

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

CLAIM PETITION NO. 196/SB/2023

Arvind Kumar Burman, aged about 44 years, s/o Sri Yashpal Singh, presently posted as Assistant Engineer, Provincial Division, PWD, Pauri, District- Pauri Garhwal.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Public Works Department, Civil Secretariat, Dehradun.
2. Engineer-in-Chief, Head of Department, Public Works Department, Uttarakhand, Yamuna Colony, Dehradun.
3. Chief Engineer, Level-2, PWD, Pauri, District-Pauri Garhwal.
4. Superintendent Engineer, 12th Circle, PWD, Pauri, District-Pauri Garhwal.
5. Executive Engineer (Civil), Provincial Division, PWD, Pauri, District Pauri Garhwal.

..... Respondents

Present: Sri Kanta Prasad, Advocate, for the Petitioner
Sri V.P. Devrani, A.P.O., for the Respondent No. 1
Notices not issued to other respondents

JUDGEMENT

Dated: 15th December, 2023

Justice U.C. Dhyani (Oral)

By means of present claim petition, petitioner seeks the following reliefs:

“(i) To set-aside/ quash the impugned orders dated 09.06.2023 and 15.04.2021 after calling for the entire records from the Respondents, and further to mould the

relief appropriately, keeping in view the facts highlighted in the body of the petition.

(ii) To direct the respondent no.1 & 2 to hold Review Departmental Promotion Committee meeting for considering the candidature of the petitioner for the post of Executive Engineer (Civil) forthwith and to promote petitioner to post of Executive Engineer (Civil) Notionally from date 15.04.2021 along with all arrears of salary and consequential benefits had it been the impugned order was never being in existence keeping in view the peculiar fact and circumstances of the case or to mould the relief appropriately keeping in view the facts highlighted in the body of the petition.

(iii) To award damages and compensation to petitioner such amount which may be quantified this Hon'ble Court and same may be recovered from the respondents.

(iv) Issue any other order, rule or direction, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.”

2. Petitioner has assailed impugned orders dated 09.06.2023 and 15.04.2021, passed by the respondent No.1 by which the petitioner has not been found suitable for promotion to the post of Executive Engineer (Civil). Learned Counsel for the petitioner submitted that the respondents be directed to hold Review Departmental Promotion Committee meeting for consideration of the candidature of the petitioner for the post of Executive Engineer (Civil) and call for the entire records from respondents which was before the Departmental Promotion Committee while passing impugned orders.

2.1 Learned Counsel for the petitioner further submitted that disciplinary action was taken on the report of Audit conducted by the CAG during year 2011 and in para 3.2.3 of the said audit report, it was pointed out that double loading of the CP(Contractors Profit) in the estimated rates (justification) resulted in extra payment to the Contractor and for such para no. 3.2.3. of the said CAG report, a report was called from the respondent No.2 by the Govt. and *vide* letter no.124/404 *Lekha/PAC/(2012-13)* dated 19.06.2014, on which it was replied by respondent no. 2 that

no loss has been incurred to the department, rather, department has saved Rs. 179.53 lakhs.

2.2 It is the submission of learned Counsel for the petitioner that the recommendation of Engineer-in-Chief, H.O.D., was not considered by the disciplinary authority, while passing the impugned orders.

3. Sri Kanta Prasad, learned Counsel for the petitioner, however, made an innocuous prayer that the petitioner will make representation to respondent no. 1, who should be directed to consider the representation of the petitioner, for redressal of his grievance, in a time bound manner, in accordance with law. He also submitted that such an order can be passed by the Single Bench of the Tribunal.

4. Learned A.P.O. has no objection, if a direction is given by the Tribunal to respondent no. 1 to decide the representation of the petitioner, in accordance with law.

5. Without prejudice to rival contentions, the Claim Petition is disposed of, at the admission stage, with the consent of learned Counsel for the parties, by directing respondent no. 1 to decide the representation of the petitioner, in the light of the above, by a reasoned and speaking order, without unreasonable delay, preferably within 12 weeks of presentation of certified copy of this order along with representation enclosing the documents in support thereof. No order as to costs.

(JUSTICE U.C. DHYANI)
CHAIRMAN

DATE: 15th December, 2023
DEHRADUN
RS