

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

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

----- Chairman

Hon'ble Mr. Arun Singh Rawat

-----Vice Chairman (A)

**CLAIM PETITION NO. 06/DB/2023**

Rajesh Uniyal, s/o Sri Sunder Lal Uniyal, r/o 12 Dharampur, Dehradun, District-Dehradun.

.....Petitioner

**WITH  
CLAIM PETITION NO. 07/DB/2023**

Mahadev Prasad Uniyal, s/o Sri Shambhu Prasad Uniyal, r/o 14 Bigha, Muni Ki Reti, Rishikesh, District Tehri Garhwal.

.....Petitioner

**WITH  
CLAIM PETITION NO. 92/DB/2023**

Yashwant Singh Gusain, s/o Sri Shishupal Singh, r/o Village- Bora, P.O. Durgadhar, The.-Rudraprayag, District- Rudraprayag.

.....Petitioner

**vs.**

1. State of Uttarakhand through Secretary, Tourism, Government of Uttarakhand, Dehradun.
2. Managing Director, Garhwal Mandal Vikas Nigam Ltd., 74/1 Rajpur Road, Dehradun.
3. General Manager (Tourism), Garhwal Mandal Vikas Nigam Ltd., 74/1 Rajpur Road, Dehradun.

.....Respondents

Present: Sri K.K.Verma, Advocate, for the petitioner.  
 Sri V.P.Devrani, A.P.O., for Respondent No.1.  
 Sri S.K.Jain, Advocate, for Respondents No. 2 & 3.

### **JUDGMENT**

**DATED: JUNE 18, 2025.**

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

Since common questions of law and facts are involved in these claim petitions, hence, they are heard together and are being decided by a common judgment and order for the sake of brevity and convenience. Claim Petition No. 06/DB/2023 Rajesh Uniyal vs. State of Uttarakhand and others, shall be the leading case.

2. Claim petition No. 06/DB/2023 is supported by the affidavit of Sri Rajesh Uniyal, petitioner. Relevant documents have been filed along with the petition.

3. Claim petition has been contested on behalf of respondents. Sri Gopal Singh Panwar, Office Superintendent, Garhwal Mandal Vikas Nigam Ltd., has filed C.A. on behalf of Respondents No. 2 & 3. Ld. A.P.O. adopted the C.A. filed on behalf of Respondents No. 2 & 3, for Respondent No.1. Relevant documents have been filed in support of Counter Affidavit.

4. This is second round of litigation between the parties. It will be useful to reproduce the judgment dated 01.04.2022, passed by the Tribunal in Claim Petition No. 155/DB/2021 Rajesh Uniyal vs. State and others, to understand the facts of the case, herein below for convenience:

“Present claim petition has been filed seeking following reliefs:

“(i) To quash/ set aside the impugned order dated 01.12.2020 (Annexure-1) passed by respondent no. 2.

(ii) To direct the respondents not to make promotion of the private respondents whose cadre was changed vide order dated 05.12.2016 (Annexure-5) during pendency of present claim petition.

(iii) To direct the respondents to change the cadre of claimant and he may be merged in tourism cadre w.e.f. 05.12.2016 i.e. the date when

the junior incumbents to claimant were merged in tourism cadre and accordingly the seniority of claimant may be fixed in the tourism cadre treating him merged in tourism cadre on 05.12.2016.

(iv) Any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. Brief facts as mentioned in the claim petition are as follows:

The petitioner was initially appointed on contractual/ daily wages basis in Garhwal Mandal Vikas Nigam Limited (for short, 'GMVN') as computer operator and *vide* order dated 30.10.2013, the respondents regularized the service of the claimant on the post of Office Assistant Grade-3 along with 93 other employees. Respondent GMVN, *vide* order dated 05.12.2016, changed the cadre of 11 employees out of the 93 employees to tourism cadre but the petitioner's various representations for change of cadre to tourism have not been accepted, though he possesses the eligibility for the same.

*Vide* impugned order dated 01.12.2020, the representation of the claimant has been rejected on flimsy grounds that after appointment there is no provision for change of cadre and no G.O. for the same is available according to office records.

Hence, the claim petition.

3. Counter affidavit has been filed on behalf of respondent no. 2 and 3 mainly stating that the cadre change of certain employees, *vide* order dated 05.12.2016, was done following the guidelines of office order dated 26.06.2008 and the employees, who possessed the desired qualification for tourism cadre, were considered at that time. The meeting of the committee constituted for cadre change was again convened. The name of the petitioner was also in consideration in this meeting. At that time because of non-availability of two members of this committee, the committee was re-constituted, which held its meeting on 14.11.2019. Keeping in view the decision, dated 02.12.2014, of Hon'ble High Court of Uttarakhand in Writ Petition No. 972/2010, Vijay Bhatt vs. Garhwal Mandal Vikas Nigam Limited and others and that other similar claim petitions are pending before this Tribunal, the committee has postponed this policy matter.

4. A perusal of Annexure No. 8, which is a copy of the office note of GMVN, also reveals the same reason as is stated in the counter affidavit for not taking further action on the representations for change of cadre.

5. The Tribunal, however, observes that in the impugned order dated 01.12.2020 (Annexure No. 1), the GMVN states that there is no provision for cadre change and for the same, no G.O. is available.

6. The Tribunal also observes that the abovementioned order of Hon'ble High Court does not stop the consideration for the change of cadre of the petitioner and other employees and pendency of certain similar claim petitions before this Tribunal is also no ground for the GMVN for not taking action in this regard.

7. In view of the above, we hereby set aside the impugned order dated 01.12.2020 (Annexure No. 1) and direct the Board of Directors of GMVN to consider the representation of the petitioner for change of cadre in accordance with the same provisions which were considered for the change of cadre of 11 employees in 2016.

This exercise may be completed within 3 months henceforth. The Tribunal also directs that promotions may be made in the tourism cadre of similarly situated employees only after the representation of the petitioner has been duly considered by the Board of Directors of GMVN.

8. The claim petition is accordingly disposed of. No order as to costs"

5. Thereafter, a modification application was filed on behalf of the petitioner, which was disposed of by the Tribunal *vide* order dated 25.08.2022, as under:

"While deciding the Claim Petition No. 115/DB/2021, Rajesh Uniyal vs. State and others on 01.04.2022, this Tribunal, *inter alia*, directed as under:

.....

2. It is the submission of Ld. Counsel for the petitioner that judgment and order dated 01.04.2022 has not been complied with by the Garhwal Mandal Vikas Nigam (for short, GMVN).

3. In para 4 of the modification application, it has been stated that-

"....The GMVN issued a letter dated 02.07.2022 to the applicant/ claimant that Board of Directors is not appointed by the State Government and the order dated 01.04.2022 will be considered only after the appointment of Board of Directors (Annexure: 3). It is pertinent to mention here that the Board of Directors is dissolved in the month of April, 2021 and till date the Board of Directors of GMVN could not be constituted by the State Government."

4. Ld. Counsel for the petitioner, therefore, prays that the order dated 01.04.2022 be modified. He submitted that in case of 11 other employees, their cadre was changed in the year 2016 by the Managing Director, GMVN and not by the Board of Directors. Copy of such order has been filed by the petitioner in the claim petition itself. The Tribunal has directed *vide* order dated 01.04.2022 to consider the representation of the petitioner for change of cadre in accordance with the same provisions which were considered for the change of cadre of 11 employees in 2016.

5. Ld. Counsel for the petitioner reiterated that the cadre was changed by the Managing Director and not by the Board of Directors. He categorically stated that Managing Director is the appointing authority of such employees. The matter need not go to the Board of Directors of GMVN.

6. In view of the above noted facts, a direction is given to the Managing Director, GMVN to consider the representation of the petitioner for change of cadre in accordance with the same provisions which were followed for the change of cadre of 11 employees in 2016.

7. In order dated 01.04.2022, wherever the words 'Board of Directors' occur, the same shall be substituted by the words 'Managing Director'.

8. Order dated 01.04.2022 is modified to this extent. The modification application thus stands disposed of."

6. Petitioner's representation was disposed of by Managing Director, GMVN, (Respondent No.2) *vide* order dated 16.12.2022 (Annexure: 1). Aggrieved against the same, present claim petition has been filed.

7. Today, Ld. Counsel for the petitioner has placed a copy of Letter No. 1847, dated 13.12.2024, which has been written by Ms. Vipra Trivedi, General Manager (Admin), GMVN, to Senior Manager, Tourism, Tourism Section, Headquarter GMVN, which is being translated, as under:

"Such Group 'C' employees, who are working in GMVN's Tourist Guesthouses, who were regularized in Clerical Cadre and who have made representations for cadre change in Tourism Cadre, such representations (for cadre change) and (employees') technical qualification relating to tourism be furnished within 03 working days."

8. Ld. Counsel for the petitioners submitted that Sri Rajesh Uniyal, Sri Mahadev Prasad Uniyal & Sri Yashwant Singh Gusain, petitioners of Claim Petitions No. 06/DB/2023, 07/DB/2023 and 92/DB/2023, respectively, have given their representations on 15.12.2024, well within time, but their representations remain undecided till date. Ld. Counsel for the petitioners prayed that a direction be given to Respondent No.2 to decide their representations, which were submitted as per Letter No. 1847, dated 13.12.2024, issued by Ms. Vipra Trivedi, General Manager (Admin), GMVN, as expeditiously as possible.

9. The Tribunal is of the view that innocuous prayer of Ld. Counsel for the petitioners should be accepted.

10. The claim petition is disposed of, by directing Respondent No.2 to take a reasoned decision on the representations of the petitioners, which (representations for cadre change) were submitted as per Letter No. 1847, dated 13.12.2024, issued by Ms. Vipra Trivedi, General Manager (Admin), GMVN, as expeditiously as possible and without unreasonable delay, in accordance with law.

11. The claim petitions thus stand disposed of. No order as to costs.

12. Let copies of this judgment be placed on the files of Claim Petitions No. 07/DB/2023 Mahadev Prasad Uniyal and 92/DB/2023 Yashwant Singh Gusain vs. State and others.

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

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

*DATE: JUNE 18, 2025*  
*DEHRADUN*

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