

**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.95/DB/2021

1. Manoj Purohit, s/o Late Sri Padma Dutt Purohit, r/o Village Kotha Rajkundi, Tehsil Tharali, District Chamoli

.....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.

(through audio conferencing).

Sri V.P.Devrani, A.P.O., for Respondent No. 1.

Sri V.D.Joshi and Sri S.K.Jain, Advocates for Respondents No. 2 & 3.

JUDGMENT

DATED: DECEMBER 06, 2021

Justice U.C.Dhyani (Oral)

RELIEFS PRAYED FOR

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

“a. To direct the respondents to amend the appointment order dated 07.03.2019 whereby the petitioner/ claimant was appointed on Class IV post of 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.

b. Any other order or direction which this Hon’ble Court may deem fit and proper in the circumstances of the case.”

PETITIONER’S VERSION

2. Petitioner was appointed on compassionate ground in accordance with Dying in Harness Rules. Since he has educational qualification of Graduation and Diploma in Computer Application Software, therefore he ought to have been given appointment on a post as per his educational qualification, but respondents, without considering the qualification of the petitioner, gave him appointment on Class-IV post as Waiter *vide* order dated 07.03. 2019 (Annexure: A3). In view of Rule 5(1) of Dying in Harness Rules the respondents ought to have given appointment to the petitioner as per his educational qualification and if at that time the Class-III post was not available, in that case, as per Rule 8(3) of Dying in Harness Rules the petitioner should have been appointed against any surplus post which post would be deemed to have been created. Although the petitioner is posted as Class-IV employee, but the respondents are taking work of Class-III post from him. Petitioner moved several representations, but in vain.

PRAYER RESTRICTED

3. At present, Ld. Counsel for the petitioner has confined his prayer only to the extent that since petitioner’s representation has not been decided so far, therefore, a direction be given to the respondent no.2 to decide such representation of the petitioner (enclosing all the relevant documents) at an earliest possible, after affording opportunity of personal hearing, in accordance with law, to which Ld. Counsel for the respondents have no objection.

ORDER

8. 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 (Annexure: A 8) 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.
9. Needless to say that the decision so taken be communicated to the petitioner soon thereafter.
10. It is made clear that the Tribunal has not expressed any opinion on the merits of the claim petition.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: DECEMBER 06, 2021
DEHRADUN

VM