

**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.50/DB/2022

Anoop Singh, s/o Late Sri Vijay Singh Negi, r/o Village Koti, Revenue Area
Budhana Tehsil Jakholi, District Rudraprayag

.....Petitioner

vs.

1. State of Uttarakhand through Secretary, Tourism, Government of Uttarakhand, Dehradun..
2. Managing Director, Garhwal Mandal Vikas Nigam Ltd., 74/1 Rajpur Road, Dehradun.
3. General Manager (Tourism), Garhwal Mandal Vikas Nigam Ltd., 74/1 Rajpur Road, Dehradun.

.....Respondents

Present: Sri K.K.Verma, Advocate, for the petitioner. (online).
Sri V.P.Devrani, A.P.O., for Respondent No. 1.
Sri Sri S.K.Jain, Advocates for Respondents No. 2 & 3.

JUDGMENT

DATED: SEPTEMBER 27, 2022

Justice U.C.Dhyani (Oral)

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

- (a) To quash the impugned order dated 18.01.2022, passed by respondent no.2 (Annexure: 1)
- (b) To direct the respondents to amend the appointment order dated 03.08.2019 whereby the claimant was appointed on the post of Class

IV post as Waiter and he may be treated to be appointed on Class III post from the date of his appointment on the basis of his educational qualification and to pay all consequential benefits.

(c) Any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. Facts, in brief, of present claim petition are that, the petitioner was appointed as Waiter on Class IV post *vide* order dated 03.08.2019. Petitioner's father died in harness on 21.04.2017, while serving the Respondent Corporation. Petitioner was given appointment on Class IV post as Waiter on 03.08.2019, on compassionate ground, while he possessed the educational qualification for Class III post. Considering the educational qualification of the petitioner, respondents are taking work of Class III post from him. Petitioner moved various representations before the respondents for amending the appointment order and give him appointment on Class III post from the date of his appointment, but to no avail.

3. This is second round of litigation. In first round of litigation, in claim petition No. 94/DB/2021, Anoop Singh vs. State and others, this Tribunal passed the judgment and order on 06.12.2021, operative portion of which reads as below:

“Without prejudice to rival contentions, the claim petition is disposed of by directing Managing Director, Garhwal Mandal Vikas Nigam, Respondent No.2 to decide the pending representation dated 11.01.2021 of the petitioner by a reasoned and speaking order, after giving opportunity of personal hearing, in accordance with law, at an earliest possible but not later than 04 weeks of presentation of certified copy of this order, along with copy of representation, enclosing all the relevant documents.”

Petitioner submitted representation along with copy of the judgment dated 06.12.2021 passed by this Tribunal in claim petition no. 94/DB/2021 before Respondent No. 2., who, *vide* his order dated 18.01.2022, disposed of the representation of the petitioner rejecting his claim. Hence, present claim petition.

4. Sri S.K.Jain, Ld. Counsel for Respondents No. 2 and 3 has filed objections and opposed the claim petition on the ground of limitation and maintainability. Following is the Submission of Ld. Counsel for the Respondents No. 2 & 3:

(i) An employee, who was given compassionate appointment on class IV post, was never upgraded to Class III.

(ii) This is the rule in GMVN that whosoever completes five years as Class IV employee, whenever he appears in the departmental examination and qualifies the test for promotion to Class III, is promoted in Class III.

4. Rejoinder Affidavit has also been filed by the petitioner. It is the submission of the petitioner that two other persons namely, Sri Sanjay Singh and Sri Aman Rawat have been given appointment on compassionate ground, on the post of Clerk, on 07.05.2022. Copies of the appointment letters dated 07.05.2022 have been enclosed as Annexure: R.A.-1 to the rejoinder affidavit.

5. Ld. Counsel for the petitioner confined his prayer only to the extent that the Respondent No. 2 be directed to decide petitioner's fresh representation, in accordance with law, at an earliest possible. Ld. Counsel for respondents although objected to the same, but the innocuous prayer is worth accepting.

6. Without prejudice to rival contentions, the claim petition is disposed of by directing Managing Director, Garhwal Mandal Vikas Nigam, (Respondent No.2), to decide the representation of the petitioner by a reasoned and speaking order, without unreasonable delay, in accordance with law, on presentation of certified copy of this order along with fresh representation, enclosing relevant documents. No order as to costs.

7. It is made clear that the Tribunal has not expressed any opinion on the merits of the case.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: SEPTEMBER 27, 2022
DEHRADUN

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