

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

Present: Hon'ble Mr. Rajendra Singh

----- Vice Chairman(J)

Hon'ble Mr. A.S.Rawat

-----Vice Chairman(A)

CLAIM PETITION NO. 130/NB/DB/2023

Balwant Singh Bora (Male) Aged about 60 years S/o Late Sri Prem Singh Bora, R/o House No. 209, Shivashish Colony Dahriya Rampur Road, Haldwani District Nainital.

.....petitioner

Vs.

1. State of Uttarakhand through Secretary/Chairman Board of Revenue Dehradun.
2. District Magistrate, Nainital.
3. Smt. Geeta Gautam W/o not Known Presently posted as Senior Administrative Officer, District Magistrate Office, Champawat District Champawat.

.....Respondents

Present: Sri Harish Adhikari, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

JUDGMENT

DATED: APRIL 07, 2025

HON'BLE SRI A.S.RAWAT, VICE CHAIRMAN (A)

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

- (i) *To Issue direction or order appropriate in nature and set aside the impugned orders dated 05-07-2023 and 18-12-2021 (Contained as Annexure No. 1 and 2 to the claim petition) and further direct the respondents to grant the benefit of the pay scale of Rs. 56100-177500-Level-10 on the post of Senior Administrative officer from the date when the same is given to the juniors to the petitioner, after calling the entire records from the respondents or in alternate pass any appropriate orders Keeping in view of the facts highlighted in the body of the petition or mould the relief appropriately.*
- (ii) *To issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.*

2. Brief facts of the case are as below:

2.1 The petitioner was appointed in the respondent department on 21-06-1990 on the post typist in the pay scale of Rs. 950-1500 in the office of District Magistrate, Nainital. Thereafter, he was promoted to the post of Senior Assistant on 09-01-2002 in the pay scale of Rs. 4000-6000. He was again promoted to the post of Head Assistant on 08-05-2012 in the pay scale of Rs. 5200-20200, Grade pay of Rs. 4200 and thereafter, on completion of 26 years of satisfactory service was granted the benefit of A.C.P. in the pay Scale of Rs. 9300-34800 of Grade Pay 4600 in Level- 7.

2.2 The petitioner, who was working as Reader in District Magistrate's Office was directed to join the duties in A.C.R.C. Office, Nainital vide order dated 07-05-2013 as reader, which is equivalent to Review Officer and in the aforesaid order, it is mentioned that the salary of the petitioner is withdrawn from his parent department i.e. District Magistrate Office, Nainital. Pursuant to the aforesaid order, the District Magistrate, Nainital relieved the petitioner and he joined the duties of reader in the A.C.R.C. office, Nainital.

2.3 The petitioner after his joining in A.C.R.C. Office made representation to the concerned authorities and requested to absorb him in the Board of Revenue Services and in this regard, the Presiding Officer of A.C.R.C. recommended the case of the petitioner for absorption but the respondent no.1 has not agreed with the recommendations of the Presiding Officer and rejected the recommendations. His juniors, who are in his parent department i.e. District Collectorate cadre are getting higher pay scales than the petitioner but the respondent no. 1 on the one hand did not absorb the petitioner in Board of Revenue Service since 2013 and on the other hand did not send back the petitioner in Collectorate service, due to this act, the petitioner suffered financial loss and thus was deprived from promotion as given to his juniors on the post of administrative

officer and the petitioner was forced to work on a junior post and lower pay scale for no fault on his part.

2.4 The respondent no. 1 vide order dated 25.10.2019 absorbed the petitioner in Revenue service as review officer. The petitioner made representation to the respondent no. 1 on 19.11.2019 and 22.06.2021 and requested to grant the benefit of promotion as given to his counter parts in the collectorate service.

2.5 The respondent no. 1 has given the benefit of relaxation for promotion to the employees of Asstt. cadre who are junior to the petitioner and granted them the higher pay scale of (Rs. 56100-177500, Level-10) on the post of Senior Administrative officer but on the other hand forced the petitioner to work on the lower post of Review Officer in Level-8. The petitioner retired in lower pay scale.

2.6. The petitioner has requested the Hon'ble Court to issue directions to the respondents as the Hon'ble Court may deem fit and proper.

3. The respondent No. 2 filed counter affidavit, which has been adopted by the respondents No 1 also. The brief of the Counter Affidavit is as below.

3.1 मा0 राजस्व परिषद उत्तराखण्ड, देहरादून के परिषद आदेश संख्या 2176/रा0प0-स्था0/2013 दिनांक 07 मई, 2013 के द्वारा याची को सर्किट कोर्ट, नैनीताल में अग्रिम आदेशों तक इस प्रतिबन्ध के साथ तैनाती प्रदान की गई थी कि उन्हें कोई अतिरिक्त वेतन भत्ता आदि देय नहीं होगा और उनका वेतन जिलाधिकारी अधिष्ठान नैनीताल से उनके मूल पद के सापेक्ष ही आहरित होगा।

3.2 आयुक्त कुमाउं मण्डल, नैनीताल के कार्यालय आदेश संख्या 597/नौ-6/2018-19 दिनांक 30 नवम्बर, 2018 द्वारा याची को प्रधान सहायक के पद से प्रशासनिक अधिकारी (छठवें वेतन आयोग वेतनमान 9300-34800, ग्रेड वेतन 4600) के पद पर प्रोन्नति प्रदान की गई थी। मा0 राजस्व परिषद उत्तराखण्ड सर्किट कोर्ट, नैनीताल में समीक्षा अधिकारी के पद पर स्थानान्तरण/संविलियन किया गया। तदनुसार, जिलाधिकारी कार्यालय नैनीताल

के आदेश संख्या 03/14-आर.ए./2019 दिनांक 07 नवम्बर, 2019 से याची मा0 राजस्व परिषद उत्तराखण्ड सर्किट कोर्ट, नैनीताल में समीक्षा अधिकारी के पद पर योगदान देने हेतु कार्यमुक्त किया गया। याची परिषद आदेश दिनांक 25.10.2019 से उत्तराखण्ड सर्किट कोर्ट नैनीताल में समीक्षा अधिकारी के पद पर स्थानान्तरण/संविलियन हो चुका था, जिस कारण इनकी पदोन्नति के सम्बन्ध में मा0 अध्यक्ष, राजस्व परिषद, उत्तराखण्ड, देहरादून के स्तर से निर्णय लिया जाना अपेक्षित है। याचीकर्ता के द्वारा योजित की गयी वर्तमान याचिका असत्य एवं भ्रामक तथ्यों पर आधारित है।

4. Respondent No 3 also filed Counter Affidavit. The brief of the Counter Affidavit is as below:

4.1 आयुक्त एवं सचिव, राजस्व परिषद, उत्तराखण्ड, देहरादून के पत्र संख्या 8056/6-65/अधि0/2018-19 दिनांक 28 सितम्बर, 2020, जो समस्त जिलाधिकारी, उत्तराखण्ड को सम्बोधित है एवं जिसके द्वारा प्रशासनिक अधिकारियों की राज्य स्तरीय (संशोधित) वरिष्ठता सूची-2019 सम्बन्धित प्रशासनिक अधिकारियों के मध्य परिचालित करवाने हेतु प्रेषित की गयी है। उक्त सूची जिला कार्यालय में कार्यरत् प्रशासनिक अधिकारियों की अन्तिम (संशोधित) वरिष्ठता सूची-2019 है, जिसके पृष्ठ संख्या 02 के कम संख्या 23 पर प्रतिवादी संख्या 03 श्रीमती गीता गौतम का नाम अंकित है एवं कम संख्या 21 पर दावेदार श्री बलवन्त सिंह बोरा का नाम अंकित है। इसमें श्री बोरा के नाम के आगे अंतिम कॉलम में राजस्व परिषद में संविलियन उल्लिखित है।

4.2 प्र0 उप राजस्व आयुक्त, राजस्व परिषद, उत्तराखण्ड, देहरादून के पत्रांक 2651/6-33 अधि0/रा0प0/2020-21 दिनांक अगस्त 22, 2022 के द्वारा समस्त जिलाधिकारी उत्तराखण्ड को प्रेषित प्रदेश स्तरीय वरिष्ठ प्रशासनिक अधिकारियों की अन्तिम वरिष्ठता सूची-2022 समस्त तैनात/कार्यरत् वरिष्ठ प्रशासनिक अधिकारियों को वरिष्ठता सूची-2022 हस्तगत किये जाने हेतु प्रेषित की गई है। उक्त सूची में राजस्व विभाग के अन्तर्गत जिला कार्यालयों में तैनात/कार्यरत् वरिष्ठ प्रशासनिक अधिकारियों की प्रदेश स्तरीय अन्तिम वरिष्ठता सूची-2022 के पृष्ठ संख्या 2 के कम संख्या 29 पर प्रतिवादी संख्या 03 श्रीमती गीता गौतम का नाम अंकित है। राजस्व परिषद, उत्तराखण्ड द्वारा जारी उक्त वरिष्ठता सूची में प्रतिवारी संख्या 03 गीता गौतम के नाम से पूर्व वरिष्ठता कम में दावेदार श्री बलवन्त सिंह बोरा का नाम अंकित नहीं है, जिसके अवलोकन से

यह स्पष्ट है कि दावेदार श्री बलवन्त सिंह बोरा प्रतिवादी संख्या 03 श्रीमती गीता गौतम से वरिष्ठतम कार्मिक नहीं है। प्रतिवादी संख्या 03 श्रीमती गीता गौतम की पदोन्नति माननीय राजस्व परिषद, उत्तराखण्ड द्वारा जारी वरिष्ठता सूची के वरिष्ठता क्रमानुसार सही हुयी है।

5. Petitioner filed R.A. to the Counter affidavit filed by the Respondent No 2, in which, it has been stated that:

5.1 The respondent had adopted the policy of favoritism by relaxing the minimum eligibility criteria in case of the juniors to the petitioner and not allowed the benefit of Rule 7 Ka and 18 of the Uttarakhand Revenue Board R.O. and A.R.O. Rules, 2021 to the petitioner.

5.2 The petitioner was not absorbed in the services of the Revenue Board since 2013 when he started working in the Board and on the other hand not sent back the petitioner to the services of the Collectorate and, thus, deprived the petitioner from promotion as was granted to his juniors on the post of Administrative Officer and the petitioner was forced to work on a junior post and a lower pay scale for no fault on his part.

6. Heard Learned Counsel for the petitioner and the respondents and perused the documents.

7. Learned Counsel for the petitioner pleaded that the petitioner worked in the Board or Revenue on deputation since 2013, was absorbed in the post of Review Officer in 2019. His juniors in the district cadre were promoted ahead of him. The Revenue Board neither promoted him in 2013 nor reverted him to the Distt cadre, which caused monetary loss to him. The Board of Revenue has promoted persons, who were from the Distt Cadre and were on deputation to the Revenue Board. The petitioner has submitted a representation to the Member Board of Revenue which was rejected. In view of the facts mentioned the petition is liable to be allowed.

8. Learned A.P.O. pleaded that the petitioner was on deputation to the Board of Revenue and he has been given promotion on his

absorption in the Board of Revenue Cadre. The petitioner is claiming promotion for the period when he was not in the cadre of the Board. The absorption of the petitioner is based on the discretion of the Board of Revenue. The petitioner was absorbed in the Revenue Board after his joining the Board on deputation. He cannot claim promotion from the date of his joining in the Board, by citing the precedence. The claim petition is liable to be dismissed.

9. Based on the pleadings of the parties and the records presented, we are of the opinion that the absorption of the petitioner in the Board of Revenue was based on the discretion of the Board. There is no provision in the Uttarakhand Revenue Board, Section Officer, Asstt. Revenue Commissioner (Administration) and Deputy Revenue Commissioner (Administration) Service Rules, 2022 for such arrangement. The petitioner has cited example of Mr. Vijay Pal Singh Negi (Ann-1) who was promoted on the post of the Chief Administrative Officer despite being from the District Cadre and was ordered to draw salary from the district Tehri. He submitted a representation to the Chairman, Uttarakhand Revenue Board, which was rejected. The Tribunal cannot interfere in the decisions of the Revenue Board to absorb the petitioner in the cadre of the Revenue Board and the promotion of Mr. Vijay Pal Singh Negi as these are not as per rules. The claim of the petitioner to consider his promotion from 2013 has no legal force. The promotion cannot be given on the basis of the wrong precedence.

10. In view of the above, the claim petition of the petitioner is liable to be dismissed.

ORDER

The claim petition is hereby dismissed. No order as to costs.

RAJENDRA SINGH
VICE CHAIRMAN (J)

A.S.RAWAT
VICE CHAIRMAN (A)

DATED: APRIL 07, 2025
DEHRADUN
KNP