

**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. 80/DB/2020

1. Rajendra Singh Rawat, s/o Shri K.S. Rawat aged about 54 years presently posted as Inspector, Vigilance Headquarter, 14, Kargi Grant, Dehradun.
2. Tushar Bohra s/o Late Shyam Singh aged about 49 years, presently posted as Inspector, Vigilance Headquarter, 14, Kargi Grant, Dehradun.
3. Smt. Sadhana Tyagi, w/o Shri Ashok Tyagi aged about 58 years, presently posted as Inspector, Vigilance, Headquarter, 14, Kargi Grant, Dehradun.
4. Devendra Kaparwan, s/o Late Vijendra Singh aged about 46 years, presently posted as Inspector, CBCID, Dehradun.
5. Madan Singh Bisht s/o Shri Mohan Singh Bisht aged about 51 years presently posted as Inspector, CBCID, Dehradun.
6. Bhagwant Singh Bisht, s/o Late Jeewan Chand Bisht aged about 57 years, presently posted as Inspector, CBCID, Dehradun.
7. Smt. Pratima Bhatt w/o Shri Vinod Kumar Bhatt aged about 53 years, presently posted as Inspector, CBCID, Haldwani, District Nainital.
8. Trivendra Singh Rana s/o Shri Brahm Singh aged about 52 years, presently posted as Inspector, CBCID, Dehradun.
9. Naveen Chand Semwal s/o Shri Ram Prasad Semwal aged about 54 years, presently posted as Inspector, Police Headquarters, Dehradun.
10. Daulat Ram Verma s/o Shri Chandra Ram aged about 53 years, presently posted as Inspector, Kotwali Bageshwar, District Bageshwar.
11. Mahesh Kumar Lakhera, s/o Shri Maya Ram aged about 53 years, presently posted as Inspector, Kotwali Chamoli, District Chamoli.
12. Sanjay Kumar Pandey, s/o Shri Govind Ballabh Pandey aged about 55 years, presently posted as Inspector, Kotwali Bajpur, Udham Singh Nagar.
13. Shishul Pal Singh Negi so Late Matbar Singh aged about 52 years, presently posted as Inspector, SHO Kotwali, Dehradun.
14. Smt. Bhawana Kainthola d/o Shri Dinesh Chand aged about 45 years presently posted as Inspector, SIT, Dehradun.
15. Ajay Lal Shah, s/o Shri PooranLal aged about 51 years, presently posted as Inspector, Kotwali Dwarahat, Almora.
16. Smt. Jeeto Devi Kamboj w/o Shri B.B.Kumar aged about 54 years, presently posted as Inspector, Human Rights Cell, Dehradun.
17. R.C. Makholia, s/o Late G.D. Makholia, aged about 57 years, presently posted as Inspector, CBCID, Dehradun.

18. Jagdish Singh Deopa s/o Shri Vishan Singh Deopa aged about 55 years, presently posted as Inspector, Range Office, Nainital.
19. Chandra Mohan, s/o Late Balram Singh, aged about 43 years, presently posted as Inspector, Kashipur.
20. Govind Ballabh Joshi, s/o Late Mathura Dutt Joshi, aged about 52 years, presently posted as Inspector, Udham Singh Nagar.
21. Kunwar Singh Rawat, s/o Late Rudra Singh aged about 54 years, presently posted as Inspector, SIS Branch, Udham Singh Nagar.
22. Bhim Bhaskar Arya s/o Sri Soban Ram, aged about 56 years, presently posted as Inspector, SSP Office, Udham Singh Nagar.

.....**Petitioners**

vs.

1. State of Uttarakhand through Principal Secretary (Home), Civil Secretariat, Dehradun.
2. Director General of Police, Uttarakhand, Dehradun.
3. Inspector General of Police (Personnel), Uttarakhand, Dehradun.
4. Nadim Athar, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
5. Sanjeev Tiwari, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
6. Gopal Dutt, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
7. Manoj K.S.Aswal, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
8. Devendra Singh, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
9. Balwant Singh Rawat, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
10. Pankal Kothiyal, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
11. Santosh Kumar Bagadwal, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
12. Suryaprakash, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
13. Jitendra Kumar Upreti, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
14. Vijay Prasad, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
15. Deep Chandra Bhatt, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
16. Jyoti Joahi, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
17. Lakshman Singh, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
18. Shashikala Butola, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
19. Avneesh Saini, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
20. Brajmohan Gusain, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
21. Ramesh Singh Sajwan, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
22. Vivek Sanwal, Inspector, c/o Director General Police, Uttarakhand, Dehadun.
23. Neelam, Inspector, c/o Director General Police, Uttarakhand, Dehadun.

.....**Respondents**

Present: Sri Shashank Pandey, Advocate, for the Petitioners.
 Sri V.P.Devrani, A.P.O., for the Respondents No. 1, 2 & 3.
 Dr. N.K.Pant, Advocate, for the Respondents No. 4 to 23.

JUDGMENT

DATED: OCTOBER 30, 2021

Rajeev Gupta, Vice Chairman (A)

This claim petition has been filed by the petitioners for the following reliefs:

a. To issue order or direction to the Respondents no. 1, 2 & 3 to call for records and to quash the seniority list dated 29.04.2020 (Annexure: A2).

b. To issue order or direction to the respondents No. 1 & 2 to give promotion to the petitioners from the day the private respondents who are juniors to the petitioners were promoted i.e. from 15.09.2014 along with consequential benefits.

c. To give any other relief fit and proper in the circumstances of the case.

d. To give cost to the petitioners."

2. Learned A.P.O. and learned Counsel for the private respondents No. 4 to 23 had opposed the admission of the claim petition on the ground of delay. *Vide* order dated 10.11.2020, this Tribunal observed that petitioners have approached the Tribunal on time for seeking Relief No. 1. Relief No.2, *prima facie*, appears to be barred by limitation, although it is the contention of Ld. Counsel for the petitioners that the petitioners had no knowledge of the promotion orders of private respondents till seniority list dated 29.04.2020 was circulated. Such plea may be adjudicated at the time of final hearing.

Claim petition was admitted subject to limitation.

3. Brief facts, according to the claim petition, are as follows:

The petitioners are working as Inspectors in Civil Police (CP) in State of Uttarakhand. According to the petitioners, CP & LIU (Local Intelligence Unit) constitute one cadre. The petitioners were appointed/ promoted as

Sub-Inspector in CP before the year 2000 whereas the private respondents were promoted to the post of Sub-Inspector in LIU on 08.11.2002. Thus, admittedly the private respondents were much junior to the petitioners as per the date of appointment which is the criteria for determining seniority under the Seniority Rules of 2002. The private respondents were promoted to the post of Inspector *vide* promotion order dated 15.09.2014 while the petitioners were promoted to the post of Inspector *vide* order dated 15.10.2016. A seniority list has been circulated on 29.04.2020. The petitioners do not even find any place in this seniority list.

The Police Department consists of 3 different wings, i.e. Civil Police (CP), Armed Police (AP) and Local Intelligence Unit (LIU). In State of Uttarakhand, as in State of Uttar Pradesh, the recruitments for various posts in CP & LIU were done together, however recruitment for AP was done separately. Thus CP and LIU was one and the same cadre whereas AP is a specialized Civil unit and is treated as a different cadre altogether. For promotion to any higher post in CP or LIU, all the eligible candidates of both CP and LIU were considered and those found most suitable were promoted whereas for promotion in any post of AP, only those candidates of CP and LIU who had studied and cleared the RSI Examination were considered.

The services of the petitioners are now governed by Uttarakhand Police Sub-Inspector and Inspector (Civil Police/Intelligence) Service Rules, 2018. As per Rule 21 of the Service Rules, the seniority on the post of Inspector is to be determined as per Uttarakhand Government Servants Seniority Rules, 2002. In the year 2011, all the Police stations (Thana) of Uttarakhand were upgraded to Inspector level. This resulted in many vacancies of the post of Inspectors. All the petitioners who were working as Sub-Inspectors were called for an interview for promotion to the post of Inspector in the year 2011. However, before the result of the aforesaid interview could get out, the government cancelled its order of upgradation of police stations. This resulted in substantial reduction in the posts of Inspectors. While the petitioners were awaiting their promotion, 21 Sub-Inspectors were promoted in the LIU *vide* order dated 15.09.2014 to the post

of Inspectors who are arrayed as private respondents in the present claim petition. Since, the respondents belonged to a different section of service, within the cadre, the petitioners did not come to know of the promotions so made and hence could not represent or object against such promotions.

The petitioners No. 1 to 19 were finally promoted *vide* order dated 15.10.2016 whereas, petitioners No. 20, 21 and 22 were promoted *vide* order dated 05.05.2017 though notionally from 15.10.2016. Apparently, a combined seniority list was prepared and a tentative seniority list circulated *vide* order dated 06.04.2017. This tentative seniority list was never received by the petitioners and thus, the petitioners could not object to the tentative seniority list. A final seniority list was subsequently prepared *vide* order dated 20.01.2018. This seniority list also never came to the knowledge of the petitioners and thus, the petitioners could not challenge this seniority list also. This seniority list was challenged by four Inspectors by filing claim petition No. 41/DB/2018, Sri Surendra Singh Samant & others vs. State of Uttarakhand & others.

The Hon'ble Court *vide* order dated 31.07.2019 decided the claim petition and set aside the seniority list dated 20.01.2018. The only course of action that was left for respondents no. 2 & 3 was to again circulate a tentative seniority list, ask for objections and then prepare a final seniority list. However, that was not done and a new final seniority list was circulated on 29.04.2020. Surprisingly, this seniority list did not contain the names of the petitioners who were promoted. The petitioners immediately made a representation to the respondent no. 3 for non-inclusion of their names in the seniority list. In the representation, the petitioners also pointed that the persons promoted *vide* order dated 15.09.2014 are junior to the petitioners. The representation of the petitioners is still pending and no action has been taken.

Appointment on the post of Inspector are made only by promotion, however, from more than one feeding cadres. Thus, the seniority on the post of Inspector is to be determined as per Rule 7 of the Seniority Rules which

clearly says that the seniority of the persons appointed shall be determined according to the date of the order of the substantive appointment in their respective feeding cadres. Thus, it is abundantly clear that following the service rules, the respondents be considered senior to the petitioners.

4. C.A./W.S. has been filed on behalf of respondents No. 1, 2 & 3 mainly stating that in Uttarakhand Police Department, the Civil Police (CP), Intelligence (LIU) and PAC are separate feeding cadres and after the formation of the State, the promotion process has been done separately by calculating the cadre wise vacancy relating to the vacant posts of Inspectors in the respective cadres. From the formation of the State to the year 2016, the regular promotion process for the post of Inspector Civil Police and Inspector Intelligence has been done by Uttarakhand Govt. according to Notifications No.1569/XX(II)37/Police/2004 dated 23.09.2004 and 4235/XX(3)-37/Police-04/2006 dated 15.12.2006 and the regular promotion process for the post of Dalnayak (Company Commander) in PAC cadre has been done according to the Uttarakhand Govt. *Vide* Notification No. 816/XX(3)-64/Police/2005 dated 26.04.2006. It is crystal clear from the study of these Govt. notifications that till 2016, the cadre wise promotions in Civil Police and Intelligence on the post of Inspector Civil Police and Inspector Intelligence have not been done on the basis of seniority alone but the promotion process has been carried out on the basis of seniority-cum-merit.

As per provisions contained in the G.Os. dated 23.09.2004 and 15.12.2006, the petitioner No. 16 has been included in the promotions' exercise to the post of Inspector Civil Police of the years 2005, 2007 and 2008, but due to not coming in the cut-off merit, she was not selected for the post of Inspector Civil Police. The petitioner No. 16, was also included in the promotions' exercise to the post of Inspector Civil Police of the year 2011 & 2013, but in these years she was disqualified for promotion process due to M.E. Punishment. Petitioners No. 2,5,6, 9, 10, 17 & 20 have been included in the promotions' exercise to the post of Inspector Civil Police of the year 2014 (completed on 22.01.2014), but due to not coming in the cut-off merit, they were not selected for the post of Inspector Civil Police. However, as per the

provisions contained in the G.O. dated 23.09.2004, the remaining petitioners could not get their way for the promotional exercise of the year 2014 (completed on 22.01.2014) for Inspector Civil Police because of their non-entitlement due to limited availability of posts (against 18 posts, 72 candidates were considered). On the basis of the recommendation made by the Departmental Promotion Committee (DPC) in the above promotion process, the promotion orders were issued by the Police Headquarters *vide* order No. DG-I-151-2013(1) dated 22.01.2014.

The petitioners have been included in the promotion process as per rules, for the post of Inspector Civil Police held in the year 2016 (completed on 15.10.2016) and on the basis of seniority-cum-merit, they were promoted to the post of Inspector Civil Police w.e.f. 15.10.2016 by the Police Headquarters. In the Intelligence cadre, the promotion process to the post of Inspector Intelligence was done on 15.09.2014 against the vacant posts of Inspector Intelligence and on the basis of the recommendation made by the Departmental Selection Committee, the Sub-Inspectors of the Intelligence cadre along with the respondents No. 04 to 23 were promoted to the post of Inspector Intelligence in the Intelligence cadre by the headquarters' order no. DG-I-151-2015 dated 15.09.2014.

It has been requested by the petitioners to *provide* promotion to them to the post of Inspector Civil Police *w.e.f.* 15.09.2014. It is to clarify that the petitioners have already been included time to time in the promotion process for Inspector Civil Police before 15.09.2014, but due to not coming in the cut-off merit, they were not promoted to the post of Inspector Civil Police. Petitioners have been included as per rules in the promotion process for the post of Inspector Civil Police held in the year 2016 (completed on 15.10.2016) and on the basis of seniority-cum-merit, they were promoted to the post of Inspector Civil Police w.e.f. 15.10.2016. The Uttarakhand Govt. order No.1569/XX(II)/367/Police/2004 dated 23.09.2004 in its para 13 *provides* that after successful completion of probation period, a joint seniority list of Inspector Civil Police/Intelligence, Company Commanders and Reserve Inspectors shall be prepared, which shall be on the basis of date

of substantive appointment/promotion or in cyclic order in the ratio of quota, and the same will be the final seniority list of Inspectors cadre of Uttarakhand Police. Accordingly, a joint seniority list of Inspector Civil Police, Inspector Intelligence and Reserve Inspector/Dalnayak upto January 2015 was issued *vide* letter No. DG-I-154-2017 dated 20.01.2018. In furtherance to the decision passed by this Tribunal dated 31.07.2019 in claim petition No. 41/DB/2019, a partial amendment to the said seniority list dated 20.01.2018 was done by letter No. DG-I-154-2017 dated 29.04.2020; thereby a joint seniority list has been issued of Inspectors/Reserve Inspectors/ Dalnayak till January, 2015. Based on the seniority list dated 20.01.2018 and 29.04.2020, some Inspectors from Sl. No. 01 to 88 have been promoted to the rank of Deputy Superintendent of Police.

The date of promotion to the post of Inspector Civil Police of the petitioners is 15.10.2016, due to which the petitioners have not been ranked in the said Joint Seniority List dated 20.01.2018 and 29.04.2020, since the said joint seniority list is of Inspectors upto January 2015. The Intelligence cadre is a separate cadre in Uttarakhand Police Department. In the Intelligence cadre, Sub-Inspector Intelligence is given promotion to the post of Inspector Intelligence against the vacant posts of Inspector Intelligence. In the selection year 2014, the promotion process was initiated against the vacant 21 posts of Inspector Intelligence in the Intelligence cadre and on the basis of the recommendation made by the Departmental Selection Committee, the Sub-Inspectors of the Intelligence cadre along with the respondents No. 04 to 23 were promoted to the post of Inspector Intelligence in the Intelligence cadre by the Police Headquarters *vide* Order No. DG-I-151-2015 dated 15.09.2014. The petitioners are employees of the civil police cadre, due to which, they have not been included in the promotion process in the Intelligence cadre. The petitioners have not challenged the promotion order dated 15.09.2014 of the private respondents well in due time and as afterthought without any legal substance, the same is being challenged at highly belated stage against the mandatory provision laid down in Section 5(1)(b)(i) of U.P. Public Services

Tribunal Act, 1976. Hence, the claim petition is liable to be dismissed on this prayer as being time barred without going into merits.

5. Counter Affidavit has also been filed on behalf of the private respondents No. 4 to 23, to which learned Counsel for the petitioner has also filed Rejoinder Affidavit.

6. During hearing of the arguments, this Tribunal passed the following orders on 03.09.2021:

Heard arguments of Ld. Counsel for the Respondents No. 4 to 23. He requested for further time to file copy of newspaper report by which the result of selection of the respondents to the post of Inspector (LIU) was published.

Ld. Counsel for the petitioners referred to a judgment dated 13.05.1999 of the U.P. Public Services Tribunal, quoted in the judgment dated 26.02.2003, passed in Claim petition No. 1667/2000 in the same Tribunal, according to which a direction was given to declare LIU as a separate cadre, implying thereby that before such direction, the Civil Police and LIU were a common cadre. Ld. Counsel for the petitioners asserted that even after this direction, Civil Police and LIU have continued to be one cadre and distinction has been made only in the Rules made by the Uttarakhand Government. He also sought time to file copy of the judgment dated 13.05.1999 of U.P. Public Services Tribunal.

We have asked Ld. Counsel for Respondents to find out the action taken by the U.P. Govt./Uttarakhand Govt. on such directions of the U.P. Public Services Tribunal for making LIU a separate cadre apart from the Civil Police. They may also file the relevant documents in this regard by the next date fixed."

7. Subsequently, learned Counsel for the respondents No. 4 to 23 filed copy of the *Amar Ujala* newspaper dated 16.9.2014, page 13 carrying a news report about the promotion of 21 Sub-Inspectors of LIU to the post of Inspector, in a bid to prove that the newspaper carried report of promotions of the Sub-Inspectors of LIU in 2014 and the petitioners must have also seen this news report at that time. However, in this newspaper report filed as Annexure: SR-01 to the Supplementary C.A., only headlines including news of promotion of 21 Sub-Inspectors from LIU to Inspector are clearly legible. Along with this Supplementary C.A., the advertisement for direct recruitment of Sub-Inspectors of Civil Police/Intelligence, Platoon Commander PAC of 2002 and the copy of the result thereof have been filed as Annexure: SR-02 and SR-03 respectively. Annexure: SR-03 shows the

branch (Civil Police/Intelligence/PAC) for which various candidates are selected against their names.

8. Responding to the above Supplementary C.A., Supplementary R.A. has been filed on behalf of the petitioners stating that by the single column of newspaper cutting, the respondents are trying to start the limitation period from the date of publication. This is unheard of in service jurisprudence. No official communication was sent to the petitioners of the promotion of private respondents and the only official communication of their promotion was at the time of circulation of the seniority list. Supplementary R.A. also states that the LIU was created *vide* G.O. dated 06.01.1956 which nowhere states that the LIU will be a separate unit from the District Police (Civil Police). Copy of this G.O. dated 06.01.1956 has also been enclosed as Annexure: A1. A copy of promotion order dated 11.09.2021 issued by the S.P., Kasganj (U.P.) of promotion of head constables to the post of Sub-Inspectors, is also enclosed as Annexure: A2, stating that head constables from Civil Police as well as LIU are being promoted to the post of Sub-Inspector (Civil Police), thus proving the claim of the petitioners that LIU and Civil Police are one and the same cadre. A perusal of this Annexure: A2 shows that in its first para, it is written that following Head Constables Civil Police have been promoted as Sub-Inspectors of Civil Police; however, the second para states that following head constables (Civil Police)/Head Constables LIU Civil Police are promoted to the post of Sub-Inspectors Civil Police. Against the individual names of the employees, it is not shown whether they belong to the Civil Police or LIU.

9. Private respondents have further filed Additional Supplementary Counter Affidavit on 14.10.2021 annexing therewith the letter No. DG-1-154-2020(1) dated 07.11.2020, written by the I.G. (Personnel) addressed to the Secretary, Home, Uttarakhand Govt. stating that this communication makes it clear that Civil Police, Intelligence and PAC are different cadres of the Uttarakhand Police Department. It is also mentioned that only one time, the cadre has been changed for Mr. Nadeem Athar, Sub Inspector,

Intelligence under the compliance of the orders of the Hon'ble High Court of Uttarakhand.

10. Learned Counsel for the petitioner has also produced copy of the order dated 13.12.2007 of Hon'ble High Court of Uttarakhand in writ petition No. 276/SS/2007, Pankaj Gairola vs. State of Uttarakhand & others to show that personnel have been sent from Civil Police to Intelligence wing and repatriated back. The relevant extract of the order of the Hon'ble High Court, is as below:

"The stand of the petitioner is that in the year 1992, the petitioner was transferred from Regular Police to Intelligence Wing, but the petitioner has not been sent back to the Regular Police till now.

Learned counsel for the petitioner has submitted that in spite of repeated representations, no heed has been paid by the respondents for sending back the petitioner to the Regular Police. A number of similarly situated police personnel file Claim Petition before the Tribunal and the Tribunal took note of the situation and issue directions to the Director General of Police to issue Circulars by regulating the tenure of the Police Personal of Civil Police to their posting in Intelligence Wing and the criteria must be spelt out clearly. Learned counsel for the petitioner has further submitted that in pursuance to the aforesaid directions, the Director General of Police initiated and circulated a Policy regarding transfer from Civil Police to Intelligence and its tenure. In the transfer order, it was provided that after a period of 5 years, the Police Personnel transferred from Civil Police to Intelligence department be sent back to the Civil Police. Despite the said Policy having been adopted and a number of persons have been transferred back to their Civil Police department, the petitioner was not provided the benefit of the same and aggrieved by this, the petitioner filed Claim Petition No. 1475 of 2000, which was allowed by the Tribunal.

Learned counsel for the petitioner has further submitted that according to the respondents, against the order passed by the Tribunal in the Claim petition, a writ petition was filed before the Hon'ble Allahabad High Court and the Hon'ble High Court has stayed the operation of the order passed by the Claims Tribunal, however, there is no order in existence against the order passed by Claims Tribunal in case of the petitioner.

Considering the facts and circumstances of the case, I deem it fit and proper and it is in the interest of justice that in case there is no order of Hon'ble Allahabad High Court against the order of Public Service Tribunal passed in the claim petition of the petitioner, the respondents are directed to consider the case of the petitioner for sending him back in Regular Police in accordance with law within a period of two months from the date of production of a certified copy of this order."

11. We have heard arguments of learned Counsel for the parties and perused the record.

12. G.O. No. 1569 dated 23.09.2004 and its amending G.O. No. 4235 dated 15.12.2006 were issued for selection process for regular promotion from the post of Sub-Inspectors Civil Police/Intelligence to the post of Inspectors Civil Police/ Intelligence. Para 3 of the G.O. dated 23.09.2004 states that for promotion, evaluation of service record shall be given 90% weightage and interview shall be given 10 % weightage. This para 3 was amended by the G.O. of 2006 in which the marks for service period, educational qualification, annual entries, courses and sports, awards etc. were amended but the weightage was kept as the same 90% for service record and 10% for interview. No other amendment was made *vide* G.O. dated 15.12.2006. Para 4 of the G.O. of 2004 is about composition of the Departmental Selection Committee. Para 5 says that all Deputy Inspectors General of Police, shall send all lists of such Sub-Inspectors, who are considered suitable for promotion on the basis of seniority to Police Headquarters. Para 7 of this G.O. states that on the basis of the lists received from all Ranges and Units of the State, the Departmental Selection Committee will prepare a combined final list of such Sub-Inspectors Civil Police/Intelligence who are found fit for consideration of promotion, in order of *inter-se* seniority.

13. Para 8 of the above G.O. states that from the above final combined list, 4 times the number of available posts, Sub-Inspectors Civil Police/Intelligence shall be called for interview. Para 13 of this G.O. states that after successful completion of probation period, a joint seniority list of Inspector Civil Police/Intelligence, Company Commanders and Reserve Inspectors shall be prepared, which shall be on the basis of date of substantive appointment/promotion or in cyclic order in the ratio of quota, and the same will be the final seniority list of Inspectors cadre of Uttarakhand Police.

14. The corresponding G.O. issued for promotion of Sub-Inspectors Armed Police and Platoon Commander to the post of Company Commander was G.O. No. 816 of 26.04.2006, which also gives weightage of 90% for evaluation of service record and 10% for interview. Para 11 of this G.O. is similar to the Para 13 of the G.O. dated 23.09.2004 regarding preparation of a joint seniority list which will be final seniority list of the Inspector cadre of Uttarakhand Police.

15. The stand of the official respondents has been that the Civil Police, LIU and Armed Police are three different cadres of the Police Department. The seniority list of the Sub-Inspectors of these three cadres has been made separately and promotions from them have been made to the posts of Inspector Civil Police, Inspector LIU and Company Commander separately right from the inception of the State of Uttarakhand. The petitioners' assertion is that while Armed Police is separately created cadre, Civil Police and LIU constitute one cadre. According to the petitioners, there has been a common G.O. for promotion of Sub-Inspector Civil Police/Intelligence to the post of Inspector Civil Police/Intelligence (G.O. No. 1569 dated 23.09.2004 as amended by G.O. No. 4235 dated 15.12.2006) and according to para 7 of this G.O., a combined final list of Sub-Inspectors of Civil Police and Intelligence in the order of *inter-se* seniority shall be prepared for promotion. The interpretation of this para-7 of the G.O. by respondents is that this combined final list implies the combining of the list received from the various Ranges and Units of the State in order of *inter-se* seniority separately of Sub-Inspectors, Civil Police or Sub-Inspectors of LIU whose promotion is being considered. In other paras of this G.O. also Civil Police/Intelligence means Civil Police or Intelligence, whose promotion is under consideration. Just because common G.Os. have been issued for the promotions of Sub-Inspectors Civil Police to the post of Inspector Civil Police and Sub-Inspectors LIU to the post of Inspectors LIU does not mean that they form one cadre in which the Sub-Inspectors of Civil Police can be promoted to the post of Inspectors LIU and Sub-Inspectors LIU can be

promoted to the post of Inspectors Civil Police as they are totally separate cadres.

16. We find that subsequently, the Govt. has notified the Uttarakhand Police Sub-Inspector and Inspector (Civil Police/Intelligence) Service Rules, 2018 (filed as Annexure: A6 to the claim petition). Rule 5 of these Rules states that for promotion from the post of Sub-Inspector (Civil Police/Intelligence) to the post of Inspector, such Sub-Inspectors shall be eligible who have completed 10 years of service and whose last 10 years' service record is satisfactory. Rule 16 of these Rules is about procedure of promotion to the post of Inspector. Sub-rule (1) of this Rule states that the promotion from Civil Police/Intelligence to the post of Inspector shall be cent-percent on the basis of seniority subject to rejection of unfit. Sub-rule (2) of Rule 16 states that for promotion from the post of Sub-Inspector Civil Police to the post of Inspector Civil Police and from the post of Sub-Inspector Intelligence to the post of Inspector Intelligence, Departmental Selection Committee shall be constituted as under:

.....

17. The above narration is as per the copy of these Rules in Hindi filed as Annexure: 06 to the claim petition, while according to the copy of these Rules in English filed as Annexure: 11 to the Counter Affidavit of the official respondents, Rule 16(2) is as follows:

“The Departmental Selection Committee for promotion to the post of Inspector Civil Police/Intelligence from the post of Sub-Inspector Civil Police/Intelligence shall be constituted as under:

.....”

18. We observe that the G.O. of 2004 can be interpreted in both ways- according to the petitioners as Civil Police/Intelligence being one cadre and according to the respondents as Civil Police and Intelligence being two separate cadres for which a common G.O. was issued. Even the service Rules issued in 2018 are common for Civil Police and LIU but in the Hindi version of the same, Rule 16(2) prescribes the Departmental Selection Committee for promotion from the post of Sub-Inspector Civil Police to Inspector Civil Police

and Sub-Inspector Intelligence to Inspector Intelligence. The stand of the respondents has been that in Uttarakhand though the direct recruitment of Sub-Inspectors Civil Police, LIU and PAC has been done through common advertisement, they have been separately appointed to the different cadres of Police and promotions in different cadres have been made separately. In other correspondence and orders also wherever Civil Police/Intelligence has been written, it means 'Civil Police or Intelligence' and not 'Civil Police and Intelligence.'

19. The representation of petitioner No.1 dated 05.05.2020 addressed to the Director General of Police has been filed as Annexure: A9 with the claim petition. (This has been stated to be the petitioners' representation for non-inclusion of their names in the seniority list dated 29.04.2020 of Inspectors according to para 4(q) of the Claim Petition). This representation, *inter-alia* states that LIU Sub-Inspectors of 2002-03 batch were promoted in July 2014 to the post of Inspector and Armed Police Sub-Inspectors of this batch were promoted in 2015 to the post of Company Commander/Reserve Inspector, while the applicant is a Sub-Inspector directly recruited in 1997-98, but he has been kept below them. It is further stated that in this list, Sri Bhaskar Lal Sah of the applicant's batch of 1997-98 has been placed at Sl. No. 46, then at Sl. No. 47 Sri Nadeem Athar Inspector Civil Police has been placed, who is Sub-Inspector of 2002-03 batch, and who was promoted in July 2014 to the post of Inspector. After Sl. No. 47 upto Sl. No. 69 are the Sub-Inspectors of 2002-03 batch of LIU/Armed Police who have been promoted to the posts of Inspector in 2014 and 2015. Sri Bhaskar Lal Sah, Inspector at Sl. No. 46 is of the same batch 1997-98 as the applicant's batch and therefore, Sub-Inspectors of the 1997-98 batch should have been placed above the Sub-Inspectors of 2002-03 batch in the seniority list. It is further stated that according to the U.P. Police Rules, the Armed Police Sub-Inspectors were promoted to the post of Inspector after passing the R.S.I. course. In this R.S.I. examination along with Sub-Inspectors of Armed Police, participation of Sub-Inspectors of Civil Police and LIU was also provided. Thus for promotion to the post of Inspector Armed Police, Sub-Inspectors of Civil

Police and Intelligence had equal opportunity as Sub-Inspectors of Armed Police. There was no separate provision for promotion of Sub-Inspectors Armed Police to the posts of Inspector Armed Police. The petitioner in this representation has also referred to the earlier joint seniority list issued on 20.01.2018 in which 17 Company Commanders promoted in February 2013 were kept above the Inspectors of Civil Police/ Intelligence promoted in July 2013 and on the basis of objections of Inspectors Civil Police, they have now been kept above the Inspectors of Armed Police.

20. We, however, find that in this representation, the petitioner No. 1 has not taken the plea that Civil Police and LIU are one cadre, or that the consideration of promotion of Sub-Inspectors of Civil Police and LIU should have been done together wherein, according to the petitioner no. 1 being senior to the respondents, he would have been promoted earlier with other Sub-Inspectors of LIU. The petitioner no. 1 in his representation neither expressed any surprise about the promotions of the private respondents in 2014, nor showed his ignorance about the same earlier as is claimed in the present claim petition. According to this representation, he does not deny the knowledge of the earlier promotions of Armed Police and LIU; he says that in the R.S.I. examination, the Sub-Inspectors of Civil Police and LIU should also have been included along with Sub-Inspectors of Armed Police but does not say or claim that the promotion process of private respondents (Sub-Inspectors LIU) to the post of Inspectors LIU in 2014 should have included the petitioners also which would have so been, had the LIU and Civil Police been one cadre.

21. The letter of Inspector General of Police (Personnel) dated 07.11.2020 addressed to Secretary, Home, Govt. of Uttarakhand annexed as Annexure: ASR-01 to the Additional Supplementary C.A. dated 14.10.2021, clarifies that the promotions in Civil Police, LIU and PAC have been done separately and according to para 13 of the G.O. No.1569 dated 23.09.2004, the joint seniority list has been prepared. This letter clarifies that against the seniority list dated 20.01.2018, Claim Petition No. 41/DB/2018, Surendra Singh Samant vs. State of Uttarakhand & others was filed in this Tribunal and

according to the judgment of this Tribunal dated 31.07.2019 amendments were made in the sl. No. 66 to 89 and after amendment, joint seniority list has been issued on 29.04.2020. About the Sub-Inspector, Sri Nadeem Athar selected in the year 2002 by direct recruitment, this letter states that he was allotted the LIU cadre. He filed a writ petition No. 1363/SS/2007 in the Hon'ble High Court of Uttarakhand for allotment of Civil Police cadre in place of Intelligence cadre. The Hon'ble High Court in its decision on 24.04.2017 ordered the Civil Police cadre to be allotted to the petitioner Nadeem Athar on the basis of his merit. Accordingly, Nadeem Athar has been allotted the Civil Police cadre. In the Intelligence cadre, Sri Nadeem Athar has been promoted as Inspector on 15.09.2014 and was therefore, included in the joint seniority list issued on 20.01.2018 at Sl. No. 105. To maintain the equality of seniority between Sri Nadeem Athar with other Sub-Inspectors Civil Police promoted as Inspector Civil Police on 15.10.2016, his name has been struck off from amended joint seniority list with immediate effect *vide* headquarters' order dated 05.10.2020 and he shall be considered along with the Inspectors of Civil Police promoted in 2016 for providing seniority separately.

22. During arguments, learned Counsel for the petitioners has also pleaded that the facts of the present claim petition are similar to the facts of Claim Petition No. 41/DB/2018, Surendra Singh Samant and others vs. State of Uttarakhand & others. The relevant extracts of the judgment in this claim petition are reproduced herein below:

“2. Briefly stated, the petitioners were recruited as Sub-inspectors in Civil Police branches under the respondents department in 1989-90, whereas, the private respondents were recruited later in time. The petitioners are much senior to the private respondents in their tenure of service. In both the branches of Police Department i.e. Civil Police and Armed Police/Dal-Nayak, the Sub Inspectors are promoted to the next cadre of Inspectors, as per their vacancies and quota.

3. For the vacancies of Civil Police, upto the year 2010, the selection/promotion process was started in the month of April 2011, for the vacancies year of 2010-11. The applications were invited for recruitment and promotion to the post of Inspector and their eligibility criteria was fixed as per the Notification dated 23.09.2004. Sub-Inspectors having 10 years of service were eligible for promotion to the post of Inspector. On the basis of the selection process, the interviews of the petitioners for the post of Inspector were held in the Month of December, 2011. Some other persons (Not present petitioners) of lower cadre of Civil

Police filed a writ petition (S/S) No. 1841 of 2011 with Writ Petition No. 1896/2011, 985/2011 and 592/2012, on the ground that they are being treated in a hostile manner and they are not being considered for promotion for the post of Inspector. In their writ petition, vide order dated 16.12.2011, an interim order was passed by the Hon'ble High Court of Uttarakhand with the following directions:

“Having heard the learned counsel for the parties and upon examining the material available on record, inasmuch as considering the fact that similarly situated Sub-Inspectors in the State of U.P. have been given benefit of seniority from the year 1999, it is directed that the petitioners shall be permitted to participate in the promotion exercise of Inspectors, provisionally pursuant to the Notification dated 19.04.2011 and 08.12.2011. However, result of the petitioners shall not be declared until further orders of this Court.”

4. Accordingly, the petitioners of that petition were provisionally allowed to appear in the process of interview for promotional post of Inspector. It was made clear in the interim order that the result of the petitioners (of that petition) shall not be declared till further orders i.e. till pendency of the petition. The petitioners have contended that by wrong interpretation of the order of the Hon'ble Court, the result of the present petitioners was also withheld. The petitioners were not party to that petition and their promotional exercise was already completed, but its result was not declared.

5. It has also been contended that from the quota of Armed Police, the promotional exercise was started in 2012 for the vacancies of selection year 2012-13 and as per the criteria set in the G.Os. dated 26.04.2006/15.02.2013, their interviews were held on 26.02.2013. Thereafter, vide order dated 27.02.2013, the promotions were granted to the private respondents No. 3 to 19 on the post of Inspector. The petitioners have also contended that the private respondents are much junior to them in service, but in spite of prior appointment/promotion of the petitioners, the respondent department, withholding the promotion of petitioners, granted promotion to the private respondents illegally and arbitrarily.

6. The said writ petitions filed in the year 1999 by the other persons, were finally dismissed by the Hon'ble High Court vide order dated 29.05.2013. Thereafter, the result of the interview given by the petitioners in the year 2011 was declared on 15.07.2013, after a period of about one and half year and they were promoted accordingly.

7. It is also contended that on 06.04.2017, a seniority list of the Inspectors was published by the respondents whereby, the petitioners were placed below the private respondents i.e. the persons of the cadre of Company Commanders and other inspectors, junior to them. Petitioners also submitted their representations against the seniority list, but the same were decided against them and vide impugned order dated 20.01.2018, the petitioners were placed below private respondents. It is also contended that the petitioners were appointed to the posts of Sub-Inspector, much prior to the appointments of the private respondents,

hence, they were senior to the private respondents in tenure of service and placing the petitioners below private respondents, is wrong and illegal. The appointments of the petitioners to the post of Inspector were delayed by the respondents, by making wrong interpretation of the stay order of the Hon'ble Court.

8. It is also contended that the petitioners were eligible to be promoted to the posts of Inspector since the date of promotions of their juniors and earlier in time w.e.f. 2011 or when the result of the interview was withheld, on account of stay order of the Hon'ble Court. The petitioners have also contended that the respondents no. 7 and 16 whose cadre of Uttarakhand was allotted later in time, were also granted notional promotion since 27.02.2013, the date when other respondents were promoted hence, on the basis of equity, the petitioners are also entitled to get notional promotion from the date of their juniors i.e. the private respondents. According to the Seniority Rules, 2002, the petitioners will regain their seniority, but the respondents have denied the petitioners from their legal rights, hence, this petition has been filed for the relief sought as above.

15. The question for consideration before the court is, whether the petitioners, whose promotional exercise was started against the vacancies of 2010-11 and the formalities of interview were also completed, will rank senior to the persons promoted against the vacancies of later year. The result of promotional exercise of the petitioners was not declared on account of the interim order dated 16.12.2011, passed by the Hon'ble High Court, in writ petition No. 1841 (S/S) 2011 along with other connected petitions (in which the petitioners were not party). Although, those writ petitions were dismissed on 29.05.2013, but during their pendency, the process for promotion of the petitioners was kept pending without any such specific order, relating to them. In the mean time, for the next selection year, the promotional exercise of private respondents No. 3 to 19, relating to armed police cadre was started and completed, and they were appointed in the month of February 2013. While, the promotion orders of the petitioners were issued in July, 2013 without giving them the benefit of promotion with back date i.e. 2011 when their selection process was completed and the result was withheld on account of a wrong interpretation of the stay order of the Hon'ble High Court. In these circumstances, the petitioners have sought relief to consider and reissue their promotion orders notionally from the back date, when their other juniors were promoted against the vacancy of next selection year and accordingly, the relief has been sought to set aside the seniority list and to redraw it afresh.

16. It is an admitted fact that the petitioners and the private respondents were recruited on the post of Sub-Inspectors belonging to different streams/branches in the police department. The petitioners and private respondents were promoted on the post of Inspectors from the post of Sub-Inspectors against their respective quota and the vacancies of respective years. The Executive Orders of that time, were having the effect of the Rules, which prescribed minimum 10 years of experience on the

post of Sub-Inspector for promotion to the next higher post of Inspector/Dal Nayak. There is a provision for preparing combined seniority list of both the cadres.

17. It is also an admitted fact that the petitioners were appointed in the year 1989-90 batch and they completed 20 years of service in the year 2010 whereas, the private respondents No. 3 to 19 joined their services in the police department much after them and they completed 10 years of service on the post of S.I. in the year 2012 and in the length of service, although in different streams/branches, the petitioners are more than 10 years senior.

18. The petitioners have also submitted that from the cadre of civil police/Intelligence, vacancies for promotion occurred in the year 2010 whereas, the vacancies for other cadre (Armed Police, belonging to the private respondents) occurred only in 2012. The selection process for promotion of the petitioners cadre was started against the vacancies of 2010-11 in the end of 2011 and their interview/examination was completed in 2012, but by a wrong interpretation of the stay order dated 16.12.2011, passed by the Hon'ble High Court on the petition of some other persons (in which neither the petitioners nor the private respondents were parties), the result of the petitioners was not declared and their promotion orders were not issued.

19. Learned counsel for the petitioners has contended that, in that petition, neither the petitioners were party nor there was any stay order of the Hon'ble High Court, against the declaration of the result of the petitioners, and only the result of the petitioners of those writ petitions was to be withheld. The relevant part of the stay order of the Hon'ble High Court is that "**however, result of the petitioners shall not be declared until further orders of this Court.**" Apparently, this stay order was in relation to the petitioners of that petition (obviously, not petitioners of this petition) and they were allowed to participate in the promotion process and ultimately, their petitions were dismissed by the Hon'ble Court in 2013.

20. This court agrees with the argument of the petitioners that the stay order of the Hon'ble High Court to withhold the result of interview or examination was not in relation to the petitioners. However, making the wrong interpretation of that stay order, the petitioners, whose selection process for promotion was completed in all respect, were not given promotion orders whereas, nothing was left to be done on their part. The court finds that when whole process for promotional exercise was completed and nothing was left to be done on the part of the petitioners and only the formal order of the promotion was to be issued, in these circumstances, without any specific stay order of the court, the result of the petitioners was wrongly withheld. In such circumstances, the respondents were required, not to make promotion of the next year for other junior candidates, without either waiting for the result of the petition, or without giving effect to the promotion of the present petitioners. We find that the action of the respondents was against the

principles of natural justice and it violates the provisions of Article 14 of the Constitution of India.

21. Withholding the result of completed promotional exercise of the petitioners against the vacancy year 2010-11, the respondents took up the process of promotion against the vacancies of the year 2012-13 for the Armed Police quota and private respondents were promoted on 26.02.2013 after holding their interview. Such an act of the respondents is discriminatory and unjustified. It is an admitted fact that the petitioners came into service of the respondent department much before the private respondents; the vacancies of promotion in their cadre also occurred prior to the vacancies of the private respondents; the selection process of the petitioners was completed in December 2011, prior to selection process of the private respondents completed in 2012-13; the selection of the petitioners was of previous selection year and the selection of the private respondents was of 2012-13 even though, withholding the result of the petitioners (senior persons) for the prior years, promotion was granted to the private respondents, who were much juniors in service and they completed the required tenure of service later in time. Their vacancy for promotion also occurred in later year but they were given promotion in the month of February, 2013 earlier than the petitioners and the petitioners were made to suffer on account of the stay order of the Hon'ble High Court, granted in relation to some other persons, in a petition, in which the petitioners of the present petition, were not a party and were having no opportunity of hearing. In these circumstances, it was the requirement of the law and the principles of natural justice, that either the result of the petitioners should have been declared, prior to take up the matter of promotion of the private respondents, or the result of the promotional exercise of the private respondents must have been withheld till the decision of the petition of other persons.

22. This court is also of the view that even if by taking wrong interpretation of the order, the promotion order was not issued during pendency and till dismissal of the petition, then after dismissal of the petition, the petitioners must have been promoted with back date i.e. the date of their selection year or the date of completion of their selection process or from the date of giving promotion to their juniors in February 2013 and without giving promotion to petitioner with back date i.e. the date of promotion of later batch, the great injustice has been done to the petitioners and they have been punished down for no fault of them.

23. According to the petitioners, promotions of the persons against the vacancies of previous selection year, specifically when their promotional exercise was completed in all respects in 2011-12, must be made effected from the date, against the vacancy of their selection year. Learned A.P.O. on behalf of the respondents has submitted that the promotion order was not issued on account of the stay order and as there was no such stay order against further promotion, hence, the private respondents were promoted in the month of February 2013. After vacation of the stay order and dismissal of the writ petition of other persons, the promotion order of the petitioners was issued in July 2013.

According to the respondents, as the petitioners were promoted later in time, hence, their seniority has been decided accordingly.

24. Learned counsel for the petitioners has submitted that the promotion can be made effective notionally, with retrospective effect and the respondents themselves had done so in the matter of the respondents No. 7 & 16, Sh. Prabodh Kumar Ghildiyal and Sh. Rajendra Singh Koshiyari, who were allocated to the State of Uttarakhand first time in the year November, 2014 and September, 2015 respectively. On the date of promotion of private respondents i.e. 26.02.2013, their names were not included in the selection list, in the selection process of Armed Police cadre and after allocation to the State of Uttarakhand, their promotion orders were passed on 08.12.2014 and 25.04.2016 respectively and they were granted notional promotion w.e.f. 27.02.2013. Petitioners have contended that on the same analogy, petitioners, whose selection was made against the vacancies of previous year and the process of selection was completed prior to the selection of private respondent, but their result was withheld on a wrong interpretation of the stay order so the petitioners are also entitled for notional promotion from the date of their year of vacancy or from the date of promotion of their juniors w.e.f. 27.02.2013.

25. The court finds that in this respect too, the respondents have adopted a discriminatory attitude because of the reasons that when the respondents No. 7 and 16 were granted notional promotion with back date, on the same analogy, the petitioners must have been given notional promotion from the date of completion of their selection process for promotion in December, 2011 or latest from the date of promotion of private respondents, i.e. the persons selected for promotion about next year w.e.f. 27.02.2013.

26. This court holds that the petitioners must be placed in a position senior to the private respondents. In this respect, the respondents have violated the principles of equality and principles of natural justice and also the Service Rules. The contention of the respondents cannot be accepted in any respect because of the reasons that there was no such stay order, granted by the Hon'ble High Court against the result of the petitioners of this petition and, withholding their result till the disposal of the writ petition No. (S/S) No. 1841 of 2011 was wrong. Withholding the result of the previous selection and delaying the issue of promotion order and promoting the persons against the vacancies of later years, was wrong and against the principles of natural justice. Accordingly, placing the private respondents no. 03 to 19, above the petitioners in the combined seniority list is also wrong and illegal.

27. This court is of the view that the claim petition succeeds and there is a need for a direction to the State respondents to redraw and reissue the promotion orders of the petitioners to the post of Inspectors and to grant them promotions notionally, prior to the date of promotion of the private respondents no. 3 to 19 and, accordingly, the seniority list dated 20.01.2018 needs to be set aside, with a direction to redraw the

seniority afresh, after issuance of the fresh promotion orders of the petitioners. Hence, the following order is hereby passed.

ORDER

The claim petition is hereby allowed. The impugned final seniority list dated 20.1.2018 (Annexure: A1) is hereby set aside. The respondents No. 1 & 2 are directed to redraw and reissue the promotion order of the petitioners, issued on 15.07.2013 and to give promotion to the petitioners on the post of Inspectors, by granting them promotion notionally, prior to the date of promotion of the private respondents No. 03 to 19. Respondents No. 1 & 2 are also directed to settle the seniority afresh and to place the names of the petitioners above the private respondents no. 3 to 19, in the joint seniority list of Inspectors/Dal-Nayak, within a period of three months from today."

23. It is clear from the above that the facts of the above claim petition are quite different from the facts of present claim petition and the present claim petitioners are not entitled to any reliefs on the considerations made in the judgment of this Tribunal in the above claim petition.

24. We observe that *vide* G.O. of U.P. Govt. dated 06.01.1956 (Annexure: 1 to the Supplementary R.A.), the Intelligence staff of the Criminal Investigation Department and Districts was reorganized to form the Local Intelligence Unit (LIU). In due course of time, the LIU has become a separate wing of the Police. In between Police Personnels have been posted from Civil Police to LIU and repatriated back. As stated in the order sheet dated 03.09.2021 of this Tribunal, learned Counsel for the petitioners has referred to a judgment dated 13.05.1999 of the U.P. Public Services Tribunal, according to which, a direction was given to declare LIU as a separate cadre. While learned Counsel for the petitioner asserted that even after this direction, Civil Police and LIU have continued to be one cadre and distinction between them has been made only in the Rules of 2018 made by the Uttarakhand Govt., we find that Uttarakhand Govt. has treated the Civil Police and LIU to be different wings of Police. Direct appointment at Sub-Inspector level and promotions to the post of Inspector have been done separately in Civil Police and in LIU. As observed by us earlier, the G.Os. dated 23.09.2004 and 15.12.2006 have not been worded clearly to show this distinction and can be interpreted in both ways. Even common

Service Rules of 2018 have been issued for both Sub-Inspectors and Inspectors of Civil Police and LIU. However, the intention of the Govt. and Police Department has been very clear in keeping them as separate wings and the same has also been accepted by the petitioners before filing the present claim petition as is clear from the copy of the representation made against the joint seniority list by the petitioner no.1 (Annexure: A9 to the claim petition).

25. As stated in the Counter Affidavit of official respondents, Sub-Inspectors of Civil Police including many petitioners have been considered in earlier years also for promotion to the post of Inspector Civil Police but due to shortage of number of posts of Inspectors of Civil Police, and not coming in merit, they have not been promoted earlier. Had the upgradation of all the police stations of Uttarakhand to the Inspector level done in the year 2011 not been cancelled subsequently resulting in reduction of the vacancies of the posts of Inspectors of Civil Police, the petitioners probably would have been promoted to the post of Inspector, Civil Police earlier than the promotion of private respondents to the post of Inspectors of LIU in 2014. Sub-Inspectors of LIU were separately considered for promotion to the post of Inspector LIU and depending upon their vacancies, they got promotions in 2014. In both these promotions of Civil Police and LIU, the criterion for promotion has been seniority-cum-merit. It is notable that Sub-Inspector Civil Police, Sri Bhaskar Lal Sah of the 1997-98 batch (the same batch as petitioner no.1) got promoted earlier and has been placed above the Sub-Inspectors of LIU and Armed Police promoted in 2014 and 2015 as stated in the petitioners' representation at Annexure: A9. It does not entitle all the Sub-Inspectors of Civil Police of 1997-98 batch to be placed after Sri Bhaskar Lal Sah and above the Inspectors of LIU and Armed Police promoted in 2014 and 2015 as the date of appointment on the post of Inspector can be the only objective criteria for placing the persons promoted in different streams in different selections in a joint seniority list and the same has been provided in Para 13 of the G.O. No. 1569 dated 23.09.2004 also. Similarly, no case is made out to grant notional promotion to the petitioners from 15.09.2014,

the date private respondents were promoted as they belong to different streams and were promoted according to vacancies in those streams- a fact that was well known to them and accepted by them.

26. We would like to point out that the words, different wings, different sections and different cadres have been used for Civil Police, Armed Police and LIU. The petitioners themselves say the following in para 4(j) of the claim petition "since, the respondents belonged to a different section of service, within the cadre, the petitioners did not come to know of the promotions so made and hence, could not represent or object against such promotions." In para 4(v) of the Claim Petition, they state "that appointment on the post of Inspector are made only by promotion. However, from more than one feeding cadres...." This itself affirms the separation of the two wings/streams of Civil Police and LIU.

27. We hold that the Inspectors Civil Police and Inspectors LIU belong to two different streams, on which promotions are made separately from Sub-Inspectors Civil Police and Sub-Inspectors LIU in their respective streams.

28. Normally, the issue of joint combined seniority list comes up when the promotion/recruitment to the same post is done from different sources. To quote an example, the appointment to the posts of Assistant Engineer (Civil) in PWD is done by promotion of Junior Engineer (Civil), Junior Engineer (Technical/Computers) and by direct recruitment also according to their various quotas. There the issue comes up of the seniority list of Assistant Engineer where appointments are done from various sources. It is in such case that the provisions of the Uttarakhand Govt. Servants Seniority Rules, 2002 are applicable. There is no issue of making a joint seniority list of Junior Engineer (Civil) and Junior Engineer (Technical/Computers) and making promotion from that list to the post of Assistant Engineer (Civil) there. In the Police Department, a confusion has been created by mixing Inspectors (Civil Police), Inspectors LIU, Company Commanders and Reserve Inspectors into one joint seniority list and then making promotion from this

list to the post of Deputy S.P. The ideal thing would have been to prescribe promotion quotas of these various Inspectors to the post of Deputy S.P. and then make a combined seniority list at the Deputy S.P. level in accordance with the Uttarakhand Govt. Servants Seniority Rules, 2002. This would obviate the need of making a combined list of different streams of Inspectors, the procedure for which has been written in para 13 of the G.O. dated 23.09.2004.

29. Making combined list at the Inspector level would have been ideal, if the post of Inspector was common, to which Sub-Inspectors from Civil Police, LIU, Platoon Commanders and Sub-Inspectors Armed Police were being promoted. Then in making this combined seniority list, the Uttarakhand Govt. Servants Seniority Rules of 2002 would have been applicable in their proper perspective. In the present scenario, the Govt. may clearly define various streams of Inspectors to be separate feeding sources for promotion to the post of Deputy S.P. and prescribe suitable quotas for them so that after promotion, combined seniority list of persons promoted and directly recruited to the post of Deputy S.P. is made as per the provisions of the Uttarakhand Govt. Servants Seniority Rules of 2002. Till the same is done, the preparation of joint seniority lists of Inspectors of various streams as per Para 13 of the G.O. of 23.09.2004 is the only alternative to prepare a feeder list for promotion to the post of Deputy S.P.

30. On the basis of the above, we hold that the reliefs prayed for by the claim petitioners cannot be granted. The Tribunal does not feel it necessary to deal with the issue of limitation in such circumstances.

The claim petition is, accordingly, dismissed. No order as to costs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: OCTOBER 30, 2021
DEHRADUN

KNP