

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
BENCH AT NAINITAL**

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. Arun Singh Rawat

-----Vice Chairman (A)

**WRIT PETITION NO 342(S/B) OF 2019  
[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 123/NB/DB/2022]**

Himanshu Joshi aged about 46 years, s/o Sri N.K.Joshi, r/o B-11,  
Judge Farm, Mukhani, Haldwani, District Nainital

**.....Petitioner**

**VS.**

1. State of Uttarakhand through Secretary, Finance Department, Civil Secretariat, Subhash Road, Dehradun.
2. Director, Treasury, Pension and Entitlement, 23 Laxmi Road, Dalanwala, Dehradun.
3. District Magistrate, Nainital.
4. Chief Treasury Officer, Treasury- Nainital.

**.....Respondents.**

(virtually)

Present: Ms. Menka Tripathi, Advocate, for the petitioner.  
Sri Kishore Kumar, A.P.O., for Respondents.

**JUDGMENT**

**DATED: JUNE 12, 2025.**

**Justice U.C.Dhyani (Oral)**

Hon'ble High Court of Uttarakhand at Nainital, passed an order, in WPSB No. 342/2019 , Himanshu Joshi vs. State of Uttarakhand and others, on 29.09.2022, as follows:

“The petitioner has preferred the present writ-petition for the following reliefs:-

i. a writ, order or direction in the nature of certiorari quashing the order dated 08.05.2019 whereby the representation of the petitioner was rejected by the respondent no.2 (contained in Annexure No.1 to the writ petition).

ii. a writ, order or direction in the nature of mandamus commanding the respondent no.2 to make corrections in the gradation list of State Level Accountants prepared in the year 2009 modifying the gradation list of the year 2002 only in respect of the petitioner as has been done in the case of other substantively appointed Accountants by putting the date of his substantive appointment in the column of substantive appointment, which has wrongly been shown under the column of 80:20.

iii. a writ, order or direction in the nature of mandamus commanding the respondents to grant all the consequential benefits to the petitioner after mentioning the date of his substantive appointment / promotion in the correct column in the State level seniority list of Accountants only in respect of the petitioner.”

The petitioner is a public servant. The Uttarakhand Public Service Tribunal has the jurisdiction to deal with the issue raised in this writ-petition.

Considering the fact that the petition is pending since 2019 and the grievance of the petitioner relates to the year 2009, we direct the Registry to transfer the complete records of the case to the Tribunal, which shall be registered as a claim petition and be dealt with by the Tribunal, in accordance with law.

We request the Tribunal to endeavor to expedite the hearing of the petition, considering that the writ-petition is pending since 2019.

This petition stands disposed of.”

2. Writ Petition No. 342 (S/B) of 2019 is, accordingly, reclassified and renumbered as Claim Petition No. 123/NB/DB/2022. Since the reference in this Tribunal shall be of the writ petition filed before the Hon’ble High Court, but shall be dealt with as claim petition, therefore, the claim petition shall be referred to as ‘petition’ and petitioner shall be referred to as ‘petitioner’, in the body of the judgment.

3. Petition is supported by the affidavit of the petitioner. Relevant documents have been filed along with the petition.

4. Petition has been contested on behalf of respondents. Separate C.As. have been filed on behalf of respondents. Sri Devendra Paliwal, Additional Secretary, Finance, Govt of Uttarakhand Dehradun, has filed Counter Affidavit on behalf of

Respondent No. 1. Sri Pankaj Tiwari, Director, Treasury, Pension and Entitlement, Uttarakhand, Dehradun, has filed Counter Affidavit on behalf of Respondents No. 2 & 4.

5. Separate Rejoinder Affidavits have been filed on behalf of the petitioner to the Counter Affidavits filed on behalf of Respondents, reiterating the facts mentioned in the petition.

6. In the first round of litigation, petitioner filed writ petition, being WPSB No. 93/2019, before the Hon'ble High Court. The Hon'ble High Court was pleased to pass the following order on 07.03.2019:

"2. The grievance of the petitioner, in this writ petition, is that the date of his substantive appointment is wrongly reflected in the seniority-list, and though he made a representation to the authority concerned, no action has been taken to correct the date of his substantive appointment in the seniority-list of Accountants. A copy of the representation, addressed to the second respondent, is enclosed.

3. Instead of keeping the writ petition pending on the file of this Court, we consider it appropriate to direct the second respondent to consider the petitioner's representation for correction of the date of his substantive appointment in the seniority-list of Accountants, in accordance with law, at the earliest and, in any event, not later than two months from the date of receipt of a certified copy of this order....."

*[Emphasis supplied]*

7. The order dated 08.05.2019 (Annexure: 1) issued by Respondent No.2 (Director Treasury) is in the teeth of present petition.

8. Respondent department has made an endeavour to defend the same in the C.A. filed on their behalf.

9. Ld. A.P.O. drew attention of the Tribunal towards Para 4 of the C.A. filed by Sri Pankaj Tiwari, Director, Treasury, Pension and Entitlement, Uttarakhand, Dehradun, and submitted that in compliance of the Hon'ble Court's order dated 07.03.2019, passed in WPSB No. 93/2019, Himanshu Joshi vs. State of Uttarakhand and others, the Chief Treasury Officer, Nainital, submitted documents of the petitioner, pursuant to a policy decision, taken as per Govt. Orders dated 06.08.1998 and 05.09.2001, designation and pay

scale of Accountant was given to the Assistant Accountant, in the ratio of 80:20. In terms of policy decision, District Magistrate, Nainital, gave benefit of 80:20 ratio and pay scale of Accountant to the petitioner *w.e.f.* 22.10.2001, although it was due *w.e.f.* 19.11.2000, but was later on rectified by the D.M., Nainital *vide* order dated 03.11.2003. Thus the petitioner has been given benefit of 80:20 ratio and scale of Accountant *w.e.f.* 19.11.2000.

10. Ld. A.P.O. submitted that the petitioner is misleading the authorities that he got substantive promotion on the post of Accountant *w.e.f.* 22.10.2001. The Chief Treasury Officer, Nainital, has never mentioned that as per the provisions contained in the Uttar Pradesh Treasury Clerk Cadre Service Rules, 1978 (for short, Rules of 1978), DPC was constituted for the substantive promotion of the Accountants. Thus, according to the respondent department, the representation dated 21.12.2018 of the petitioner was rightly decided by Respondent No.2 *vide* order dated 08.05.2019, which is impugned in the petition.

11. The Tribunal finds, on the basis of documents brought on record that, after completing four years of regular service on the post of Assistant Accountant, petitioner, as per prevalent Rules and G.Os., at that time, was substantively promoted to the post of Accountant by the D.M., Nainital, *vide* order dated 22.10.2001 and was appointed against the vacant post of Accountant, created in the year 1997, in the Treasury Establishment, Nainital.

12. The aforesaid order finds mention of the order dated 05.09.2001, which was in respect of preparation of State Level seniority list of Accountants of the Treasury/ Sub-Treasury. The aforesaid proposal of promotion of the petitioner was placed by the Treasury Establishment before the members of the Selection Committee, as specified under Rule 16(1) of the Rules of 1978 and the proposal was duly signed by them as laid down in the Rules of 1978.

13. Respondent No.2, *vide* office order dated 20.10.2009, issued amended/ rectified State Level seniority list of the Accountants in pursuance of order dated 27.07.2008, passed in WPSB No. 529/2002, Bhawan Singh Waldia and others vs. State of Uttarakhand and another, whereby two categories of Accountants were classified, namely, (i) the Accountants who were promoted substantively on the post of Accountant and (ii) the Accountants who were given benefit of 80:20 ratio on the post of Accountant. Although the petitioner was substantively promoted on the post of Accountant *vide* order dated 22.10.01, which has been mentioned in his service book, yet, he was (wrongly) kept in the category of Accountants, who were given benefit of 80:20 ratio. The seniority list would reveal that the date of substantive appointment of the petitioner, *i.e.*, 22.10.2001 has been shown in the column of 80:20, instead of the column of substantive appointment, which correction the petitioner is seeking by means of this petition, and which prayer should be accepted.

14. As per the proposal before the DPC, which was in pursuance of the order dated 06.08.1998 and clarification issued by the erstwhile State of Uttar Pradesh, there were only 18 posts of Accountant and four posts of Assistant Accountant in the ratio of 80:20. The petitioner was at Sl. No. 20 in the gradation list of the Assistant Accountants. At the time of issuance of the aforesaid G.O., all the posts of Accountant were filled up on account of the policy decision, therefore, petitioner could not have been benefited under 80:20 ratio, inasmuch as, no post for giving such benefit was available at that point of time.

15. Subsequently, when the posts of Accountants fell vacant, petitioner was promoted on the said post, which fact has been clearly mentioned in the proposal of promotion of the petitioner, which has been enclosed as Annexure: 4 to the petition.

16. The post created in the year 1997, could not be added to 80:20 ratio. Petitioner was promoted against the vacant post, which was created in the year 1997.

17. In a nutshell, the petitioner was never promoted against 80:20 ratio. Rather, he was promoted against the vacant post of Accountant, which was created in the year 1997. Petitioner's name should have been shown as substantively appointed on 22.10.2001, instead of showing his name against 80:20 ratio of Accountant/Assistant Accountant.

18. A direction should, therefore, be given to Respondent No.2 to make correction in the gradation list of State Level Accountants, prepared in the year 2009, modifying the gradation list of 2002 *qua* petitioner only, as has been done in the case of other substantively appointed candidates by putting the date of his substantive appointment appropriately in the column of 'substantive appointment', which has wrongly been shown in the column of 80:20 ratio.

19. Order accordingly.

20. Impugned order dated 08.05.2019 (Annexure: 1) is hereby set aside.

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

**(ARUN SINGH RAWAT)**  
VICE CHAIRMAN (A)

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: JUNE 12, 2025*  
*DEHRADUN*

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