

**BEFORE THE UTTARAKHAND PUBLIC SERVICE TRIBUNAL,
NAINITAL AT BENCH**

Present: Hon'ble Mr. Rajendra Singh

----- Vice Chairman(J)

Hon'ble Mr. A.S.Rawat

-----Vice Chairman(A)

CLAIM PETITION NO. 153/NB/DB OF 2023

- 1- Mahendra Singh, S/O Sri Ratan Singh Presently working on the post of Electrician/Mechanic Government Post Graduate College Khatima, District- Udham Singh Nagar.
- 2- Ranjeet Singh Matiyali, S/O Sri Kheem Singh Matiyali Presently working on the post of Electrician/ Mechanic Ramnagar, District- Nainital.
- 3- Devi Ram S/O Sri Durga Ram Presently working on the post of Electrician/ Mechanic Government Post Graduate College Kashipur, District- Udham Singh Nagar.
- 4- Rajesh Kumar S/O Late Soorja Presently working on the post of Electrician/Mechanic In Vir Sahid Kesari Chand Government post Graduate College, Dak Pather Dehradun.
- 5- Smt. Manju Mehta W/O Mohan Singh Mehta Presently working on the post of Electrician /Mechanic Government Post Graduate College Narendra Nagar, District- Tehari Garhwal.

.....**Petitioners**

Vs.

- 1- State of Uttarakhand through Principal Secretary, Higher Education, Uttarakhand Government of Dehradun.
- 2- Director, Higher Education Uttarakhand, Haldwani District Nainital,
- 3- Secretary Finance, Uttarakhand Government of Dehradun.
- 4- Principal H.N.B. Government P.G. College, Khatima, District Udham Singh Nagar.
- 5- Principal Government P.G. College, Ramnagar, District- Nainital.
- 6- Principal Government P.G. College, Kashipur, District- Udham Singh Nagar.
- 7- Principal Government P.G. College, Dak Pather, District–Dehradun.
- 8- Principal Government P.G. College, Narendra Nagar, District – Tehari Garhwal.

.....**Respondents.**

Present: Shri A.D. Tripathi, Advocate for the petitioners
Sri Kishore Kumar, A.P.O. for the respondents

JUDGMENT

DATED: APRIL 21, 2025

(Per: Hon'ble Mr. A.S.Rawat, Vice Chairman(A))

Present claim petition has been filed for seeking the following reliefs:

- (i) Issue a writ order or direction in the nature of CERTIORARI to set aside the order no. 327/xxiv- C-4 -/ 2023 -01 (12)/ 2017 dated 25 April 2023, passed by the respondents No. 1 and order No.11/ 2023-24 dated 03 June 2023 issued by the respondent no. 2 in compliance or order dated 25- April 2023, passed by Respondent no. 1 contained in Annexure No. 2, respectively in the petition.*
- (ii) Issue a writ order or direction in the nature of Mandamus commanding and directing the respondent to grant grade pay of Rs.2400 instead of Rs 2000,as has been paid to the similarly situated employees working on the same and similar post of Electrician in various other Department such as in Electricity, Irrigation, PWD and pay Jal Nigam etc., Departments, the relevant G.O. are Annexed with the writ petition.*
- (iii) Issue a writ order or direction in the nature of Mandamus commanding and directing the respondent to apply staffing pattern on the post of Electrician, being Ministerial Staff, petitioners are entitled for such benefits according to the G.O. No. 67 dated 17-06-2016, contained in to the writ petition.*
- (iv) Issue a writ order or direction in the nature of Mandamus commanding and directing the respondent to consider the petitioner being eligible for promotion on the higher post, guaranteed under article 16 of the Constitution.*
- (v) Issue a writ order or direction which this Hon'ble Court may deem fit and proper considering the facts and circumstances of the case.*
- (vi) Award the cost of the petition.*

2. This is a second round of litigation. Earlier, the petitioner had filed claim petition no. 29/NB/DB/2018, which was decided by this Tribunal vide order dated 26.07.2022 with the following directions:

“7. The Tribunal feels that the ends of justice would be met, if the Government is asked to take well considered decision on the proposal made in the above letter dated 31.05.2019 of the Director, Higher Education in consultation with the Finance Department within a period of three months from the presentation of certified copy of this order. The Government may also take note of the fact that the Electricians in various other departments have been given the grade pay of Rs. 2400/- and the proposal which was earlier sent for upgradation of grade pay of Rs. 2400/- of Electricians of Post Graduate Colleges by Government to the Pay Anomaly Committee was not considered by the Pay Anomaly Committee, as the proposal did not have complete details/information and record. The Government may also afford an opportunity of personal hearing to the petitioners, if so they desire.

8. Department of Higher Education may also consider applying staffing pattern on the post of Electricians as prayed by the claim petitioners.”

3. Aggrieved by the decisions of the respondents passed in compliance of the Tribunal's order, the petitioners have filed the present claim petition.

4. Brief facts of the case are as follows:-

4.1 The petitioners are working on the post of Electrician in their respective Postgraduate Colleges of the State. They possess the required qualifications of post prescribed in the relevant Service Rules namely The Uttarakhand (Department of Higher Education) Group “C” service Rules, 2011.

4.2 There are 14 number of posts, 12 are in pay scale of Rs. 5200-20200 grade pay Rs. 2000/-, qualification for the post of Electrician is High School or equivalent and Diploma/ Certificate in Electrical/ instrument Mechanic trade from recognized I.T.I. The petitioners possess the requisite qualification as prescribed in the Rules. Although, Assured Career Progression (ACP) benefits are available, but benefit of ACP is not a substitute for regular promotion.

4.3 Whereas, promotional avenues for Stenographer, Drivers have been created vide G.O. No. 110/xxxvii (7) / 2006 dated 29.06.2006 and 108/ xxxvii (7) / 2006 dated 03 July 2006, where the cadre of Driver by restructuring are divided into four posts i.e.(i) Driver

Grade- 4. (ii) Driver Grade- 3, (iii)-Driver Grade- 2 and (iv) Driver Grade-1.

4.4 The respondents have rejected the claim of the petitioners only on the ground that the post of electrician is declared as a dying cadre in Higher Education Department in such situation, benefit of grade pay of Rs. 2400/- is not available to them, which is absolutely misconceived, perverse, illegal and not tenable in the eye of law.

4.5 It is further submitted that Delhi University has allowed the grade pay of Rs. 5200-20200, GP- 2400/, for 9 posts of electricians.

4.6 An explanation report submitted by the authority concerned to Secretary Finance-7, in which it is submitted that the nature of work, responsibilities, and duties of the electrician of PWD are different from the electrician of Higher Education. Para 5 of the report says for claiming parity/ equality of post, it is essential to prove, "requisite qualification/ essential qualification, source of appointment, selection process, duties / responsibilities, work conducts, working area, must be same". In Para-6 of the report it is mentioned that the recommendation of Samta Samiti has been adopted by the State Government, no parity / Inter se parity can be claimed from one cadre to another cadre after 01-01-1986.

4.7 The requisite qualification of Electrician is same as in PWD, Irrigation, Peyjal Nigam - High school with 2 years ITI Diploma from recognized institution and the source of appointment is same, selection process is same, pay scale is same Rs. 5200-20200/- earlier GP Rs. 1900/-, thereafter the GP Rs 2400/- issued in pay band – Rs. 5200-20200/ - to the electrician / wireman vide G.O. No. 144/ 11 (1) / 15-34 (General) /06 dated 01 February 2016.

4.8 The petitioner has claimed parity with the cadre of electrician working in PWD, Irrigation and Pey jal Nigam of equal pay band Rs. 5200-20200 and grade pay Rs. 1900/- now Rs. 2400 w.e.f. 01- 02- 2016 in the PWD.

4.9 In compliance of G.O. No. 415 / xxx (2)/2013 dated 10.10.2013, the respondent no. 2 submitted the report dated 05.11.2014 for restructuring of department and staffing pattern in the higher education department, in which the grade pay of Lab Assistants has been proposed to be upgraded from Rs. 2000 to Rs. 2400, applying the same principle as in the other cadres also.

4.10 Government Order No. 283xxvi (7)2010 dated 07 January 2010 clearly states that the posts which are in continuation and employees are working against such post, staffing pattern should be applied under the format given therein, as posts of the petitioners are in the Ministerial Staff. The same staffing pattern should be applicable to them also and the grade pay of Rs. 2400 to be given to them.

4.11 It is absolutely correct that parity can be claimed in the same and identical post, but not with other cadre or post, in the context the petitioners are claiming parity with the persons holding posts of electrician in various departments such as Electricity Department, PWD, Pey Jal Nigam, Irrigation and many others.

4.12 The respondents have rejected the representation of the petitioners only on the ground that no promotional avenues are available for the posts of Electrician and more so, the strength of electrician is very low, as such, staffing pattern could not be applied.

4.13 The staffing pattern is applied in case of Stenographer and Driver, which contains only one post, in the same way staffing pattern can be applied in the case of petitioners also as their total strength is 12. Such benefits of staffing pattern can be given to the petitioners by dividing it into i.e. (i)- Electrician grade 4, (ii) – Electrician grade 3, (iii) Foreman grade 2, (iv)–Foreman grade 1 and (v)- Junior Engineer, but the respondents deliberately and illegally refused to apply.

4.14 The petitioners have completed more than 20 years service on the post of Electrician, they have neither been given any promotion nor up- gradation of their grade pay as has been done in

the other department for the posts of electrician. The petitioners have prayed to set aside the order dated 08.05.2018 passed by the respondents, by which, the representation of the petitioners was rejected.

5. Counter Affidavit has been filed on behalf of the respondents no. 1 to 3, in which, it has been stated that:

5.1 The provisions of Assured Career Progression (ACP) is available where there is no scope of promotion available and hence benefit of ACP is already being given to the petitioners to break the stagnation in service. The matter has been submitted to the Finance Department, which referred the recommendation of Equivalence Committee in likewise similar cases where for the consideration of scope of promotion not found tenable in the eyes of Committee, the benefit of staffing pattern could not be given. Since the post has already been declared as dying cadre, there is no scope for the promotion and hence of ACP is given to the petitioners.

5.2 The example cited by the petitioners of other University cannot be equated with the case of the petitioners as State is not bound to follow other institutes for determination of service conditions of their employees.

5.3 The Pay Anomaly Committee constituted by the Govt. after looking into all the issues related to pay anomalies concerned with different departments, which have their own post structures and related service conditions as per their needs, has given its recommendations. No parity can be claimed between different persons working in two different departments in different sets of conditions. The Finance Department has given its advice and it does not find any ground to give any affirmative recommendation or advice to provide the benefit of staffing pattern to the petitioners' posts. Since the said post of electrician in Higher Education department is declared as dying cadre and as per recommendations of Pay Equivalence Committee (वेतन समता समिति) in similar cases.

5.4 In view of the above facts and circumstance and the grounds taken in the writ petition are devoid of merit and liable to be dismissed.

6. No C.A./W.S. been filed on behalf of respondents no. 4,5,6 & 8 and the Tribunal vide order dated 14.10.2024 decided to proceed ex-parte against them. The respondent no. 7 has filed a letter stating that they work as per the instruction of the Director, Higher Education, Uttarakhand.

7. R.A. has been filed on behalf of the petitioners, denying the contents of the Counter Affidavit and they have reiterated the averments made in the claim petition. It is also submitted that though the post of Electrician is declared as dying cadre, but presently the employees are working on the posts of Electrician and they have been transferred from one place to another. The principle behind dying cadre is that no fresh appointment shall be made on the vacant posts. The service conditions of Electricians are similar in nature and the qualification for the post of Electrician, in all departments are same such as High School +Two years Diploma in Electrician and Wireman. It is also submitted that beside requisite qualification/essential qualification, source of appointment, selection process, duties/responsibilities work conduct and working areas of Electricians and Wireman are the same in nature. Hence, the claim petition is liable to be allowed.

8. We have heard the Learned Counsel for the petitioners and the Learned A.P.O. and perused the documents.

9. The learned Counsel for the petitioners argued that the petitioners have been appointed on the posts of electricians in the Higher Education department of Uttarakhand Government. The cadre strength of the electrician is 12 and as against the cadre strength, 5 persons are working. There is no cadre structure approved for the electrician cadre, whereas, there is cadre structure approved for the PWD and the Irrigation department in the State. The electricians in

these departments are getting functional promotions. The petitioners earlier submitted representations in the department to consider their request to approve a cadre structure for them. But their representations were not decided by the respondent department. The respondents decided their representations on the order of the Hon'ble Tribunal only. The respondents rejected the representation and informed that the cadre of the electrician is a dying cadre and they will not carry out any restructuring of the cadre. In fact, the department submitted the proposal but the finance department did not approve it rather directed that the department should engage the persons on contract basis against the vacant posts.

10. The duties of the electricians in the Higher Education Department are same as in the PWD and the Irrigation department. The qualification, source of appointment and selection process for electrician for all the departments in the State are same. They also deserve the same cadre and the pay structure as in these Departments. Although, the Govt. has declared the cadre of Electrician as dying cadre, the principle of the dying cadre like no fresh recruitment is applicable to them but the existing persons should not be deprived of the benefit of promotion. The electricians in the Higher Education Department are being given promotion as per ACP whereas against the functional promotion in these departments. In such situation the petitioners should be given the same grade pay and the cadre structure as in the PWD and the Irrigation Department. The impugned orders dated 25.04.2023 and 03.06.2023 of the respondents are liable to be set aside and the claim petition liable to be allowed.

11. Learned A.P.O. has argued that the Government has declared the cadre of electricians in the Higher Education Department a dying cadre, the Anomaly Committee also did not consider their case. There are promotional avenues open to the electricians through ACP. In such situation, the request of the petitioners cannot be considered. The claim petition is liable to be dismissed.

12. Based on the arguments of learned Counsel for the parties and the documents submitted, we find that the recruitment rules for the post of the electrician in the Higher Education Department are same as in the PWD, Irrigation Department and Peyjal Nigam. The duties of electrician in the Higher Education Department are also same as in the PWD and the Irrigation Department. But there is a cadre structure for the electricians in the PWD and the Irrigation Department and they have avenues for the functional promotions also. The petitioners cannot be deprived of the functional promotions and the cadre structure like PWD, Irrigation department and Peyjal Nigam.

13. In view of the facts mentioned above, the impugned orders dated 25.04.2023 and 03.06.2023 passed by the respondents are liable to set aside and claim petition is liable to be allowed. The petitioners are entitled to get the same cadre structure and the grade pay as the electricians in the PWD, Irrigation department and Peyjal Nigam.

ORDER

The claim petition is hereby allowed. The Impugned orders dated 25.04.2023 and 03.06.2023 are hereby quashed. The respondents are directed to approve the same cadre structure and Grade Pay for the petitioners in the Higher Education department, as in the PWD, Irrigation Department and Peyjal Nigam, within three months, on presentation of certified copy of this order. No order as to costs.

(RAJENDRA SINGH)
VICE CHAIRMAN(J)

(A.S.RAWAT)
VICE CHAIRMAN (A)

DATED: APRIL 21, 2025
DEHRADUN.
KNP