

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

CLAIM PETITION NO. 113/SB/2020

Sri Jai Prakash Gupta, s/o Late Sri Rameshwar Prasad Gupta, aged about 58 years, presently working and posted as officiating Superintending Engineer, 3rd Circle, Public Works Department, Pithoragarh, Uttarakhand.

.....Petitioner

vs.

1. State of Uttarakhand through Secretary, Public Works Department, Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Engineer-in-Chief and Head of Department, Public Works Department, Yamuna Colony, Dehradun.

.....Respondents.

Present: Sri L.K.Maithani. Advocate, for the Petitioner. (online),
Sri V.P.Devrani, A.P.O., for the Respondents.

JUDGMENT

DATED: NOVEMBER 28, 2023

Justice U.C.Dhyani (Oral)

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

- a) To declare that in view of the judgments pronounced in the case of Devi Dutt vs. Union of India and others, and Sukh Dev Singh vs. Union of India and others the "Uttam" Annual Confidential Reports of the year 2013-14 for the period 01.04.2013 to 05.10.2013 & of the year 2015-16 for the period 01.07.2015 to 08.11.2015 and of the year

2016-17 for the period of 28.07.2016 to 28.02.2017 are adverse under the Rules 2015 and as such under Rule 5 of Rules of 2015 the promotions and other service benefits cannot be denied to the petitioner.

- b) To issue an order or direction to the respondent No. 1 to review the D.P.C. dated 26.02.2019 and D.P.C. dated 28.04.2020 and consider the petitioner for promotion to the post of Superintending Engineer without taking the cognizance of uncommunicated "Uttam" ACR of the year 2013-14 (for the period 01.04.2013 to 05.10.2013) and 2016-17 (for the period 28.07.2016 to 28.02.2017) as provided by Rule 5 of Rules of 2015 and consider the ACR of the year 2015-16 (for the period 01.07.2015 to 08.11.2015) as Ati Uttam and accordingly grant promotion to the petitioner on the post of Superintending Engineer since the date of promotion of his junior Sh. Harish Pangati, with all consequential benefits.
- c) To issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.
- d) To award the cost of the petition to the petitioner.”

[Emphasis supplied]

2. The Tribunal does not feel it necessary to narrate detailed facts of present claim petition, for, the petitioner himself has mentioned the brief facts in the relief clause, which (clause) has been reproduced by the Tribunal as above. Documents have been filed by the petitioner in support of his claim petition.

3. The claim petition has been contested by the respondents. C.A. has been filed by Sri Atar Singh, Additional Secretary, P.W.D., Govt. of Uttarakhand on behalf of all the respondents.

4. The material facts of the claim petition have been denied in the Counter Affidavit. Relevant documents have been filed with the C.A.

5. This fact is undisputed that the petitioner filed representation against his downgraded entries for the year 2015-16 and these entries were finally upgraded from Grading '6.6' to '7' by the competent authority. To put it simple, the petitioner wants review DPC in view of his upgraded entries.

6. The controversy involved in present claim petition, on the basis of documents brought on record, therefore, boils down to the only question that, to which Ld. Counsel for the petitioner is aggregable, that when petitioner's representation has been allowed, his downgraded entries have been

upgraded, whether there should be a direction from the Tribunal to hold review DPC or not? The reply is in affirmative in view of the Uttarakhand Government Servants (Disposal of Representation against Adverse, Fair/Satisfactory, Good, Very Good, Excellent Annual Confidential Reports and Allied Matters) Rules, 2015 (for short, Rules of 2015).

7. It will be worthwhile to mention here that the Uttaranchal Government Servants (Disposal of Representation Against Adverse Annual Confidential Reports and Allied Matters) Rules, 2002, were amended by the Government of Uttarakhand in the year 2015, in view of the decisions rendered by the Hon'ble Apex Court in Dev Dutt vs. Union of India and others, reported in AIR 2008 SC2513 and in Sukhdev Singh vs. Union of India and others, reported in AIR 2013 SC 2741.

8. A direction is, therefore, given to Respondent No.1 to hold review DPC for promotion of the petitioner to the post of Superintending Engineer from the date his junior was promoted. Petitioner has since retired, if he is found suitable for promotion from the date his junior was promoted, he will be given notional promotion from that date.

9. The same shall be done without unreasonable delay, on presentation of certified copy of this order.

10. Ld. counsel for the parties submitted that such a direction can be given by Single Bench of the Tribunal.

11. The claim petition thus stands disposed of . No order as to costs.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: NOVEMBER 28, 2023.
DEHRADUN

VM