted as Junior Engineer.
20. Kailash Singh S/o Shri Gyan Singh,
Posted as Junior Engineer.
21. Hosiya Singh Saun S/o Shri Digar Singh Saun,
Posted as Junior Engineer.
22. Vivek Gupta S/o Shri Shanti Swarup Gupta,
Posted as Junior Engineer.
23. Pura Chandra Binwal S/o Shri Revadhar Binwal,
Posted as Junior Engineer.

24. Ajay Bhardwaj S/o Shri Sarvjeet Singh,
Posted as Junior Engineer.
25. Pavan Kumar S/o Shri Sita Ram,
Posted as Junior Engineer.
26. Anjeev Kumar S/o Shri Jagdish Singh,
Posted as Junior Engineer.
27. Anju Agarwal S/o Shri Vishnu Kumar Agarwal,
Posted as Junior Engineer.
28. Santosh Dabral S/o Shri Ramanand Dabral,
Posted as Junior Engineer.
29. Satish Chandra Joshi S/o Late Shri Madhusudan Joshi,
Posted as Junior Engineer.
30. Swarn Singh S/o Shri Sate Singh,
Posted as Junior Engineer.
31. Kulbhushan Kukreti S/o Shri Maladhar Kukureti,
Posted as Junior Engineer.
32. Sunil Kumar S/o Shri Lalita Prasad,
Posted as Junior Engineer.
33. Sunil Uniyal S/o Shri D.N. Uniyal,
Posted as Junior Engineer.
34. Pankaj Kumar Thapaliyal S/o Shri Harish Chandra Thapaliyal,
Posted as Junior Engineer.
35. Khyali Dutt S/o Shri Jaidutt Joshi,
Posted as Junior Engineer.
36. Roshan Lal Raturi S/o Shri Indra Dutt Raturi,
Posted as Junior Engineer.
37. Saurabh Chamoli S/o Shri Mohan Chandra Chamoli,
Posted as Junior Engineer.
38. Ram Kumar S/o Shri Bhushan Lal,
Posted as Junior Engineer.

39. Bhuvnesh Kumar Joshi S/o Shri Lalita Prasad Joshi,
Posted as Junior Engineer.
40. Narendra Sing Pundir S/o Shri Shyam Singh Pundir,
Posted as Junior Engineer.
41. Shailendra Kumar Saini S/o Shri Raghuveer Singh Saini,
Posted as Junior Engineer.
42. Ajay Kumar S/o Shri Kashiram,
Posted as Junior Engineer.
43. Rakesh Mangai S/o Shri Janardan Mangai,
Posted as Junior Engineer.
44. Narendra Singh Negi S/o Shri Govind Singh,
Posted as Junior Engineer.
45. Mukesh Chandra S/o Shri Ramswarup Sharma,
Posted as Junior Engineer.
46. Virendra Singh Bisht S/o Shri Bhupal Singh Bisht,
Posted as Junior Engineer.
47. Akshay Kapil S/o Shri Chandrakiran Kapil,
Posted as Junior Engineer.
48. Jagpal Singh S/o Shri Devendra Singh,
Posted as Junior Engineer.
49. Rajpal S/o Shri Jagdish Prasad,
Posted as Junior Engineer.
50. Rajeev Kharkwal S/o Shri Manohar Lal Kharkwal,
Posted as Junior Engineer.
51. Harish Ballabh S/o Shri Dataram,
Posted as Junior Engineer.
52. Jagdeep Kumar S/o Shri Shakti Singh,
Posted as Junior Engineer.
53. Smt. Anita D/o Shri Arun Kumar Saini,
Posted as Junior Engineer.

54. Smt. Priti Bhatnagar W/o Shri Manish Bhatnagar,
Posted as Junior Engineer.
55. Sanjay Kumar S/o Shri Bhupal Ram,
Posted as Junior Engineer.
56. Smt. Shaili Vyas W/o Shri Sunil Vyas,
Posted as Junior Engineer.
57. Sanjay Prasad Arya S/o Shri Rajendra Prasad,
Posted as Junior Engineer.
58. Kanval Singh S/o Shri Ratan Singh,
Posted as Junior Engineer.
59. Gurdeep Singh S/o Shri Chindar Singh,
Posted as Junior Engineer.
60. Rupesh Kumar Nathala S/o Shri Jaipal Singh,
Posted as Junior Engineer.
61. Vikram Singh S/o Shri Dev Singh,
Posted as Junior Engineer.
62. Vinod Kumar S/o Shri Harish Chandra,
Posted as Junior Engineer.
63. Narayan Singh Chauhan S/o Shri Narendra Singh Chauhan,
Posted as Junior Engineer.
64. Ompal S/o Shri Chandra Roop Singh,
Posted as Junior Engineer.
65. Buddi Singh Panwar S/o Shri Shyam Lal Singh,
Posted as Junior Engineer.
66. Girish Chandra Arya S/o Shri Suresh Chandra Arya,
Posted as Junior Engineer.

..... Performa Respondents

To,

The Hon'ble the Chief Justice and his other companion Judges of the
aforesaid Court.

The humble appeal of the above named appellants most respectfully showeth as under.

The present appeal is being preferred against the judgment and order dated 02-01-2009 passed by the Hon'ble Justice Mr. V.K. Bisht in Writ Petition No. 1303 of 2008 (S/S), Rakesh Sharma and others Vs. Managing Director, Uttarakhand Power Corporation, Dehradun and others, whereby the learned Single Judge has directed the appellants to give the ad hoc promotions to the petitioners (respondent nos. 1 to 5 herein) on the post of Assistant Engineers.

The relief sought in this appeal is that this Hon'ble Court may graciously be pleased to allow the present Special Appeal with cost by setting aside the impugned judgment and order dated 02-01-2009 passed by the learned Single Judge in Writ Petition No. 1303 of 2008 (S/S), Rakesh Kumar Sharma and others Vs. Managing Director and others and further be pleased to pass such an order, which this Hon'ble Court may deem fit and proper in the circumstances of the case.

The instant appeal is being preferred on the following amongst other grounds.

GROUNDS

1. Because the writ petition was filed by the petitioners/respondents for quashing the seniority list dated 16-12-2008, which is contained annexure no. 13 to the writ petition and another relief was sought for directing the appellants to issue a fresh seniority list placing the

petitioners in the same as per their date of appointment as Junior Engineers in the Corporation. The petitioners have not sought any relief for seeking promotion on the post of Assistant Engineers, but the learned Single Judge has exceeded in its jurisdiction to grant a relief to the petitioners beyond the relief of the writ petition. Thus the impugnd order is not sustainable in the eye of law, as such liable to be set aside.

2. Because by an interim relief the petitioners have sought that the appellants herein be restrained not to make any promotion on the post of Assistant Engineers or giving the charge of Assistant Engineers on the basis of seniority list dated 16-12-2008, but the learned Single Judge has exceeded in its jurisdiction in granting the relie which was not sought in the interim relief application.
3. Because the learned Single Judge has committed illegality in granting a relief by way of interim relief, which is more than the final relief. Therefore the impugned judgment and order is not sustainable in the eye of law.
4. Because the promotion of the petitioners on the post of Junior Engineers have been set aside by this Hon'ble Court vide judgment and order dated 25-10-2004 and special leave to appeal (civil) no. 6655 of 2006 is pending before the Hon'ble Apex Court, the petitioners (respondent nos. 1 to 5 herein) are continuing on the post of Junior Engineers in pursuance of interim order passed by the Hon'ble Apex Court.

LOK PAL SINGH
Advocate
Counsel for the appellants

Dated: Jan., 2009

Single Judge is wholly illegal, as such liable to be set aside.

8. Because the impugned judgment and order passed by the learned

Hon'ble Court.

Single Judge is based on the judgment and order dated 21-07-2004 passed by the learned Single Judge of this Hon'ble Court in writ petition no. 83 of 2004 (S/S), Rakesh Kumar Sharma and others Vs. Chairman/Manning Director and others. The special appeal against the judgment and order dated 21-07-2004 is pending before this Hon'ble Court.

7. Because the impugned judgment and order passed by the learned Single Judge is based on the judgment and order dated 21-07-2004 passed by the learned Single Judge of this Hon'ble Court in writ petition no. 83 of 2004 (S/S), Rakesh Kumar Sharma and others Vs. Chairman/Manning Director and others. The special appeal against the judgment and order dated 21-07-2004 is pending before this Hon'ble Court.

6. Because the learned Single Judge has granted a relief by way of interim relief in the shape of more than final relief, which is not sustainable in the eye of law.

impugned order.

5. Because the appointment of the petitioners on the post of Junior Engineers is subjudice before the Hon'ble Apex Court, therefore the petitioners are not entitled for any further promotion on the post of Assistant Engineers, but the learned Single Judge did not consider this aspect of matter and committed illegality in passing the impugned order.

IN THE HON'BLE HIGH COURT OF UTTARAKHAND
AT NAINITAL

STAY APPLICATION NO.....OF 2009

On behalf of

Managing Director, Uttarakhand Power Corporation Ltd.,

Dehradun and another

.....Applicants

IN

SPECIAL APPEAL NO.....OF 2009
(Under Chapter VIII Rule 5 of High Court Rules)

District: Dehradun

1. Managing Director,
Uttarakhand Power Corporation Ltd., Dehradun.
2. Director (H.R.D.),
Uttarakhand Power Corporation Ltd., Dehradun
.....Appellants

Versus

1. Rakesh Sharma S/o Late Shri B.D. Sharma,
Posted as Junior Engineer, Urban Distribution Division (South),
Dehradun.
2. L.S. Aswal S/o Late Shri M.S. Aswal,
Posted as Junior Engineer, Urban Distribution Division (South),
Dehradun.
3. K.S. Aswal S/o Shri Narayan Singh,
Posted as Junior Engineer, Urban Distribution Division (South),
Dehradun.
4. S.P. Juyal S/o Shri C.P. Juyal,
Posted as Junior Engineer, Electricity Distribution Division,
Tehri.
5. D.S. Pawar S/o Shri Gabbar Singh,
Posted as Junior Engineer, Electricity Distribution Division,
Tehri
.....Petitioners/Respondents

6. Shailendra Bisht S/o Shri Ganesh Singh Bisht,
Posted as Junior Engineer.
7. Bhaskar Pandey S/o Shri Mohan Chandra Pandey,
Posted as Junior Engineer.
8. Amit Saxena S/o Shri Gyan Prakash Saxena,
Posted as Junior Engineer.
9. Sandeep Kumar Sharma S/o Shri Premdatt Sharma,
Posted as Junior Engineer.
10. Vinay Kumar Singh S/o Shri Ravindra Nath Singh,
Posted as Junior Engineer.
11. Manoj Prakash Singh Rawat S/o Shri Bachhi Singh Rawat,
Posted as Junior Engineer.
12. Paryak Pandey S/o Shri Naveen Chandra Pandey,
Posted as Junior Engineer.
13. Manoj Kumar S/o Shri Narendra Kumar,
Posted as Junior Engineer.
14. Sunil Kumar Gautam S/o Shri Pavan Kumar Gautam,
Posted as Junior Engineer.
15. Rakesh Kumar Singh S/o Shri Bhavar Singh,
Posted as Junior Engineer.
16. Shashikant Singh S/o Shri Chand Deep Prasad,
Posted as Junior Engineer.
17. Manoj Kumar Pandey S/o Shri Kevalanand Pandey,
Posted as Junior Engineer.
18. Ved Prakash S/o Shri Parmanand,
Posted as Junior Engineer.
19. Manoj Kumar S/o Shri Satish Chandra,
Posted as Junior Engineer.
20. Kailash Singh S/o Shri Gyan Singh,
Posted as Junior Engineer.

21. Hosiyar Singh Saun S/o Shri Digar Sigh Saun,
Posted as Junior Engineer.
22. Vivek Gupta S/o Shri Shanti Swarup Gupta,
Posted as Junior Engineer.
23. Puran Chandra Binwal S/o Shri Revadhar Binwal,
Posted as Junior Engineer.
24. Ajay Bhardwaj S/o Shri Sarvjeet Singh,
Posted as Junior Engineer.
25. Pavan Kumar S/o Shri Sita Ram,
Posted as Junior Engineer.
26. Anjeev Kumar S/o Shri Jagdish Singh,
Posted as Junior Engineer.
27. Anju Agarwal S/o Shri Vishnu Kumar Agarwal,
Posted as Junior Engineer.
28. Santosh Dabral S/o Shri Ramanand Dabral,
Posted as Junior Engineer.
29. Satish Chandra Joshi S/o Late Shri Madhusudan Joshi,
Posted as Junior Engineer.
30. Swarn Singh S/o Shri Sate Singh,
Posted as Junior Engineer.
31. Kulbhushan Kukreti S/o Shri Maladhar Kukureti,
Posted as Junior Engineer.
32. Sunil Kumar S/o Shri Lalita Prasad,
Posted as Junior Engineer.
33. Sunil Uniyal S/o Shri D.N. Uniyal,
Posted as Junior Engineer.
34. Pankaj Kumar Thapaliyal S/o Shri Harish Chandra Thapaliyal,
Posted as Junior Engineer.
35. Khyali Dutt S/o Shri Jaidutt Joshi,
Posted as Junior Engineer.

36. Roshan Lal Raturi S/o Shri Indra Dutt Raturi,
Posted as Junior Engineer.
37. Saurabh Chamoli S/o Shri Mohan Chandra Chamoli,
Posted as Junior Engineer.
38. Ram Kumar S/o Shri Bhushan Lal,
Posted as Junior Engineer.
39. Bhuvnesh Kumar Joshi S/o Shri Lalita Prasad Joshi,
Posted as Junior Engineer.
40. Narendra Sing Pundir S/o Shri Shyam Singh Pundir,
Posted as Junior Engineer.
41. Shailendra Kumar Saini S/o Shri Raghuveer Singh Saini,
Posted as Junior Engineer.
42. Ajay Kumar S/o Shri Kashiram,
Posted as Junior Engineer.
43. Rakesh Mangai S/o Shri Janardan Mangai,
Posted as Junior Engineer.
44. Narendra Singh Negi S/o Shri Govind Singh,
Posted as Junior Engineer.
45. Mukesh Chandra S/o Shri Ramswarup Sharma,
Posted as Junior Engineer.
46. Virendra Singh Bisht S/o Shri Bhupal Singh Bisht,
Posted as Junior Engineer.
47. Akshay Kapil S/o Shri Chandrakiran Kapil,
Posted as Junior Engineer.
48. Jagpal Singh S/o Shri Devendra Singh,
Posted as Junior Engineer.
49. Rajpal S/o Shri Jagdish Prasad,
Posted as Junior Engineer.
50. Rajeev Kharkwal S/o Shri Manohar Lal Kharkwal,
Posted as Junior Engineer.

51. Harish Ballabh S/o Shri Dataram,
Posted as Junior Engineer.
52. Jagdeep Kumar S/o Shri Shakti Singh,
Posted as Junior Engineer.
53. Smt. Anita D/o Shri Arun Kumar Saini,
Posted as Junior Engineer.
54. Smt. Priti Bhatnagar W/o Shri Manish Bhatnagar,
Posted as Junior Engineer.
55. Sanjay Kumar S/o Shri Bhupal Ram,
Posted as Junior Engineer.
56. Smt. Shaili Vyas W/o Shri Sunil Vyas,
Posted as Junior Engineer.
57. Sanjay Prasad Arya S/o Shri Rajendra Prasad,
Posted as Junior Engineer.
58. Kanval Singh S/o Shri Ratan Singh,
Posted as Junior Engineer.
59. Gurdeep Singh S/o Shri Chindar Singh,
Posted as Junior Engineer.
60. Rupesh Kumar Nathala S/o Shri Jaipal Singh,
Posted as Junior Engineer.
61. Vikram Singh S/o Shri Dev Singh,
Posted as Junior Engineer.
62. Vinod Kumar S/o Shri Harish Chandra,
Posted as Junior Engineer.
63. Narayan Singh Chauhan S/o Shri Narendra Singh Chauhan,
Posted as Junior Engineer.
64. Ompal S/o Shri Chandra Roop Singh,
Posted as Junior Engineer.
65. Buddi Singh Panwar S/o Shri Shyam Lal Singh,
Posted as Junior Engineer.

66. Girish Chandra Arya S/o Shri Suresh Chandra Arya,
Posted as Junior Engineer.

..... Performa Respondents

To,

The Hon'ble the Chief Justice and his other companion Judges of the
aforesaid Court.

The humble application of the above named applicants/appellants
most respectfully sheweth as under.

1. That the full facts and circumstances of the case narrated in the
accompanying memo of appeal. Thus it is expedient and necessary
in the interest of justice that this Hon'ble Court may graciously be
pleased to stay the effect and operation of the impugned order dated
02-01-2009 passed by the Hon'ble Justice Mr. V.K. Bisht in Writ
Petition No. 1303 of 2008 (S/S), Rakesh Sharma and others Vs.
Managing Director, Uttarakhand Power Corporation, Dehradun and
others, otherwise the appellants/applicants shall suffer irreparable
loss and injury, which cannot be compensated in any manner.

PRAYER

It is, therefore most respectfully prayed that this Hon'ble
Court may graciously be pleased to stay the effect and operation of
the impugned order dated 02-01-2009 passed by the Hon'ble Justice
Mr. V.K. Bisht in Writ Petition No. 1303 of 2008 (S/S), Rakesh
Sharma and others Vs. Managing Director, Uttarakhand Power
Corporation, Dehradun and others, otherwise the appellants/
applicants shall suffer irreparable loss and injury, which cannot be
compensated in any manner. So justice be done with the
applicants/appellants.

Dated: Jan., 2009

LOK PAL SINGH
Advocate
Counsel for the appellants/applicants

IN THE HON'BLE HIGH COURT OF UTTARAKHAND
AT NAINITAL

AFFIDAVIT

IN

STAY APPLICATION NO.....OF 2009

IN

SPECIAL APPEAL NO.....OF 2009
(Under Chapter VIII Rule 5 of High Court Rules)

District: Dehradun

Managing Director, Uttarakhand Power Corporation Ltd.,
Dehradun and another

.....Respondents

Versus

Rakesh Sharma and others

.....Respondents

Affidavit of H.K. Gururani, aged
about 50 years, S/o Late Shri
S.K.C. Gururani, at present
posted as Executive Engineer,
Electricity Distribution Division
Uttarakhand Power Corporation
Ltd., Nainital, District Nainital.

(Deponent)

I, the deponent above named do hereby solemnly affirm and state on
oath as under.

- 20
- 25
1. That the deponent is presently posted as Executive Engineer, Electricity Distribution Division Uttarakhand Power Corporation Ltd., Nainital, District Nainital and has been authorized to file the present special appeal on behalf of the appellants and as such he is fully acquainted with the facts of the case deposed below.

I, the deponent above named, do hereby solemnly affirm on oath and verify that the contents of paragraph no. 1 of this affidavit and the contents of paragraph no. 1 of the accompanying application are based on my personal knowledge, which I believe to be true and no part of this affidavit is false and nothing material has been concealed.

So help me God.

(Deponent)

I, Lok Pal Singh, Advocate, High Court of Uttarakhand at Nainital, do hereby declare that the person making this affidavit and alleging himself to be deponent is the same person known to me from the perusal of the papers produced by him in this case.

(Advocate)

Solemnly affirmed before me on this...th day of 2009, at about...^h m/p.m. by the deponent, who has been identified by the aforesaid Advocate.

I have satisfied myself by examining the deponent that the deponent has understood the contents of this affidavit, which has been read over and explained to him by me.

(Oath Commissioner)

IN THE HON'BLE HIGH COURT OF UTTARAKHAND
AT NAINITAL

AFFIDAVIT OF SERVICE

IN

SPECIAL APPEAL NO.....OF 2009
(Under Chapter VIII Rule 5 of High Court Rules)

District: Dehradun

1. Managing Director,
Uttarakhand Power Corporation Ltd., Dehradun.
 2. Director (H.R.D.),
Uttarakhand Power Corporation Ltd., Dehradun
-Appellants

Versus

1. Rakesh Sharma S/o Late Shri B.D. Sharma,
Posted as Junior Engineer, Urban Distribution Division (South),
Dehradun.
 2. L.S. Aswal S/o Late Shri M.S. Aswal,
Posted as Junior Engineer, Urban Distribution Division (South),
Dehradun.
 3. K.S. Aswal S/o Shri Narayan Singh,
Posted as Junior Engineer, Urban Distribution Division (South),
Dehradun.
 4. S.P. Juyal S/o Shri C.P. Juyal,
Posted as Junior Engineer, Electricity Distribution Division,
Tehri.
 5. D.S. Pawar S/o Shri Gabbar Singh,
Posted as Junior Engineer, Electricity Distribution Division,
Tehri
-Petitioners/Respondents
6. Shailendra Bisht S/o Shri Ganesh Singh Bisht,
Posted as Junior Engineer.

22

27

7. Bhaskar Pandey S/o Shri Mohan Chandra Pandey,
Posted as Junior Engineer.
8. Amit Saxena S/o Shri Gyan Prakash Saxena,
Posted as Junior Engineer.
9. Sandeep Kumar Sharma S/o Shri Premdatt Sharma,
Posted as Junior Engineer.
10. Vinay Kumar Singh S/o Shri Ravindra Nath Singh,
Posted as Junior Engineer.
11. Manoj Prakash Singh Rawat S/o Shri Bachhi Singh Rawat,
Posted as Junior Engineer.
12. Paryak Pandey S/o Shri Naveen Chandra Pandey,
Posted as Junior Engineer.
13. Manoj Kumar S/o Shri Narendra Kumar,
Posted as Junior Engineer.
14. Sunil Kumar Gautam S/o Shri Pavan Kumar Gautam,
Posted as Junior Engineer.
15. Rakesh Kumar Singh S/o Shri Bhavar Singh,
Posted as Junior Engineer.
16. Shashikant Singh S/o Shri Chand Deep Prasad,
Posted as Junior Engineer.
17. Manoj Kumar Pandey S/o Shri Kevalanand Pandey,
Posted as Junior Engineer.
18. Ved Prakash S/o Shri Parmanand,
Posted as Junior Engineer.
19. Manoj Kumar S/o Shri Satish Chandra,
Posted as Junior Engineer.
20. Kailash Singh S/o Shri Gyan Singh,
Posted as Junior Engineer.
21. Hosiyar Singh Saun S/o Shri Digar Sigh Saun,
Posted as Junior Engineer.

23

22. Vivek Gupta S/o Shri Shanti Swarup Gupta,
Posted as Junior Engineer.
23. Puran Chandra Binwal S/o Shri Revadhar Binwal,
Posted as Junior Engineer.
24. Ajay Bhardwaj S/o Shri Sarvjeet Singh,
Posted as Junior Engineer.
25. Pavan Kumar S/o Shri Sita Ram,
Posted as Junior Engineer.
26. Anjeev Kumar S/o Shri Jagdish Singh,
Posted as Junior Engineer.
27. Anju Agarwal S/o Shri Vishnu Kumar Agarwal,
Posted as Junior Engineer.
28. Santosh Dabral S/o Shri Ramanand Dabral,
Posted as Junior Engineer.
29. Satish Chandra Joshi S/o Late Shri Madhusudan Joshi,
Posted as Junior Engineer.
30. Swarn Singh S/o Shri Sate Singh,
Posted as Junior Engineer.
31. Kulbhushan Kukreti S/o Shri Maladhar Kukureti,
Posted as Junior Engineer.
32. Sunil Kumar S/o Shri Lalita Prasad,
Posted as Junior Engineer.
33. Sunil Uniyal S/o Shri D.N. Uniyal,
Posted as Junior Engineer.
34. Pankaj Kumar Thapaliyal S/o Shri Harish Chandra Thapaliyal,
Posted as Junior Engineer.
35. Khyali Dutt S/o Shri Jaidutt Joshi,
Posted as Junior Engineer.
36. Roshan Lal Raturi S/o Shri Indra Dutt Raturi,
Posted as Junior Engineer.

37. Saurabh Chamoli S/o Shri Mohan Chandra Chamoli,
Posted as Junior Engineer.
38. Ram Kumar S/o Shri Bhushan Lal,
Posted as Junior Engineer.
39. Bhuvnesh Kumar Joshi S/o Shri Lalita Prasad Joshi,
Posted as Junior Engineer.
40. Narendra Sing Pundir S/o Shri Shyam Singh Pundir,
Posted as Junior Engineer.
41. Shailendra Kumar Saini S/o Shri Raghuveer Singh Saini,
Posted as Junior Engineer.
42. Ajay Kumar S/o Shri Kashiram,
Posted as Junior Engineer.
43. Rakesh Mangai S/o Shri Janardan Mangai,
Posted as Junior Engineer.
44. Narendra Singh Negi S/o Shri Govind Singh,
Posted as Junior Engineer.
45. Mukesh Chandra S/o Shri Ramswarup Sharma,
Posted as Junior Engineer.
46. Virendra Singh Bisht S/o Shri Bhupal Singh Bisht,
Posted as Junior Engineer.
47. Akshay Kapil S/o Shri Chandrakiran Kapil,
Posted as Junior Engineer.
48. Jagpal Singh S/o Shri Devendra Singh,
Posted as Junior Engineer.
49. Rajpal S/o Shri Jagdish Prasad,
Posted as Junior Engineer.
50. Rajeev Kharkwal S/o Shri Manohar Lal Kharkwal,
Posted as Junior Engineer.
51. Harish Ballabh S/o Shri Dataram,
Posted as Junior Engineer.

52. Jagdeep Kumar S/o Shri Shakti Singh,
Posted as Junior Engineer.
53. Smt. Anita D/o Shri Arun Kumar Saini,
Posted as Junior Engineer.
54. Smt. Priti Bhatnagar W/o Shri Manish Bhatnagar,
Posted as Junior Engineer.
55. Sanjay Kumar S/o Shri Bhupal Ram,
Posted as Junior Engineer.
56. Smt. Shaili Vyas W/o Shri Sunil Vyas,
Posted as Junior Engineer.
57. Sanjay Prasad Arya S/o Shri Rajendra Prasad,
Posted as Junior Engineer.
58. Kanval Singh S/o Shri Ratan Singh,
Posted as Junior Engineer.
59. Gurdeep Singh S/o Shri Chindar Singh,
Posted as Junior Engineer.
60. Rupesh Kumar Nathala S/o Shri Jaipal Singh,
Posted as Junior Engineer.
61. Vikram Singh S/o Shri Dev Singh,
Posted as Junior Engineer.
62. Vinod Kumar S/o Shri Harish Chandra,
Posted as Junior Engineer.
63. Narayan Singh Chauhan S/o Shri Narendra Singh Chauhan,
Posted as Junior Engineer.
64. Ompal S/o Shri Chandra Roop Singh,
Posted as Junior Engineer.
65. Buddi Singh Panwar S/o Shri Shyam Lal Singh,
Posted as Junior Engineer.
66. Girish Chandra Arya S/o Shri Suresh Chandra Arya,
Posted as Junior Engineer.

..... Performa Respondents

26

Affidavit of H.K. Gururani, aged about 50 years, S/o Late Shri S.K.C. Gururani, at present posted as Executive Engineer, Electricity Distribution Division Uttarakhand Power Corporation Ltd., Nainital, District Nainital.

(Deponent)

I, the deponent above named do hereby solemnly affirm and state on oath as under.

1. That the deponent is presently posted as Executive Engineer, Electricity Distribution Division Uttarakhand Power Corporation Ltd., Nainital, District Nainital and has been authorized to file the present special appeal on behalf of the appellants and as such he is fully acquainted with the facts of the case deposed below.
2. That the deponent has already served the copy of memo of appeal along with affidavit upon the counsel for the petitioners/respondents.

I, the deponent above named, do hereby solemnly affirm on oath and verify that the contents of paragraph nos. 1 and 2 of this affidavit are based on my personal knowledge, which I believe to be true and no part of this affidavit is false and nothing material has been concealed.

So help me God.

(Deponent)

27

I, Lok Pal Singh, Advocate, High Court of Uttarakhand at Nainital, do hereby declare that the person making this affidavit and alleging himself to be deponent is the same person known to me from the perusal of the papers produced by him in this case.

(Advocate)

Solemnly affirmed before me on this.....day of Jan., 2009 at about.....a.m./p.m. by the deponent, who has been identified by the aforesaid Advocate.

I have satisfied myself by examining the deponent that the deponent has understood the contents of this affidavit, which has been read over and explained to him by me.

(Oath Commissioner)