

**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. 60/DB/2022

1. Sri Manmohan Singh aged about 61 years, s/o Late Sri Bachendra Singh, r/o Street No. 5 Ekta Enclave, Ring Road, Dehradun, District Dehradun.
2. Sri Hansa Datt Pandey aged about 58 years, s/o Late Sri S.M.Pandey, presently posted as Commissioner, Cane and Sugar, Uttarakhand.
3. Sri Bhagwat Kishore Mishra aged about 55 years, s/o Sri K.P.Mishra, presently posted as Addl. Secretary, Govt. of Uttarakhand at Civil Secretariat, Dehradun.
4. Sri Uday Singh Rana aged about 58 years, s/o Sri Amar Singh Rana, presently posted as Addl. Commissioner, Excise (Admin), Govt. of Uttarakhand, at Dehradun.
5. Sri Narendra Singh aged about 54 years, s/o Late Sri Bhim Singh, presently posted as Addl. Commissioner, Garhwal Mandal, at Pauri.
6. Sri Harak Singh Rawat aged about 53 years, s/o Late Sri Keshar Singh Rawat, presently posted as Addl. Secretary, Urban Development, Govt. of Uttarakhand at Dehradun.
7. Sri Pratap Singh Shah aged about 57 years, s/o Late Sri Nain Singh Shah, presently posted as Addl. Secretary, Sports, Govt. of Uttarakhand at Dehradun.
8. Sri Bharat Lal Firmal aged about 56 years, s/o Late Sri S.L.Firmal, presently posted as Director, Social Welfare, Uttarakhand, at Haldwani, District Nainital.
9. Sri Bhawan Singh Chalal aged about 55 years, s/o Late Sri D.S. Chalal, presently posted as Director of Employment, Uttarakhand, at Haldwani, District Nainital.
10. Sri Jeewan Singh Nagnyal aged about 53 years, s/o Late Sri Rudra Singh Nagnyal, presently posted as Director, Administrative and Monitoring, G.B.Pant University of Agriculture and Technology, Pantnagar, District Udham Singh Nagar.

.....Petitioners

vs.

1. The State of Uttarakhand through Secretary, Personnel and Training, Government of Uttarakhand, Dehradun.
2. Principal Secretary, Revenue, Government of Uttarakhand, Dehradun.

.....Respondents

Present: Sri Ganesh Kandpal, Advocate, for the petitioners (online).
Sri V.P.Devrani, A.P.O., for Respondent/ State.

JUDGMENT

DATED: MAY 24, 2022

Justice U.C.Dhyani (Oral)

By means of present claim petition, petitioners seek the following reliefs:

“(i) Direct the respondents to grant the special scale of Rs.37400-67000 + Grade Pay of Rs.8700 w.e.f. 31.03.2016 on completion of 2 years of service in selection scale. And thereafter grant the higher scale of Rs.37400-67000 + Grade Pay of Rs. 8900 on completion of 3 years of service in special pay scale i.e. 31.03.2019 and further grant the highest scale of Rs.37400-67000+ Grade Pay of Rs.10000 on completion of 1 year of service in the higher scale w.e.f. 31.03.2020 as per the Uttarakhand Civil Service (executive branch) rules, 2005.

(ii) Direct the respondents to take decision on the representation of the petitioners dated 01.03.2022 contained in Annexure: No.1 to this claim petition.

(iii) To pass any other suitable order, which this Hon’ble Tribunal may deem fit and proper on the basis of the facts and circumstances of the case.

(iv) Award the cost of claim petition to the petitioners.”

- 2 Petitioners have filed representation (Annexure No.1) in an effort to seek relief no.1, as above. The second prayer, in the

claim petition, is that the respondents be directed to take decision on the representation of the petitioners.

3 Petitioners were initially appointed as Naib Tehsildar in the erstwhile State of U.P. in the pay scale of Rs.7000-250-1200 (revised pay scale of Rs.9300-34800 +Grade pay Rs.4800/-) and thereafter promoted as Tehsildar.

4 On creation of State of Uttarakhand, petitioners were allocated to the State of Uttarakhand and were promoted to the post of Deputy Collector against substantive vacant posts on *ad-hoc* basis, on different dates, in the year 2004 in the pay scale of Rs.8000-275-13500 (revised scale Rs.15600-39100 +Grade Pay Rs.5400/-). Petitioners were given regular appointment by the Public Service Commission on 01.03.2007. In the year 2005 State Govt. framed Rules for civil service (executive branch), known as ‘Uttarakhand Civil Service (Executive Branch) Rules, 2005 (for short, 2005 Rules). According to Rule 17 of 2005 Rules, selection to the selection grade shall be made on the recommendation of selection committee on the basis of seniority subject to rejection of unfit from amongst such substantively appointed officers of senior grade who have completed 12 years of service on the date of selection. The Rule also provides that the Govt., in special circumstances, may relax the limit of service required for promotion to the selection grade.

5 Respondents, on 02.08.2016, passed an order to grant selection grade to the petitioners, as grade pay of Rs.7600/- *w.e.f.* 31.03.2013, in view of Uttarakhand Govt. Servant Relaxation in Qualifying Service for Promotion Rules, 2010. Later on, *vide* order dated 10.10.2017, the aforesaid order dated 02.08.2016 was amended by providing the date of promotion on selection grade shall be treated *w.e.f.* 31.03.2014 in place of 31.03.2013.

- 6 According to the petitioners, Rule 18 of the 2005 Rules relates to grant of Special Scale. Rule 18 says that selection to the Special Scale shall be made on the recommendation of the selection committee on the basis of merit from amongst such substantively appointed officers working on the grade who have completed 14 years of service on the date of selection. In other words, every Deputy Collector, working in the State of Uttarakhand shall be entitled for the Special Scale after 02 years of service from the date of granting Selection Grade Scale. Petitioners were granted Selection Grade Scale *vide* order dated 10.10.2017 w.e.f. 31.03.2014, therefore, in view of Rule 18 of the Rules of 2005, the petitioners become eligible on 31.03.2016 for Special Scale *i.e.* Rs. 37400-67000 + Grade Pay of Rs. 8700/- on completion of 02 years of service in the Selection Grade Pay Scale. But the respondent did not grant the same to the petitioners w.e.f. 31.03.2016. In the meantime Petitioner No.1 Sri Manmohan Singh has retired on 30.09.2021.
- 7 Respondent passed an order on 03.11.2021, and granted Special Scale Rs. 37400-67000 + Grade Pay of Rs. 8700/- (revised pay scale Rs.1,23,100-2,15,900 level 13 in 7 pay matrix) to the petitioners from the date of taking charge on the said post.
- 8 On account of the mistake committed by the respondents, petitioners are deprived from their legitimate claim of promotion despite being eligible for the Special Scale *w.e.f.* 31.03.2016, higher scale *w.e.f.* 31.03.2019 and the highest scale *w.e.f.* 31.03.2020 as well as further higher pay scales applicable as per service rules. Petitioners made several oral and written requests to the respondents for granting them Special Scale *w.e.f.* 31.03.2016 in place of 03.11.2021, but when no action was taken by the respondents then petitioners moved a joint representation on 01.03.2022 to Respondent No.1 (Annexure: A-1)

9. Ld. Counsel for the petitioners, therefore, prays that petitioners' representation dated 01.03.2022 (Annexure: A-1) may kindly be directed to be decided by Respondent No.1 by a reasoned and speaking order, at an early date, in accordance with law. Ld. A.P.O. has no objection to such innocuous prayer.
10. The claim petition is disposed of, at the admission stage, by directing Respondent No.1 to decide the pending representation of the petitioners, 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.
11. Rival contentions are left open.
12. It is made clear that we have not expressed any opinion on the merits of the case.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MAY 24, 2022
DEHRADUN

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