

**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. 92/DB/2022

Ranveer Singh Panwar.

.....Petitioner

vs.

1. The State of Uttarakhand through its Principal Secretary.
2. Public Works Department, through its Engineer-in-Chief.

.....Respondents

Present: Sri Deepak Singh, Advocate, for the petitioner.
Sri V.P.Devrani, A.P.O., for Respondent No.1.

JUDGMENT

DATED: SEPTEMBER 01, 2022

Justice U.C.Dhyani (Oral)

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

“(i) To quash the order dated 18.10.2021 and order dated 01.04.2021 and to issue an order directing/ commanding the respondents to amend the seniority list dated 08.05.2018 Part 4 (S.No.381 to 469) and to place petitioner at Sl. No. 389-A i.e. between 389 and 390 i.e. between Inderdutt Bhatt and Abbal Singh Rana..

(ii) To pass any such further orders as this Court may deem fit and proper.”

2. At the very outset, Ld. A.P.O. objected to the maintainability of the claim petition, *inter alia* on the ground that the same is barred by limitation.

3. Ld. Counsel for the petitioner has, however, succeeded in showing that the claim petition, in respect of quashing of order dated 18.10.2021 (Annexure: 1), is within time and should be set aside for the reasons given as below:

(i) There is limitation of one year in filing the claim petition, as per Section 5 (1) (b) (i) of the Uttar Pradesh Public Services (Tribunal) Act, 1976 (as applicable to Uttarakhand). Claim petition in respect of setting aside order dated 18.10.2021 (Annexure-1) could be filed on or before 18.10.2022. Since the claim petition, at least for quashing the order dated 18.10.2021 has been filed on 31.08.2022, therefore, the same is within time.

(ii) A perusal of Annexure-1 would indicate that a reference was made by 2nd Respondent to 1st Respondent regarding *inter se* seniority of Assistant Engineers working in Public Works Department.

The representation of the petitioner was decided *vide* order dated 18.10.2021 (Annexure-1). The petitioner mentioned in his representation that he is senior to Promotee Assistant Engineer Sri Abbal Singh Rana (not made a party to the claim petition).

This fact does not appear to be under dispute that in the feeding cadre, the petitioner was senior to Sri Abbal Singh Rana. Both were directly recruited as Junior Engineers. At present both are Assistant Engineers. It also appears that Sri Rana was promoted earlier due to reservation policy. The petitioner belongs to general category.

It is settled law of the land that when general category candidate and reserved category candidate come to the same cadre, the general category candidate regains his seniority of feeding cadre. But the representation of the

petitioner has been found to be not maintainable for some technical reasons. It has not been decided on merits. The Tribunal observes that it ought to have been decided on merits.

4. Ld. A.P.O. submitted that if this Tribunal directs the respondent department to decide the representation of the petitioner on merits, the same shall be decided in accordance with law.

5. Ld. Counsel for the petitioner agrees that if a direction is given by the Tribunal to the respondent department to decide the representation of the petitioner on merits, the same will suffice its purpose, at least, as of now.

6. The claim petition is, accordingly, disposed of at the admission stage, with the consent of Ld. Counsel for the parties, by directing Respondent No.1 to decide the representation of the petitioner, which (representation) relates to seniority of petitioner *qua* Sri Abbal Singh Rana, on merits, without unreasonable delay, in accordance with law. No order as to costs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: SEPTEMBER 01, 2022
DEHRADUN

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