

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIUBUNAL,
DEHRADUN**

Present: Hon'ble Mr. Rajendra Singh

.....Vice Chairman (J)

Hon'ble Capt. Alok Shekhar Tiwari

.....Member (A)

REVIEW APPLICATION NO. 01/DB/2025

Latika Singh aged about 44 years, w/o Vinay Chandra, r/o Flat No. B-103, Plot No. 153/11, Mangolia Mansion Street No. 11, Rajendra Nagar, Dehradun presently posted as Officiating Chief Agriculture Officer, Dehradun.

.....**Review applicant**

With

REVIEW APPLICATION NO. 02/DB/2025

Vijay Deorari, aged about 44 years s/o Shri B.D. Deorari r/o House No. 58 Navada Heights, Badripur, Jogiwala, Dehradun, presently posted as Officiating Chief Agriculture Officer, Haridwar.

.....**Review applicant**

In

CLAIM PETITION NO. 91/DB/2022

Deepak Purohit, aged about 36 years, s/o Sri Rajesh Chandra Purohit, presently posted as Agriculture and Soil Conservation Officer, Chakrata, Dehradun.

.....**Petitioner**

Vs.

State of Uttarakhand through Secretary, Ministry of Agriculture and Farmer Welfare, Uttarakhand Government, State of Uttarakhand & others.

.....**Respondents**

(Virtual)

Present: Sri M.C.Pant, Advocate for review applicants
Sri Amar Murti Shukla, Advocate, for the petitioner
Sri V.P. Devrani, A.P.O., for the respondents no. 1 to 3

With

REVIEW APPLICATION NO. 04/NB/DB/2025

Latika Singh aged about 44 years, w/o Vinay Chandra, r/o Flat No. B-103, Plot No. 153/11, Mangolia Mansion Street No. 11, Rajendra Nagar, Dehradun presently posted as Officiating Chief Agriculture Officer, Dehradun.

.....**Review applicant**

&

REVIEW APPLICATION NO. 05/NB/DB/2025

Vijay Deorari, aged about 44 years s/o Shri B.D. Deorari r/o House No. 58 Navada Heights, Badripur, Jogiwala, Dehradun, presently posted as Officiating Chief Agriculture Officer, Haridwar.

.....**Review applicant**

In

CLAIM PETITION NO. 67/NB/DB/2022

1. Priyanka Singh aged about 38 years, w/o Sri Bhupendra Kumar Singh, presently working as In-charge Chief Agriculture Officer, Almora.
2. Vinod Kumar Sharma, aged about 36 years s/o Shri Ramesh Chandra Shamra, presently posted as Agriculture and Soil Conservation Officer, Badechhina, Almora.

.....**Petitioners**

Vs.

State of Uttarakhand through Secretary, Ministry of Agriculture and Farmer Welfare, Uttarakhand Government, State of Uttarakhand & others

.....**Respondents**

Present: Sri M.C.Pant, Advocate for review applicants (online)
 Sri S.C.Virmani (online) &
 Sri S.K. Jain, Advocates for the petitioner no. 1
 Sri Amar Murti Shukla, Advocate, for petitioner no. 2 (online)
 Sri Kishore Kumar, A.P.O., for respondents no. 1 to 3 (online)

JUDGMENT

DATED: JUNE 13, 2025

These review applications have been filed by the review applicants for review of the judgment dated 06.03.2025 passed by this Bench of Tribunal in Claim Petition No. 67/NB/DB/2022, Priyanka Singh and another vs. State of Uttarakhand & others and in Claim Petition No. 91/DB/2022, Deepak Purohit vs. State of Uttarakhand & others.

2. After hearing the parties, the above-mentioned claim petitions were decided on 06.03.2025 with the following observations:-

“23. As per the directions given by the Hon’ble High Court of Uttarakhand at Nainital in Writ Petition No. 60(S/B) of 2021 and Writ Petition No. 93 (S/B) of 2021 on 01.08.2022, the Tribunal is expected to decide the matter as a Claim Petition. Therefore, the

exact prayers in these claim petitions cannot be allowed, in toto. Rather this Bench would limit itself within the scope of powers as given to this Tribunal, as follows:-

- (A) The promotional exercise as existed on 31.12.2020 shall be completed in accordance with the then existing rules of promotion. All the steps taken by the Administrative Department of Agriculture subsequently in the wake of Officers' Association representation dated 31.12.2020 shall be null and void,*
- (B) Needless it is to mention here that the new rules of promotion, i.e., the single window system, as promulgated by the Government would continue to serve the future promotions, excluding the instant promotional exercise to fill in the vacant 07 post of Deputy Director/Chief Agriculture Officer, branchwise as proposed by the Director, Agriculture on 21.11.2020.*

ORDER

Accordingly, the Claim Petition No. 67/NB/DB/2022 Priyanka Singh & another Vs. State & others and the Claim Petition No. 91/DB/2022 Deepak Purohit Vs. State & others are hereby partly allowed to the extent that the final result of promotional exercise in accordance with the then existing rules on and before 31.12.2020 shall be produced before the Hon'ble High Court of Uttarakhand at Nainital as directed. So far as the new rules are concerned, they will remain in force for the future promotions, excluding the promotions under the ambit of this instant case. No orders as to costs."

3. Feeling aggrieved by the decision of this Tribunal, the review applicants preferred these Review Applications on the following grounds:-

A- Whether, the directions issued by the learned Public Service Tribunal of declaring steps taken by the Administrative Department of Agriculture subsequently in the wake of Officers Association Representation dated 31-12-2020 as null and void, was proper and justified in view of the fact that only one of the petitioner Shri Vinod Kumar Sharma had filed the writ petition no. 236 of 2024 (S/B) before the Hon'ble High Court of Uttarakhand at Nainital for quashing the promotion order issued on 5th April, 2023, which is still pending before the Hon'ble High Court of Uttarakhand at Nainital.

B- Whether, the non-challenge of the promotion order dated 5-4-2023 by petitioners Shri Deepak Purohit and Smt. Priyanka Singh

would result in waiver of their right to the promotion granted to the applicants and in absence of any challenge to the promotion granted to the applicants by the aforesaid petitioners, the relief granted to the petitioners Shri Deepak Purohit and Smt. Priyanka Singh could be granted to them and was justified in the eyes of law.

C- Whether in absence of any challenge to the final seniority list issued on 25-7-2022 by one of the petitioners Smt. Priyanka Singh and in absence of any decision in the claim petition no. 147 of 2023 filed by the petitioners Vinod Kumar and Deepak Purohit (challenging the seniority list), the directions issued by the learned Public Service Tribunal declaring the steps taken by the administrative department of agriculture subsequently in the wake of the Officers Association Representation dated 31-12-2020 as null and void is legally sustainable and is good in the eyes of law.

D. Whether, the conscious decision taken by the State Government in public interest and public good as reflected in the Cabinet note could be faulted without there being any challenge to the said Cabinet note by any of the petitioners.

E- Whether, the general order issued by the Personnel Department of completing the promotional exercise (strong reliance on which was placed by the petitioners) lost its sanctity in view of the Cabinet approval given by the Personnel Department to the cabinet proposal. Moreover, when the said cabinet proposal was also approved by the Law Department and the Finance Department.

F- Whether, the failure to consider the aspect of approval given by the Personnel Department, Law Department and Finance Department to the cabinet proposal, by the Learned Public Service Tribunal has resulted in miscarriage of justice.

G- Whether, the judgement passed by the learned Public Service Tribunal is in direct conflict with the judgement passed by the Hon'ble Apex Court in the case of State of U.P. Vs. Rachna Hills 2011 (6) SCC

725 as well as State of Himanchal Pradesh Vs. Raj Kumar and would come under the purview of Judicial Indiscipline.

H- Whether the non-challenge to the amendments made in the service rules by any of the petitioners (on the basis of which promotions were given to the applicants) was a vital aspect which ought to have been considered by the Learned Public Service Tribunal.

I- Whether in absence to any challenge to the amendments in the Service Rules, by any of the petitioners, the direction issued by <the Learned Public Service Tribunal declaring the promotion granted to the applicants as null and void is legally sustainable.

J. Whether the direction issued by the Learned Public Service Tribunal for filling up vacancy under the old rules; by issuing direction for considering the case of petitioners for promotion; is in violation to the Law laid down by the Hon'ble Apex Court in the case of State of Himachal Pradesh vs Raj Kumar, State of Uttar Pradesh Vs Rachana Hills and Ankita Thakur & ors vs The H.P. Staff Selection Commission. More particularly when the Departmental service rules clearly provide that the State Government is at liberty to not to fill any vacancy. Thus, in absence of any legal right to be considered for promotion under old rules whether the direction issued by the Learned Public Service Tribunal for making promotion of the petitioners under the old rules is legally sustainable?

4. In the light of the above, the review applicants (respondents No. 4 & 5 in the original claim petitions) prayed that the judgment passed by this Tribunal deserves to be reviewed.

5. Learned Counsel for the petitioners (respondents herein) have filed objections as under:

i. The review applicants filed the aforesaid review application just to reargue the aforesaid claim petition and made attempt before this Hon'ble Tribunal to rehear the aforesaid claim petition which is not permissible in terms of law. The review of judgment can only be seen within the four corners of Order XLVII Rule 1I of the Code of Civil

Procedure, 1908. The Order XLVII Rule 1 is extracted herein under for kind perusal of this Hon'ble Tribunal:

ORDER XLVII REVIEW

1. Application for review of judgment-(1) Any person considering himself aggrieved, (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a review from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or be produced by him at the time when the decree was passed or order made, or for on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

[Explanation- The fact that the decision on a question of law on which the judgment of the Court is biased has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.

ii. From the perusal of Order XLVII Rule 1 Code of Civil Procedure, 1908 it would demonstrate that the review can only be permissible where new material has been overlooked by excusable misfortune, mistake or there is an error apparent on the face of record and where there is any other sufficient reason. The present case is not covered by any of the clauses of the Order XLVII Rule 1 inasmuch as neither the review applicant pointed out mistake or there is an error apparent on the face of record, new material has been overlooked by excusable misfortune or existing material being overlooked therefore in absence of aforesaid three ingredients the review application is bereft of any merit and is liable to be dismiss/rejected.

iii. In the garb of review application the review applicant tried to rehear/reargue the matter before this Hon'ble Tribunal which is also not permissible in view of the law laid down by Hon'ble Apex Court in the case of Parsion Devi and others Vs. Sumitri Devi and others reported in 1997 (8) SCC Page 715. In the para 9 of the aforesaid judgment the Hon'ble Supreme Court has held as under:

"9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self evident and has to be detected by a process, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be rehear and corrected. "A review petition, it must be remembered has a limited purpose and cannot be allowed to be an appeal in disguise."

iv. The Hon'ble Supreme Court in the case of Shanti Conductors Pvt. Ltd. vs. Assam State Electricity Board and others reported in 2020 (2) SCC 677 has held that "the scope of review is limited and under the guise of review, the petitioner cannot be permitted to reagitate and reargue the question which have already been redressed and decided'. In the instant case the issue raised by the review applicant by the aforesaid review application has already been addressed and decided by this Hon'ble Tribunal therefore in view of law laid down by the Hon'ble Apex Court in the aforesaid judgments cited hereinabove the review application is devoid of any merit, is liable to be dismissed.

v. The Hon'ble Apex Court in the case of In R.P. (C) Nos. 1273-1274 of 2021 in Civil Appeal Nos. 8345-8346 of 2018 Arun Dev Upadhyaya Vs. Integrated Sale Services Ltd. and another in para 15 has held as under which is extracted hereinunder for kind perusal of this Hon'ble Tribunal:

"15. From the above, it is evident that a power to review cannot be exercised as an appellate power and has to be strictly confined to the scope and ambit of Order

XLVII Rule 1 CPC. An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions."

vi. From the perusal of para 15 of the aforesaid judgment the scope of review is strictly confined within the scope and ambit of Order XLVII Rule 1 CPC. An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may be conceivably be two point opinions. Here in the instant case the review applicant failed to point out any error on the face of record therefore in absence of same the review application is not maintainable and is liable to be dismissed.

vii. The Constitution Bench of the Hon'ble Apex Court in the case of Beghar Foundation vs. Justice K.S. Puttaswami (Retd.) and others reported in 2021 (3) SCC Page 1 has held "that even the change in law or subsequent decision/judgment by itself cannot be regarded as a ground for review."

viii. The grounds taken in the review application filed by the review applicant for review of judgment and order dated 06.03.2025 neither comes within the scope and ambit of Order 47 Rule 1 CPC nor within the four corners of law declared by the Hon'ble Apex Court in the judgments cited hereinabove therefore the review application is thoroughly misconceived and is liable to be dismissed/rejected with exemplary cost.

ix. The Hon'ble Supreme Court in the case of Review Petition (Civil) No.1620 of 2023 in Civil Appeal No. 1661 of 2020 and batch decided on 31.10.2023 in para 16 has held/observed as under:

"16. The gist of the afore-stated decisions is that:-

(i) A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

(ii) A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a

substantial and compelling character make it necessary to do so.

(iii) An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.

(iv) In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be "reheard and corrected.

(v) A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise,"

(vi) Under the guise of review, the petitioner cannot be permitted to reagitate and the reargue questions which have already been addressed and decided.

(vii) An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(viii) Even the change in law subsequent decision judgment of a co-ordinate or larger Bench by itself cannot be regarded ground for review."

None for the ingredients mentioned in the para 16 of the aforesaid judgments have been pointed out by the review applicants in the review application for the review of the judgment and order dated 06.03.2025, therefore, the review applications being not maintainable and are liable to be dismissed with exemplary cost.

6. Objections have also been filed on behalf of the petitioner, Ms. Priyanka Singh (respondent herein) stating therein that-

i. The State of Uttarakhand has not complied with order of Hon'ble Tribunal dated 06-03-2025 and has abused and misused the order of the Hon'ble Tribunal, and has misused the order of Hon'ble High Court of Uttarakhand dated 10-01-2022 passed in WPSB No. 93 of 2021. In order of the Hon'ble High Court of Uttarakhand at Nainital it observed that the process of promotion shall continue but no decision shall be taken by the State Government without expressing and prior leave of the Hon'ble Court. Further to disrespect and to do the contempt of Hon'ble High Court of Uttarakhand, the State Government and his officers, to derogate the authority of Hon'ble High Court of Uttarakhand

have not promoted the Smt. Priyanka Singh nor called any DPC but promoted the other junior officers. The entire secretariat was made to laugh at the status of the Smt. Priyanka Singh as she holds an order of Hon'ble High Court of Uttarakhand and judgment of the Hon'ble Service Tribunal.

ii. Even after dismissal of the review petition, the State Government did not comply the order of the Hon'ble Tribunal. Even the DPC was not called. After the Contempt Petition was filed, the State Government did not file any petition did not comply with the judgment of the Hon'ble Tribunal.

iii. The Rule 17 sub rule 3 of Uttar Pradesh Public Service Tribunal (Procedure Rule 1992) provides that when a review petition is dismissed then there cannot be a second review petition and no further review shall lie. The pleading in the review petition has been made lengthy just to take time of the Hon'ble Tribunal. It has been held by the Hon'ble Supreme Court of India in Civil Appeal No.84 of 2019, Annaya Kocha Shetty (dead) through LRs Versus Lakshmibai Narayan since deceased through LRs and others, decided on 08-04-2025 that the pleadings must not be lengthy but must be swift and crisp and précised.

iv. The matter was stayed by Hon'ble High Court of Uttarakhand at Nainital in WPSB No. 93 of 2021 which was connected with the writ of Smt. Priyanka Singh. On 01-08-2022, the Hon'ble High Court of Uttarakhand had directed the Hon'ble Tribunal to dispose off all the petition by the service tribunal and accordingly the service tribunal has decided the said service matter on 06-03-2025.

v. In view of the facts and circumstances mentioned above, the review petition is liable to be dismissed with special costs.

7. Learned A.P.Os. on behalf of the respondents No. 1 to 3 appeared and submitted that since the Law Department has not given permission for filing the review application against the Tribunal's judgment in question dated 06.03.2025 as of now. Therefore, the

presence of A.P.Os. before this Tribunal is merely to draw attention of the Tribunal towards the fact that in the aforesaid judgment the A.P.Os' pleadings and rulings have not been appreciated by the Tribunal in its entirety, therefore, the judgment under question must be reviewed on the lines of earlier pleadings and rulings as submitted by the learned A.P.Os.

8. We have heard learned Counsels for the parties and perused the record carefully.

9. The learned Counsel for the opposite parties argued that these review applications are not maintainable under the Rule-17 of the U.P. Public Services Tribunal (Procedure) Rules, 1992, because in the instant matter, the review applications had been filed against the first judgment of the Tribunal and in that instance, the review applications had been accepted, therefore, additional review petitions cannot be filed once again.

10. Similarly, the learned Counsel for the opposite parties argued that these review applications are defective because a review is permissible only when there is an apparent mistake on the face of the facts, evidences and record. Therefore, under order-47 Rule-1 of C.P.C. these review applications are not maintainable, because these review applications do not meet the basic elements of order-47 Rule-1 of C.P.C.

11. Learned Counsel for the review applicants argued that the reference to the Rule 17 as given by learned Counsel for the opposite parties will not be applicable in the instant case, because the earliest judgment in this case had been withdrawn because of an apparent mistake on the face of facts and evidences in the case. So, these instant review applications would be considered as the first review application, so far as the question of review applications being defective in the light of order 47 Rule 1 of C.P.C. is concerned, there is a very strong element of apparent mistake in the judgment under question dated 06.03.2025, because the judgment in question has

directed the State Government to make promotions under the old rules while the legal fact, as of now, is that those old rules of promotions do not exist as such, after the Cabinet decision of the Government on the matter. So, the error apparent is that the judgment under question dated 06.03.2025 is based upon the rules, which have already been superseded and do not exist anymore. The old rules cannot be applied at present, unless they are restored back by a competent authority or the Hon'ble High Court or Hon'ble Supreme Court. Therefore, these review applications must succeed.

12. In the rebuttal arguments, the learned Counsels for the opposite parties pointed out that all the arguments those had been put up before the Tribunal, have been addressed in the judgment under question and pointed out parawise in the judgment dated 06.03.2025. Learned Counsel for the parties also drew the attention of the Tribunal towards disobedience as carried out by the respondent department by finalizing the promotional exercise despite the fact that Hon'ble High Court had passed a stay order against the declaration of the result.

13. From the above discussion, it becomes clear that the Tribunal had drawn a reasonable and justifiable conclusion after considering all the relevant facts, circumstances of the case and having considered the relevant Service Rules as well as judgment of the Hon'ble Apex Court.

14. As the decision of the Tribunal is a well considered decision and it cannot be said that there was any error or mistake in the judgment passed by this Tribunal. In fact, the scope of review is very limited and only any manifest error, which is apparent on the face of record can only be corrected in review. The Tribunal cannot act as an Appellate Court for the reappraisal or re-appreciation of its own judgment in the proceedings of review. Even if, for the sake of argument, it is assumed that there is any shortcoming in the judgment of the Tribunal or the Tribunal failed to appreciate the facts or law in correct perspective, even then it cannot be corrected in the proceedings of review. It can only be done by the Higher Court. So,

we are of the considered view that there is no apparent error, which can be corrected in review. We do not find any force in the review and we are of the considered view that the Tribunal has passed the order taking into account all relevant facts and law.

15. On the basis of the above discussion, we are of the definite opinion that there is no force in the applications for review, resultantly; the applications for review are liable to be dismissed.

ORDER

The Applications for Review are hereby dismissed. No order as to costs.

CAPT. ALOK SHEKHAR TIWARI
MEMBER (A)

RAJENDRA SINGH
VICE CHAIRMAN(J)

DATED: JUNE 13, 2025
DEHRADUN
KNP