

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
AT DEHRADUN**

**CLAIM PETITION NO. 67/DB/2022**

Sri Kunwar Singh, aged about 53 years, s/o late Sri Jog Ram, r/o 3/12, Phase-I, Secretariat Colony, Kedarpuram, Dehradun, presently posted as Review Officer, Disaster Management Section, Uttarakhand Secretariat, Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Principal Secretary, Secretariat Administration Department, Uttarakhand, Dehradun.
2. Additional Chief Secretary, Secretariat Administration Department, Uttarakhand, Dehradun.

..... Respondents

With

**CLAIM PETITION NO. 68/DB/2022**

Sri Birendra Dutt Nautiyal, aged about 59 years, s/o late Sri Nar Har Dev, r/o 34 Ganeshpuram, Lower Nathanpur, Mohkampur, Dehradun, presently posted as Review Officer, Planning Section-2, Uttarakhand Secretariat, Dehradun, District, Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Principal Secretary, Secretariat Administration Department, Uttarakhand, Dehradun.
2. Additional Chief Secretary, Secretariat Administration Department, Uttarakhand, Dehradun.

..... Respondents

Present: Sri Amar Murti Shukla, Advocate, for the petitioners  
Sri V.P. Devrani, A.P.O. for State Respondents

## **Judgement**

**Dated: 19<sup>th</sup> February, 2025**

### **Justice U.C. Dhyani (Oral)**

Above-noted claim petitions have identical facts and common questions of law, hence, these petitions are being decided together for the sake of convenience, with the consent of learned Counsel for the parties.

2. By means of present claim petition, the petitioners seek following reliefs:

“(a) Set aside the impugned order dated 07.06.2021 & 28.10.2021 passed by respondent no. 1 and 2 (Annexure-I).

(b) Direct the respondents to grant notional promotion to the petitioner w.e.f. the date when his juniors have been granted the said promotion.

(c) Issue any other suitable order or direction in favour of petitioner, which this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the present case.

(d) Award the cost of claim petition in favor of the petitioner.”

3. Sri Kunwar Singh (petitioner in claim petition no. 67/DB/2022) and Sri Birendra Dutt Nautiyal (petitioner in claim petition no. 68/DB/2022) have filed affidavits in support of their claim petitions. Relevant documents have been filed by them in support of the claim petitions.

4. The claim petition has been contested on behalf of the respondents. Sri Mahaveer Singh Chauhan, Joint Secretary, Department of Secretariat Administration, has filed counter affidavits in both the claim petitions on behalf of the respondents. Relevant documents have been filed in support of the counter affidavits. Material averments contained in the claim petition have been denied justifying the departmental action.

5. The petitioners claim parity with two incumbents, Sri Gauri Shankar Joshi and Smt. Kalawati Martoliya.

6. In the counter affidavit, it has been mentioned, in detail, as to why the case of the petitioners is different from Sri Gauri Shankar Joshi and Smt. Kalawati Martoliya.

7. Earlier, an order was passed by the Hon'ble High Court of Uttarakhand on 30.06.2021 in WPSS No. 727/2021 and connected writ petition being WPSS No. 729/2021, which (order) reads as under:

“Mr. Amar Murti Shukla, Advocate for the petitioners.

Mr. P.S. Bisht, Addl. C.S.C. for the State of Uttarakhand.

The petitioners to the present writ petition has challenged the impugned orders, which are of the like date dated 07.06.2021, by virtue of which the representation of the petitioners for the purposes of grant of the notional promotion, has been rejected and notional promotion has been declined to be granted in compliance of the direction issued by the Coordinate Bench of this Court in Writ Petition No.249 of 2021 (S/S) Kunwar Singh vs. State of Uttarakhand and Writ Petition No.262 of 2021 (S/S) Birendra Dutt Nautiyal vs. State of Uttarakhand; as disposed of by the Coordinate Bench of this Court by the judgment of 03.02.2021, where the direction was issued to respondents to take a decision on the representation of the petitioners, with regards to the petitioners' contention and claim for being granted notional promotion.

Looking to the controversy and particularly when it entails a consideration of determination of an inter-se seniority, as well as the orders passed of promotion, I am of the view that the nature of controversy entails a determination of a factual aspect and also since in compliance of the earlier order passed by the Coordinate bench of this Court, their representation has already been decided by the order of 07.06.2021, the issue would fall to be within the ambit of consideration of the Public Services Tribunal. Hence, the present writ petition is dismissed with a direction to the petitioners, that it will be open for him to approach to the Public Services Tribunal for redressal of his grievances, as against the impugned order dated 07.06.2021, which are under challenge or for any other ancillary relief, which is emanating from the said order.

Subject to the above observations, these writ petitions are dismissed on the ground of availability of a statutory remedy before Public Services Tribunal.”

8. In the claim petitions, various grounds have been taken by the petitioners in support of their reliefs. Sri Amar Murti Shukla, learned Counsel for the petitioners maintains that the case of the petitioners is similar to the case of Sri Gauri Shankar Joshi and Smt. Kalawati Martoliya. Such grounds have been taken in para 5.1 to

5.8 of the claim petition. The Tribunal need not reproduce those grounds for they are already part of record.

9. It is the submission of learned Counsel for the petitioners that the respondent department may kindly to directed to reconsider the case of the petitioners in the light of grounds taken by them in the claim petitions uninfluenced by the earlier order dated 07.06.2021.

10. Learned A.P.O. submitted that if a direction is given by the Tribunal to reconsider the case of the petitioner, the respondent department shall abide by the same.

11. The claim petition is disposed of with the consent of learned Counsel for the parties, by directing the respondent no. 1 to reconsider the case of the petitioners in the light of grounds taken by the them in their claim petitions, untrammelled by the earlier order dated 07.06.2021, as expeditiously as possible, without unreasonable delay, in accordance with law, preferably within 12 weeks of presentation of certified copy of this order along with memo of grounds thus taken. No order as to costs.

12. Let a copy of this order be placed in the file of claim petition no. 68/DB/2022, Birendra Dutt Nautiyal vs. State of Uttarakhand and another.

**(Justice U.C. Dhyani)**  
Chairman  
[virtual]

*DATE: 19<sup>th</sup> February, 2025*  
*DEHRADUN*  
*RS*