

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

Present: Hon'ble Mr. Rajendra Singh

.....Vice Chairman (J)

Hon'ble Mr. A.S.Rawat

.....Vice Chairman(A)

CLAIM PETITION NO. 28/NB/DB/2022

1. Mahesh Chandra Joshi (Male) a/a 44 years S/o Sri Kedar Dutt Joshi R/o Presently Posted as Forester in Corbett Tiger Reserve Ramnagar District Nainital.
2. Devendra Singh Rawat (Male) a/a 47 years S/o Late Sri Shivraj Singh Presently Posted as Forester in Corbet Tiger Reserve Ramnagar, District-Nainital.
3. Sri Sarat Singh Bisht (Male) a/a 49 years, S/o Chandan Singh Bisht, Presently Posted as Forester in Corbet Tiger Reserve Ramnagar, District-Nainital.
4. Sri Mahendra Singh (Male) a/a 48 years, S/o Sri Ram Singh, Presently Posted as Forester in Corbet Tiger Reserve Ramnagar, District-Nainital.
5. Sri Parwati Nandan Joshi (Male) a/a 45 years, S/o Sri Harish Chandra Joshi, Presently Posted as Forester in Corbet Tiger Reserve Ramnagar, District-Nainital.
6. Sri Promod Kumar (Male) a/a 46 years S/o Sri Late Sri Nityanand Pant, Presently Posted as Forester in Ramnagar Forest Division Ramnagar District-Nainital.
7. Sri Pooran Chandra Joshi (Male) a/a 52 years S/o Sri Shankar Datt Joshi, Presently Posted as Forester in Ramnagar Forest Division Ramnagar District-Nainital.
8. Sri Dinesh Chandra Chhimwal (Male) a/a 50 years S/o Sri Ram Datt Chhimwal, Presently Posted as Forester in Taraee West Forest Division Ramnagar, District-Nainital.
9. Sri Shashí Vardhan Adhikari (Male) a/a 54 years S/o Late Sri Sri Fakir Singh Presently Posted as Forester in Taraee Central Forest Division Rudrapur, District-Udham Singh Nagar.

.....**Petitioners**

Vs.

1. State of Uttarakhand through secretary forest at civil Secretariat Dehradun, District-Dehradun.
2. Principal Chief Conservator of forest Head of forest force (HOFF), 87 Rajpura Road, Dehradun, District-Dehradun.
3. Chief Conservator of Forest Human Resources Development and Personnel management Uttarakhand at Dehradun.
4. Sri Nanda Ballabh Joshi S/o Unknown, Presently Posted as Forester in Soil Conservation, Forest Division Ranikhet, District-Almora.
5. Sri Balam. Singh Shahi S/o Unknown, Presently Posted as Forester in Soil Conservation, Forest Division Ranikhet, District-Almora.
6. Sri Pratap Singh Bisht S/o Unknown, Presently Posted as Forester in Soil Conservation, Forest Division Ranikhet, District-Almora.
7. Sri Lalit Mohan Pandey S/o Unknown, Presently Posted as Forest Guard in Forest Division Nainital, District-Nainital.
8. Sri Jeewan Chandra Kandpal S/o Unknown, Presently Posted as Forester in Soil Conservation, Forest Division Nainital, District-Nainital.
9. Sri Chandan Singh S/o Unknown, Presently Posted as Forester in Forest Division Nainital, District-Nainital.
10. Km. Tanuja Sah D/o Unknown, Presently Posted as Forester in Forest Division Nainital, District-Nainital.
11. Sri Vinod Kumar Joshi S/o Unknown, Presently Posted as Forester in Atirikt Soil Conservation, Forest Division Ramnagar, District-Nainital.
12. Sri Mohan Chandra Joshi S/o Unknown, Presently Posted as Forester in Atirikt Soil Conservation, Forest Division Ramnagar, District-Nainital.
13. Sri Raje Singh S/o Unknown, Presently Posted as Forester in Atirikt Soil Conservation, Forest Division Ramnagar, District-Nainital.

.....Respondents

Present: Sri Devesh Upreti, Advocate for the petitioners
Sri Kishore Kumar, A.P.O., for the respondents no. 1 to 3

JUDGMENT

DATED: JULY 21, 2025

HON'BLE SRI A.S. RAWAT, VICE CHAIRMAN(A)

By means of present claim petition, the petitioners seek the following reliefs:

- i. To direct the respondents to determine the seniority of those forest guards appointed through entrance examination held on the same, one day i.e. 16-11-2008 on the basis of the marks obtained by them in the entrance examination held on 16-11-2008.*
- ii. To pass any other suitable order, which this Hon'ble Tribunal may deem fit and proper on the basis of the facts and circumstances of the case.*
- iii. Award the cost of the petition to the petitioner.*

2. The brief facts of the case are as follows:

2.1 The petitioners were appointed as daily wager labour/seasonal workers in the forest department between the year 1990 to 2000.

2.2 At the time of the appointment on the post of forest guard, the service condition of the Forest Guard was governed by the "U.P. Lower Subordinate Forest Service Rules, 1980" (herein after referred as 1980 Rules). Rule 5(B) of the "U.P. Lower Subordinate Forest Service Rules, 1980" provides that 65% posts of the forest guard shall be filled up from amongst the seasonal workers working in the forest department. In the year 2008, a recruitment process was initiated for appointment on the post of forest guards from amongst the seasonal workers of forest department under the 65% quota fixed for seasonal workers of the forest department. At that time, the post of forest guard was having Divisional Level cadre and the appointing authority for the post of forest guard was Divisional Forest Officer.

2.3 Though, the advertisement for inviting application was issued division-wise, but on 06.10.2008, a meeting was held under the Chairmanship of the Principal Chief Conservator of Forest, in which, it was decided to hold entrance examination shall be held for all, on the same day in the State.

2.4 Thereafter, division-wise results were declared on different dates. The Divisional Forest Officers of some of the forest divisions issued appointment letters immediately and some of the Divisional

Forest Officer issued appointment letters to the selected candidates later, on different dates.

2.5 Vide order dated 10-11-2008 it was provided that the date of written examination for appointment on the post of forest guard shall be held same day i.e. 16-11-2008, as such, the petitioners were deprived/denied the opportunity for participation in any other forest division. As all the forest division cadres of forest guards have been merged in State level cadre therefore, the seniority should be based on the marks obtained by all the candidates in the selection process/entrance examination held on 16-11-2008.

2.6 When the selection was made, the cadre of forest guard was divisional cadre, as such, there was no problem in preparing the seniority in divisional level.

2.7 In the year 2016, in supersession of the 1980 Rules, the Govt. of Uttarakhand framed new Rules known as the Uttarakhand Subordinate Forest Service Rules, 2016.

2.8 By way of the aforesaid Rules, the forest guard's post was upgraded from class IV to Class-III and the Appointing Authority in the 1980 Rules was Divisional Forest Officer, but by virtue of the aforesaid Rules, 2016, the Chief Conservator of Forest, Human Resource Development and Personnel Management, Uttarakhand became the Appointing Authority and the cadre of the forest guards also became State level.

2.9 On 22.7.2019, the respondent no. 3 issued an Office Memorandum, whereby a tentative seniority list of forest guards was issued inviting the objections from the forest guards against the said tentative seniority list till 05.08.2019.

2.10 The petitioner submitted his objection against the tentative list on 30.7.2019, stating therein that before framing Rules of 2016, the Appointing Authority of the post of forest guard was Divisional Forest Officer and in the year 2008, the advertisements for the posts

of forest guard were issued division-wise by the concerned Divisional Forest Officers. The entrance examination was held on 16-11-2008 in all forest divisions, but the results were declared division-wise on different dates. In some of the divisions, the forest guards were given joining quite late. The petitioners were given joining on 23.01.2009 by the Director of Corbett Tiger Reserve. While preparing tentative seniority list, the date of joining was made the criteria, due to which, persons having lower marks, but earlier joining, became senior to the persons having higher marks, but late joining. Whereas, in preparation of the division-wise seniority list, the merit list was followed. The petitioners requested to prepare the seniority list on the basis of the marks obtained in the entrance examination held on 16.11.2008.

2.11 The respondents did not decide the representations of the petitioner and put final seniority list of the forest guards in the official website of the department. In the final seniority list, the issue raised by the petitioner remained unresolved because the respondents determined the seniority by merger of the different cadres, who were appointed on the same selection year through an entrance examination, which was held on the same day, on the basis of the date of appointment and not on the basis of the marks obtained in the entrance examination. Since the State level cadre of the Forest Guards have been created by merger of the Divisional Level cadres and the date of examination was same, the seniority should have been determined on the basis of the marks obtained in the entrance examination.

2.12 The Uttarakhand Subordinate Forest Service Rules, 2016 provide that the inter-se seniority of persons appointed directly against one selection shall be determined on the basis of aggregated marks obtained in the selection.

2.13 Feeling aggrieved, the petitioner filed a writ petition no. 1696 (S/S) of 2021 Mahesh Chandra Joshi & others Versus State of Uttarakhand & others, before the Hon'ble High Court of Uttarakhand

at Nainital and the Hon'ble High Court dismissed the same with liberty to the petitioners to approach for their grievances before this Hon'ble Tribunal for redressal of their grievances.

3. C.A./W.S. has been filed on behalf of the official respondents and the respondents agree with the facts, which are supported by the annexures. The summary of the C.A./W.S. is as below:

3.1 The petitioner no. 1 did not submit his objections in time. He submitted his objections on 10.8.2019, which were forwarded by Sub Divisional Forest Officer, Corbatte Tiger Reserve, Kalagarh on 16.08.2019, whereas, the date of receiving the objections was fixed from 22.07.2019 to 05.08.2019. The updated State level seniority list of Forest Guards dated 01.07.2022 was prepared and issued on 05.09.2022. All the petitioners were promoted to the post of Foresters (Van Daroga) on 14.02.2020 and 22.03.2020 vide orders issued by the office of Chief Conservator of Forests, Human Resource Development and Personnel Management. That is the reason that the petitioners' names were not included in the seniority list issued on 05.09.2022. The objections against the tentative seniority list issued on 22.07.2019 were invited and after disposal of the objections, final seniority list was issued by the department on 09.09.2019. At the time of appointment, the cadre of the Forest Guard was divisional level cadre and the seniority list was prepared at the divisional level, based on their merit. So, delay in their appointments at divisional level is not relevant at this juncture. To prepare the State Level seniority of the Forest Guards merely on the basis of the marks obtained in the entrance examination held in 2008, when different divisions/circles issued appointment letters on different dates was not relevant. So, the State level final seniority list has been prepared on the basis of the marks obtained in the divisional or circle level and from the date of substantive appointments. The petitioners have raised the claim after long time and during this period, many persons have been promoted also, so the claim petition is liable to be dismissed.

4. Despite sufficient services, neither C.A/W.S. has been filed on behalf of the private respondents no. 4 to 13, nor they appeared.

5. R.A. has been filed on behalf of the petitioners reiterating the facts mentioned in the claim petition that due to declaration of the results on different dates, and also different dates of joining, the petitioners who have obtained higher marks became junior to those who have lower marks, whereas, the date of entrance examination was the same throughout the State. By virtue of amendment in the Service Rules, the appointing authority was changed to Chief Conservator of Forest in place of the Divisional Forest Officer and the cadre of the Forest Guard has become the State Level Cadre. The State Level Seniority should have been decided on the basis of the marks obtained in the entrance examination. In view of the above, the claim petition is liable to be allowed.

6. Learned A.P.O. on behalf of respondents not. 1 to 3 has filed Short Counter Affidavit, in which, the criteria for preparation of the State level seniority list and disposal of the objections submitted against the tentative seniority list has been submitted. Petitioners have also filed reply to the Short Counter Affidavit, reiterating the facts averred in the claim petition and the R.A. filed.

7. Supplementary Affidavit has also been filed on behalf of the petitioners whereby, the petitioners submitted the relevant portions of the Services Rules of 1980 and the amended Rules of 2016 as well as Uttarakhand Govt. Servant Seniority Rules, 2024 in support of their claim to determine seniority on the basis of the merit list prepared by the Commission or Committee as the case may be.

8. We have heard Learned Counsel for the petitioner, Learned A.P.O. and pursued the documents presented to the Tribunal.

9. Learned Counsel for the petitioner argued that the petitioners have joined on 22.01.2009 and 23.01.2009 respectively through the recruitment examination conducted by the Director, Corbette Reserve, Kalagarh on 06.11.2008. The examination for the recruitment for the

posts of forest guard was conducted in many divisions of the State, on the same day, as per the instructions of the Principal Chief Conservator of Forests, Uttarakhand. As the Divisional Forest Officer was Appointing Authority for the forest guards, the exam was conducted, the advertisement of the posts and inviting applications were done by the respective DFOs. Results of the examination held on 16.11.2008 were declared by the concerned DFOs on different dates as per their convenience. The appointment letters are also issued on different dates. The seniority of the candidates at the division level was fixed as per the order of the candidates in the appointment letters as per the Subordinate Forest Service Rules 1980 amended in 2007. The Service Rules of 1980 of State of U.P. were replaced by the Uttarakhand Subordinate Forest Service Rules, 2016. The post of forest guards has been made class-III post now and the appointment will be done at the State level and seniority will also be determined at the State level as per the Rules of 2016. To prepare the combined seniority list at the state level, the respondents conducted a meeting and adopted the following criteria to prepare seniority list:-

1. State level seniority list to be prepared on the basis of marks obtained
2. To prepare seniority as per date of birth of personnel having equal marks.
3. The seniority list should be prepared not from the date of examination but from the date of original appointment.
4. If examination has been conducted in the same office on the same date, then seniority should be determined in the order of preference as per the appointment order.

This has resulted in some anomalies as the candidates having abysmally low marks, became senior to those having very high marks. Some such references have been given by the petitioners in the claim petition also. This is in contravention of the Rules of 2016, whereby

the seniority will be determined on the basis of the Uttarakhand Government Servants Seniority Rules 2002, which have been amended in 2024. The examination for the recruitment for the post of the forest guards was conducted on the same day but selection of candidates and issuing of appointment letters was done division-wise. The merging of the different seniority lists should be done on the basis of the State level merit of candidates. Learned counsel further argued that the combined seniority list should be prepared based on the marks obtained in examination held on 16.11.2008 and Uttarakhand Govt. Servants Seniority Rules, 2002. In support of his arguments, learned Counsel for the petitioners has relied upon judgment of *Hon'ble Apex Court in Ranjith Singh v. State of Tamil Nadu, 2025 INSC 612*, in which it has been held that all seniority list(s) right from 1995 deserve to be re-casted by assigning proper seniority to the candidates who have been appointed from the open market as well as from in-service candidates solely on the basis of ranks assigned to the selected candidates by the appointing authority on the basis of marks obtained by them in the examination. He has also relied upon the judgment and order dated 21.11.2022, passed by this Tribunal in Claim Petition No. 54/NB/DB/2020, Deepak Kumar & others vs. State of Uttarakhand & others, in which, the Tribunal observed that the seniority to be determined according to the marks obtained in the selection process. In view of the facts mentioned above the seniority list of the forest guards should be redrawn.

10. Learned A.P.O. argued that the advertisement for inviting applications for the post of Forest Guards was issued from the respective divisions. Respective divisions conducted the examination on the same day as per the instruction of the PCCF, Uttarakhand. But results were declared on different dates and appointment letters were also issued on different dates. The seniority list at the division level was prepared as per merit in the examination. But for drawing combined seniority list, at the State level in view of the Rules of 2016, the criteria of date of appointment as well as the merit in selection list

was adopted. The petitioner has not objected to the tentative seniority list issued on 22.7.2019 within the stipulated time period from 22.07.2019 to 05.08.2019. Whereas the department decided the representations of other candidates submitted within the stipulated time. The representation of the petitioner was time barred. In view of the above, the claim petition is liable to be dismissed.

11. Based on the arguments of the Learned Counsel for the parties and perusal of the documents presented to the Tribunal we find that an examination for selection of the forest guards was conducted throughout the State on 16.11.2008. But as per the U.P. Subordinate Forest Service Rules 1980, the D.F.O. being the Appointing Authority declared the result of the examination and issued the appointment letters to candidates selected in their divisions on different dates. The seniority list of the forest guards at division level has been prepared as per the merit/names appearing in the appointment letter. Now, the petitioners have been promoted to the posts of the foresters on the basis of the seniority prepared at the division level.

12. The combined seniority list, prepared on the basis of the date of appointment at the division level has resulted in many candidates having abysmally low marks becoming senior to the candidates having very high marks. Although the examination was conducted on same day i.e. 16.11.2008, but question papers for the examinations were prepared at the division level, examinations were conducted at the division level and the appointment letters were also issued at the division level. Different divisions declared the results at the different dates and issued the appointment letters also. The difficulty level of the papers attempted by the candidates appearing for the exams at different divisions might have been different despite the fact that the frame work of the papers might have been same as prescribed. If we consider that examinations conducted by the different divisions on the same date as a single selection even then it does not help to merge the division wise merit list and finalize the seniority list at State level

without scaling of the marks obtained by the candidates at the division level and then prepare a combined merit list.

13. In **R. Ranjith Singh v. State of Tamil Nadu** (*supra*) as relied upon by the petitioner, the Hon'ble Supreme Court in para-27, it has been held as under:

27. In the present case, the direct recruitment has been done to 80% of the vacancies through candidates from open market and 20% of the vacancies under the direct requirement quota from in service candidates and pre-amended Rule 25 provides for fixation of seniority with reference to the rank assigned by the appointing authority in the select list meaning thereby only on the basis of marks obtained by each and every individual candidate. Therefore, this Court is of the considered opinion that all seniority list(s) right from 1995 deserve to be re-casted by assigning proper seniority to the candidates who have been appointed from the open market as well as from in-service candidates solely on the basis of ranks assigned to the selected candidates by the appointing authority on the basis of marks obtained by them in the examination on the basis of which they have been selected and appointed to the post of Sub-Inspector of Police. There is no other process which can be followed in the present case."

14. In the judgment passed by this Tribunal in claim petition No. 54/NB/DB/2020, Deepak Kumar & others vs. State of Uttarakhand & others, in paras no. 7, 8 & 9, it has been held that-

"7. Learned Counsel for the petitioners also argued that in the year 2017, the department has issued a seniority of certain persons (not including the petitioners and the private respondents), which has been prepared strictly according to roster and according to the date of joining and similar process should have been followed in the instant case as well.

8. Learned A.P.O. appearing for the respondents No. 1 to 3 and learned Counsel for the private respondents No. 4 to 14 argued that Rule 5 of Uttarakhand Government Servants Seniority Rules, 2002 (hereinafter referred as "Rules of 2002") provides that when appointments are made through direct recruitment, then inter-se seniority of persons appointed on the result of any one selection shall be the same as it is shown in the merit list prepared by Commission or the Committee. As per the merit list prepared by the Selection Committee, the private

respondents have correctly been placed above the petitioners in the impugned seniority list dated 13.08.2020.

9. The Tribunal observes that it is undisputed that the private respondents had got higher marks than the petitioners and they have been selected on the basis of same advertisement and same selection process. The official respondents before issuing the impugned seniority list dated 13.08.2020 (Annexure No. 1 to the claim petition) have given due opportunity of hearing to 19 Enforcement Constables who had submitted their representations against interim seniority list and then upheld the seniority given according to the marks obtained in the selection process as prescribed in Rule 5 of Rules of 2002."

15. In view of the above, we hold that the combined seniority list to be prepared on the basis of scaling of marks obtained in the division level examination held on 16.11.2008 and as per the Uttarakhand Government Servants Seniority Rules, 2002 and subsequent amendment. Hence, the claim petition is liable to be allowed.

ORDER

The claim petition is hereby allowed. The respondents are directed to redetermine the combined seniority on the basis of scaled marks obtained by the candidates in the entrance examinations held on 16.11.2008 in their respective divisions and as per the Uttarakhand Government Servants Seniority Rules, 2002 and subsequent amendment, within three months from presentation of certified copy of this judgment. No order as to costs.

RAJENDRA SINGH
VICE CHAIRMAN (J)

A.S.RAWAT
VICE CHAIRMAN (A)

DATED: JULY 21, 2025
DEHRADUN
KNP