

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

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

CLAIM PETITION NO. 105/DB/2021

Rakam Pal, aged about 59 years, s/o Shri Tilak Ram, r/o Engineers Enclave, Phase-I, GMS Road, Dehradun, presently posted as Officiating General Manager, Head Office, Uttarakhand Pey Jal Sansadhan Vikas Evam Nirman Nigam, Dehradun.

.....Petitioner

VS.

1. State of Uttarakhand through its Secretary (Pey Jal), Govt. of Uttarakhand, Secretariat, Dehradun.
2. Chairman, Uttarakhand Pey Jal Sansadhan Vikas Evam Nirman Nigam, (also known as Uttarakhand Peyjal Nigam), 11 Mohini Road, Dehradun through its Managing Director.
3. Managing Director, Uttarakhand Pey Jal Sansadhan Vikas Evam Nirman Nigam, 11, Mohini Road, Dehradun.
4. Chief Engineer (Headquarters), Uttarakhand Pey Jal Sansadhan Vikas Evam Nirman Nigam, 11, Mohini Road, Dehradun.

.....Respondents.

Present: Dr. N.K.Pant, Advocate, for the Petitioner

Sri V.P.Devrani, A.P.O., for the Respondents

JUDGMENT

DATED: OCTOBER 27, 2021

Justice U.C.Dhyani (Oral)

RELIEFS PRAYED FOR

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

“(i) Issue an order or direction calling for the record and directing the respondents to grant the notional promotion w.e.f. 13.07.1998 as similarly situated Engineers as per DPC dated 05.03.2008 under the seniority list 01.02.2021 with quash/set aside the order dated 26.03.2013 of the respondent.

(ii) Issue an order or direction calling for the record and to direct the respondent to grant consequential benefit as per similar situated Engineers on the basis of similar DPC dated 05.03.2008.

(iii) Issue any suitable claim, order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

(iv) Award the cost of claim petition in favour of the petitioner.”

RIVAL SUBMISSIONS

2. At the time of filing the claim petition, the petitioner is working as Executive Engineer (Civil) and is posted as Incharge General Manager, Head Office, Pey Jal Nigam, Uttarakhand, Dehradun. He is, *inter-alia*, aggrieved with the Office Memorandum dated 26.06.2013 (Annexure: A1) whereby he was denied notional promotion to the post of Assistant Engineer with retrospective effect.

In response to a query of the Tribunal, as to why the petitioner has filed this claim petition at such a belated stage, learned Counsel for the petitioner replied that fresh cause of action arises to the petitioner *vide* Office Memorandum dated 01.02.2021 (Annexure: A4) and hence, present claim petition.

Learned A.P.O., on the other hand, submitted that no fresh cause of action arises to the petitioner on the basis of Office Memorandum dated 01.02.2021 (Annexure: A4). Moreover, the petitioner is not seeking any relief emanating from Annexure: A4.

PRAYER RESTRICTED

3. After arguing the claim petition at some length, Ld. Counsel for the petitioner confined his prayer only to the extent that petitioner's representation may kindly be directed to be decided by the Respondent No. 1, as per law, at an early date. Learned A.P.O. objected to the maintainability of the claim petition, *inter-alia*, on the ground that the same is barred by limitation, but submitted that the limitation is for the Tribunal and not for the Govt., therefore, if petitioner moves representation to the Respondent No. 1, the same can be decided by the Govt., at any time, as per law.

4. Considering the facts of the case and oral submissions made in this behalf, this Tribunal is of the view that innocuous prayer made by learned Counsel for the petitioner is worth accepting.

ORDER

5. Without prejudice to rival contentions, the claim petition is disposed of at the admission stage by requesting Respondent no. 1 to consider petitioner's representation, in accordance with law, at an earliest possible, and without unreasonable delay on presentation of certified copy of this order along with petitioner's representation.

6. Needless to say that the decision so taken shall be communicated to the petitioner soon thereafter.

7. It is made clear that we have not expressed any opinion on the merits of the case. No order as to costs.

8. Let certified copies of this judgment be supplied free of cost to the petitioner and Ld. A.P.O., within 48 hrs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: OCTOBER 27, 2021
DEHRADUN
KNP