

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
AT DEHRADUN**

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

----- Chairman

Hon'ble Capt. Alok Shekhar Tiwari

-----Member (A)

CLAIM PETITION NO. 150/DB/2010

Subhash Chandra s/o Late Mithilesh Pandey presently posted as Senior Staff Officer (Budget), Office of Engineer-in-Chief/H.O.D., Department of Irrigation, Uttarakhand, Yamuna Colony, Dehradun.

.....Petitioner

vs.

1. State of Department Uttarakhand through Secretary, of Irrigation, Government of Uttarakhand, Civil Secretariat, Subhash Road, Dehradun.
2. Engineer-in-Chief/Head of the Department, Department of Irrigation, Uttarakhand, Yamuna Colony, Dehradun.
3. Ram Sakal Arya S/o name not known, retired as Superintending Engineer, Office of Engineer-in-Chief, Department of Irrigation, Uttarakhand, Yamuna Colony, Dehradun.
4. D.D. Dalakoti S/o name not known, retired as Superintending Engineer Office of Engineer-in-Chief, Department of Irrigation, Uttarakhand, Yamuna Colony, Dehradun.
5. Prem Singh Panwar s/o name not known, presently posted as Superintending Engineer, Irrigation Works (Rehabilitation) Circle, Rishikesh, District, Dehradun.

.....Respondents

Present: Sri L.K.Maithani, Advocate, for the petitioner.
Sri V.P.Devrani, A.P.O., for Respondents State.
Sri M.C.Pant, Advocate, for Respondent No.5 (online)

JUDGMENT

DATED: JUNE 02, 2025.

Justice U.C.Dhyani (Oral)

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

- “i) To quash the impugned order dated 25.02.2015 along with its operation and effect.
- ii) To quash the impugned seniority list dated 25.09.2009 and 20.09.2017 up to the extent where it relate to the seniority of the petitioner and private respondents.
- iii) To issue a order or direction to the respondent No. 1 to redraw the fresh seniority list and place as per direction and order given in the judgment dated 07.10.2010 of Hon'ble High Court passed in W.P. No. 211 (S/B) of 2009 and place the private respondent No. 3 to 5 in the seniority list of Assistant Engineer of the Department below to the petitioner or as for Rule 8(3) decide the seniority of the petitioner with the Assistant Engineer selected and promoted under promotion quota vide Govt. order dated 22.09.1997, treating the same are the selectee of the same selection year. As the selection through promotion made in the year 1998 and 2000 was the subsequent selection, hence, can not march over the petitioner, whose selection was started prior to the selection of the persons of the promoted quota. Hence, as per relevant Service Rule, until the appointment of the petitioner their promotion was not regular & substantive. Therefore, it can only be deemed and treated as officiating arrangement.
- iv) To issue any other order or direction which this court may deem fit and proper in the circumstances of case in favour of the petitioner.
- v) To award the cost of petition.”

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

3. Writ petitions, being WPSB No. 22/ 2010 Sri Rakesh Nautiyal vs. State of Uttarakhand and others, WPSB No. 211/2009, Gopal Singh Mehra and another vs. State of Uttarakhand and others and WPSB No. 290 /2009, Prabhat Kumar Asthana, were filed before the Hon'ble High Court of Uttarakhand at Nainital. These writ petitions were decided by the Hon'ble

High Court by a common judgment and order dated 07.10.2010, operative portion of which reads as under:

“3. The writ petitioners have challenged the seniority list finally prepared on 25th September, 2009.

.....

12. Inasmuch as the 1991 Rules would apply to the present controversy, we dispose of the writ petitions by directing the State Government to fix the seniority of respondent Nos. 3, 60 & 61 in accordance with law after giving a hearing to the said respondents as well as the petitioners and in the light of what has been observed above as quickly as possible, but not later than three months from the date of service of a copy of this order upon the Secretary, Irrigation Department, Government of Uttarakhand, Dehradun.”

4. Ld. Counsel for the petitioner pointed out that present petitioner was Respondent No.4 in WPSB No. 211/2009, Gopal Singh Mehra and another vs. State of Uttarakhand and others.

5. Ld. Counsel for the parties apprised the Tribunal that against such decision, Sri Devi Dutt Dalakoti, who was Respondent No.60 in WPSB No. 211/2009, Gopal Singh Mehra and another, approached the Hon’ble Supreme Court and challenged the said judgment of Hon’ble High Court before the Hon’ble Apex Court.

6. The parties preferred civil appeals before the Hon’ble Supreme Court, which were decided by the Hon’ble *vide* order dated 17.01.2024, as below:

“IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).2900 OF 2013

GOPAL SINGH MEHRA & ANR.

.....APPELLANT(S)

VERSUS

THE STATE OF UTTARAKHAND IRRIGATION

DEPARTMENT SECRETARY & ORS.

.....RESPONDENT(S)

WITH

CIVIL APPEAL NO(S). 2901-2902 OF 2013

ORDER

C.A. No(s). 2900 OF 2013

1. The learned counsel appearing for the appellants states that with the passage of time, this appeal does not survive. The appeal is, accordingly disposed of on that ground.
2. Pending application(s), if any, shall also stand disposed of.

C.A. No(s). 2901-2902 of 2013

1. The learned counsel appearing for the appellant(s), on instructions, seeks permission to withdraw the present appeals in view of the disposal of the main appeal, i.e., C.A. No. 2900 of 2013.
2. Permission granted.
3. The appeals are, accordingly, disposed of as withdrawn.
4. Pending application(s), if any, shall also stand disposed of."

7. In other words, according to Ld. Counsel for the parties, judgment dated 07.10.2010, rendered by Hon'ble High Court of Uttarakhand in WPSB No. 211/2009, Gopal Singh Mehra and another vs. State of Uttarakhand others along with connected writ petitions has attained finality. Ld. Counsel for the parties, therefore, submitted that present claim petition be disposed of in terms of Hon'ble Court's decision dated 07.10.2010.

8. Agreeing to their request, present claim petition is disposed of in terms of the judgment rendered by Hon'ble High Court of Uttarakhand on 07.10.2010 in WPSB No. 211/2009, Gopal Singh Mehra and another vs. State of Uttarakhand and others, with connected writ petitions.

(CAPT. ALOK SHEKHAR TIWARI)
MEMBER (A)
(virtual)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JUNE 02, 2025.
DEHRADUN

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