

**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. 112/DB/2021**

Ajay Pal Singh Bhandari aged about 56 years ,s/o Sri Hukam Singh Bhandari, r/o Village & P.O. Kuthnour, District Uttarkashi, presently posted as Class-IV employee at Higher Secondary School, Kharshali, Block Naugaon, District Uttarkashi.

.....Petitioner

**vs.**

1. State of Uttarakhand through Secretary Education, Govt. of Uttarakhand, Dehradun.
2. Director of Elementary Education, Directorate, Dehradun.
3. Addl. Director of Elementary Education Garhwal Region, Pauri.
4. Chief Education Officer, Uttarkashi, District Uttarkashi.
5. District Education Officer, District Uttarkashi.
6. Principal, Higher Secondary School Kharshali, Block Naugaon, District Uttarkashi

.....Respondents

Present: Sri Akashy Latwal, Advocate, for the petitioner.  
(through audio conferencing )  
Sri V.P.Devrani, A.P.O., for respondents.

**JUDGMENT**

**DATED: NOVEMBER 11, 2021**

**Justice U.C.Dhyani (Oral)**

**RELIEFS PRAYED FOR**

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

- “(i). To issue an order or direction to the respondents to consider the petitioner for promotion on class-III post/ Clerk which is lying vacant in Government Higher Secondary School, Kharshali, Block Naugaon, District Uttarkashi or another Government Inter College where the Class III post/ Clerk post is lying vacant.
- (ii) To issue an order or direction to the respondents to give all consequential benefits to the petitioner *w.e.f.* the petitioner was entitled to be promoted on the post of Clerk.
- (iii) To issue any other suitable order or direction which this Hon’ble Tribunal may deem fit and proper in the circumstances of the case.
- (iv) To award the cost of the petition to the petitioner.”

**PETITIONER’S VERSION**

2. Petitioner was initially appointed on a Class-IV post at Government Inter College, Ranageeth on 01.04.1991. On 23.08.1991, a post of Junior Clerk fell vacant at Government Inter College, Ranageeth on account of transfer of the Junior Clerk working on that post. The Principal, *vide* order dated 28.02.1992, directed the said Junior Clerk to hand over the charge of his post to the petitioner. Petitioner was also given additional charge of Library and in this respect a certificate has been issued by the Principal of the Ranageeth Inter College. *Vide* order dated 02.02.1994, issued by the Deputy Director, Education, approval for appointment of the petitioner on the post of Junior Clerk in the pay scale of Rs.950-1500/- was granted. On 27.12.1997, Principal, Ranageeth Inter College also issued a certificate to the petitioner to the effect that the petitioner worked continuously in the pay scale of Rs.950-1500/- *w.e.f.* 28.02.1992 to 01.03.1995. Petitioner continued to discharge his duties of Junior Clerk in addition to his duties of Class- IV employee, for which he received salary in the pay scale of Rs/950-1500/- *w.e.f.* 28.02.1992 to 2004. But, the respondents without assigning any reason, stopped the petitioner to work as Junior Clerk in the pay scale of Rs.950-1500/-.

2.1 On 22.11.2004, petitioner filed WP No. 1338(S/S) 2004 before Hon'ble High Court of Uttarakhand. On 28.08.2006 the said writ petition was finally disposed by Hon'ble High Court with liberty to the petitioner to make a representation before the appropriate authority for the payment of salary due to the petitioner for the period for which he has worked as Junior Clerk. Petitioner moved a representation to Respondent No.5 on 07.10.2006 and *vide* order dated 02.12.2006, the same was rejected by the said respondent (Respondent No.5). Being aggrieved with the order dated 02.12.2006, petitioner moved Writ Petition No. 311 (S/S) 2007 before Hon'ble High Court. The said writ petition was dismissed by Hon'ble High Court *vide* order dated 03.04.2007. On 29.12.2009, Respondent No.5 issued a letter to all the Block Education Officers of District Uttarkashi, stating therein that a promotional exercise has been scheduled for promotion of Class-IV employees to the Class-III posts. The petitioner also applied and participated in such promotional exercise. Thereafter, District Education Officer issued another letter in which it was mentioned that Class-IV employees will have to undertake 15 days' computer training, if they want to be promoted to Class-III post. Petitioner, accordingly, completed 15 days' computer training programme and obtained a certificate. Petitioner moved a representation to Chief Education Officer, Uttarkashi on 05.10.2013.

2.2 Petitioner is serving on a Class-IV post since 01.04.1991 He has also worked as Junior Clerk for 11 years. Despite vacancy of Class-III post in Government Higher Secondary School, Kharshali, Block Naugaon, District Uttarkashi, the respondents did not consider the petitioner for promotion to a Class-III post. He again approached Hon'ble High Court of Uttarakhand and filed WP(S/S) No. 758/2015. Hon'ble Court disposed of the writ petition with a direction to the respondents to consider the case of the petitioner, as and when a Class-III post is available in future. Despite the order of Hon'ble Court, till date the respondents did not consider the promotion of the petitioner to Class-III post. Petitioner was called on 09.07.2019 by Addl. Director, Primary Education, Garhwal Division, Pauri (Respondent No.3) to present his case. They also gave oral assurance to the petitioner that his case for

promotion shall be considered as expeditiously as possible, but no action was taken by the respondent department. Again, on 18.03.2021, petitioner moved a representation to Respondent No.3, but no action has been taken on the same. Hence, present claim petition.

### **PRAYER RESTRICTED**

3. At the very outset, Ld. Counsel for the petitioner submitted that the petitioner's representation, which has been brought on record as Annexure: A-1, may kindly be directed to be decided by Additional Director, Basic Education, Respondent No.3, at an early date. Ld. A.P.O. has no objection if the same is directed to be decided, in accordance with law. The innocuous prayer of the petitioner is worth accepting.

### **ORDER**

4. With prejudice to the rival contentions, the claim petition is disposed of at the admission stage by directing Respondent No.3 to decide the representation of the petitioner by a reasoned and speaking order, in accordance with law, at an earliest possible, and without unreasonable delay on presentation of the certified copy of this order, along with (fresh) representation.
5. Needless to say that the decision so taken be communicated to the petitioner soon thereafter.
6. 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: NOVEMBER 11, 2021*  
*DEHRADUN*

*VM*