

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
BENCH AT NAINITAL**

**CONTEMPT PETITION NO. C-02/NB /SB/2025**

Naveen Chandra Lohani, s/o Late Sri C.S. Lohani, r/o Rani Jaswa,  
Kathghariya, P.O. Kathghariya, Haldwani, District Nainital.

**WITH**

**CONTEMPT PETITION NO. 03/NB/SB/2025**

Pan Singh Bisht, aged 70 years, S/o Sri Bahadur Singh Bisht, R/o Village-  
Bameta Bangar Keshav Narayanpuram, Halduchaud, P.O. Halduchaud,  
Haldwani, District Nainital.

**WITH**

**CONTEMPT PETITION NO. 04/NB/SB/2025**

Dan Singh Poona, aged about 64 years, S/o Sri Bachhi Singh Poona, R/o  
Phool Chaud, P.O. Anandpur, Haldwani, District Nainital.

**WITH**

**CONTEMPT PETITION NO. 05/NB/SB/2025**

Deewan Singh, aged 70 years, S/o Sri Mohan Singh, R/o Suravi Colony,  
Malli Bamori, P.O. Bhotiaparaw, Haldwani, District Nainital.

*(Arising out of judgment dated 03.12.2024, passed in Claim  
petition No18/NB/DB/2020 and connected claim petitions)*

**.....Petitioners/applicants**

**vs.**

1. Sri R.K. Sudhanshu, Forest Secretary, Civil Secretariat, Subhash Road,  
Dehradun..
2. Dr. Dhananjay Mohan, Pramukh Chief Conservator of Forest, Dehradun,  
Uttarakhand.
3. Dr. Dheeraj Pandey, Chief Conservator of Forest, Kumaon Region, Nainital.
4. Sri Himanshu Bangari, Divisional Forest Officer, Tarai Central, Haldwani,  
Uttarakhand, Nainital.

**.....Respondents/ O.Ps.**

*(virtually)*

Present: Sri A.D.Tripathi, Advocate, for the petitioners-applicants.  
Sri Kishore Kumar, A.P.O. in assistance of the Tribunal.

### **JUDGMENT**

**DATED: MAY 05, 2025**

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

Above noted contempt petitions are taken up, and decided together inasmuch as all the Claim petitions wherefrom these contempt petitions have arisen were decided together by the Division Bench of the Tribunal by a common judgment and order dated 03.12.2024, passed in Claim Petition No. 18/NB/DB/2020, Naveen Chandra Lohani vs. State of Uttarakhand and others and connected claim petitions, relevant paragraphs of which run as under:

“11. The relevant paragraphs of the judgment of Hon’ble Supreme Court passed in the case of Prem Singh v. State of U.P. (supra) are reproduced as under for convenience:

“33. The question arises whether the imposition of rider that such service to be counted has to be rendered in between two spells of temporary or temporary and permanent service is legal and proper. We find that once regularisation had been made on vacant posts, though the employee had not served prior to that on temporary basis, considering the nature of appointment, though it was not a regular appointment it was made on monthly salary and thereafter in the pay scale of work-charged establishment the efficiency bar was permitted to be crossed. It would be highly discriminatory and irrational because of the rider contained in the Note to Rule 3(8) of the 1961 Rules, not to count such service particularly, when it can be counted, in case such service is sandwiched between two temporary or in-between temporary and permanent services. There is no rhyme or reason not to count the service of work-charged period in case it has been rendered before regularisation. In our opinion, an impermissible classification has been made under Rule 3(8). It would be highly unjust, impermissible and irrational to deprive such employees benefit of the qualifying service. Service of work-charged period remains the same for all the employees, once it is to be counted for one class, it has to be counted for all to prevent discrimination. The classification cannot be done on the irrational basis and when respondents are themselves counting period spent in such service, it would be highly discriminatory not to count the service on the basis of flimsy classification. The rider put on that workcharged service should have preceded by temporary capacity is discriminatory and irrational and creates an impermissible classification.

34. As it would be unjust, illegal and impermissible to make aforesaid classification to make Rule 3(8) valid and non-discriminatory, we have to read down the provisions of Rule 3(8) and hold that services rendered even

prior to regularisation in the capacity of work-charged employees, contingency paid fund employees or non-pensionable establishment shall also be counted towards the qualifying service even if such service is not preceded by temporary or regular appointment in a pensionable establishment.

35. In view of the Note appended to Rule 3(8), which we have read down, the provision contained in Regulation 370 of the Civil Services Regulations has to be struck down as also the instructions contained in Para 669 of the Financial Handbook.

36. There are some of the employees who have not been regularised in spite of having rendered the services for 30-40 or more years whereas they have been superannuated. As they have worked in the workcharged establishment, not against any particular project, their services ought to have been regularised under the Government instructions and even as per the decision of this Court in *State of Karnataka v. Umadevi (3)* [*State of Karnataka v. Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753]. This Court in the said decision has laid down that in case services have been rendered for more than ten years without the cover of the Court's order, as one-time measure, the services be regularised of such employees. In the facts of the case, those employees who have worked for ten years or more should have been regularised. It would not be proper to regulate them for consideration of regularisation as others have been regularised, we direct that their services be treated as a regular one. However, it is made clear that they shall not be entitled to claiming any dues of difference in wages had they been continued in service regularly before attaining the age of superannuation. They shall be entitled to receive the pension as if they have retired from the regular establishment and the services rendered by them right from the day they entered the work-charged establishment shall be counted as qualifying service for purpose of pension.

37. In view of reading down Rule 3(8) of the U.P. Retirement Benefits Rules, 1961, we hold that services rendered in the work-charged establishment shall be treated as qualifying service under the aforesaid rule for grant of pension. The arrears of pension shall be confined to three years only before the date of the order. Let the admissible benefits be paid accordingly within three months. Resultantly, the appeals filed by the employees are allowed and filed by the State are dismissed.

12. Hon'ble High Court of Uttarakhand in Writ Petition No. 441 of 2022(S/S), Suresh Chandra Kandwal vs. State of Uttarakhand & others has also passed a judgement dated 20.08.2024 for counting the past service for the pensionary benefits in view of the Judgement of the Hon'ble Supreme Court.

13. In the light of the aforesaid decision of the Hon'ble Supreme Court, this Tribunal has also delivered the judgement dated 08/10/2024 in the Claim Petition No. 60/NB/DB/2019, Kunwar Singh 9 vs State of Uttarakhand, for counting of past services for the grant of the pensionary benefits.

14. On the basis of the above, it is clear that the department has regularized petitioners and paid pensionary benefits for the service rendered after their regularization in the department as Forest Guards. But they have served the department continuously as Export Moharir for more than thirty years and they are entitled to get the benefit of the past services rendered by them for pensionary benefits.

15. In view of the above, the impugned orders dated 08.02.2019, 16.08.2019, 27.08.2019, by which the representations of the petitioners for claiming the pensionary benefits were rejected by the respondents, are hereby set aside and the claim petitions are hereby disposed of in terms of the judgment of Hon'ble Supreme Court in the case of *Prem Singh v. State of U.P.*, (2019) 10 SCC 516 by directing the respondents to calculate the service rendered by the petitioners as temporary employee (Export Moharir) and recalculate the pensionary benefits only and give necessary benefits to the petitioners within

a period of two months on presentation of certified copy of this judgment/order. No order as to costs.”

2. Rule 50 of the Uttar Pradesh Public Services (Tribunal) Rules, 1992, reads as below:

**“50. Initiation of proceedings.—**(1) Any petition, information or motion for action being taken under the Contempt shall, in the first instance, be placed before the Chairman.  
(2) The Chairman or the Vice-Chairman or such other Members as may be designated by him of this purpose, shall determine the expediency or propriety of taking action under the Contempt Act.”

*[Emphasis supplied]*

3. Present contempt petitions have been filed on behalf of the applicants for securing compliance of Tribunal’s order dated 03.12.2024, passed in Claim Petition No. 18/NB/DB/2020, Naveen Chandra Lohani vs. State of Uttarakhand and others and connected claim petitions.

4. Ld. A.P.O. objected that the contempt petition cannot be filed directly. Petitioners should have filed execution petition and if orders of the Tribunal are not complied with, then only the contempt petition(s) may be filed in the Tribunal. In reply, Sri A.D. Tripathi, Ld. Counsel for the petitioners/applicants submitted that contempt petitions may be treated as execution applications, in the interest of justice.

5. Agreeing to the request of Ld. Counsel for the petitioners/applicants, the above noted contempt petitions are treated as execution applications.

6. Ld. Counsel for the petitioners/ applicants submitted that the order passed by the Tribunal on 03.12.2024 has not been complied with by the respondents despite lapse of considerable time and strict direction should be given to them to comply with the same.

7. Considering the facts of the case and submissions of Ld. Counsel for the parties, the Tribunal feels that one more opportunity should be given to the respondents to comply with the order(s) of the Tribunal, failing which the petitioners may be given liberty to initiate

appropriate action against the erring officials, as per law, to secure compliance of Tribunal's order(s) passed earlier.

8. The contempt petitions, which are treated as execution applications, are disposed of, at the admission stage, by directing the authority(ies) concerned, to comply with the order(s) of the Tribunal dated 03.12.2024, passed in Claim Petition No. 18/NB/DB/2020, Naveen Chandra Lohani vs. State of Uttarakhand and others & connected claim petitions, if the same has not been complied with so far, as expeditiously as possible and without further loss of time, on presentation of certified copy of this order, failing which the concerned authorities may be liable to face appropriate action under the law governing the field, at their cost and risk.

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN  
*(virtual)*

*DATE: MAY 05, 2025.*  
*DEHRADUN*

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