

**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. 63/NB/DB/2021

1. Neeraj Tewari, aged about 35 Years, S/o Shri H.D. Tewari, presently posted as Assistant Engineer, Uttarakhand Jal Sansthan, Haldwani, District-Nainital.
2. Manoj Kumar Gangwar, aged about 30 Years, S/o Shri Rajendra Prasad Gangwar, presently posted as Assistant Engineer, Uttarakhand Jal Sansthan, Ramnagar, District-Nainital.
3. Prashant Bhardwaj, aged about 30 Years, S/o Shri R.P. Bhardwaj presently posted as Assistant Engineer, Uttarakhand Jal Sansthan, Raipur, Dehradun.

.....**Petitioners**

Vs.

1. State of Uttarakhand, through its Additional Secretary, Payjal Evam Swachata, Dehradun.
2. Uttarakhand Jal Sansthan, Jalbhawan B Block, Nehru Colony, Dehradun through its Chief General Manager.
3. Uttarakhand Public Service Commission, through its Secretary, Haridwar, Gurukul Kangri, Haridwar,
4. Shri Sanjay Kumar Srivastav, presently posted as Executive Engineer (Officiating) served through the office of Chief General Manager, Uttarakhand Jal Sansthan, Dehradun,
5. Shri Amit Kumar, presently posted as Executive Engineer (Officiating) served through the office of Chief General Manager, Uttarakhand Jal Sansthan, Dehradun,
6. Shri Vipin Kumar, presently posted as Executive Engineer (Officiating) served through the office of Chief General Manager, Uttarakhand Jal Sansthan, Dehradun,
7. Shri Shishupal Singh, presently posted as Assistant Engineer served through the office of Chief General Manager, Uttarakhand Jal Sansthan, Dehradun,
8. Shri Rakesh Kumar, presently posted as Assistant Engineer served through the office of Chief General Manager, Uttarakhand Jal Sansthan, Dehradun.

9. Shri Anish M. Pillai, presently posted as Assistant Engineer served through the office of Chief General Manager, Uttarakhand Jal Sansthan, Dehradun.

10. Shri Sandip Chaturvedi, presently posted as Assistant Engineer served through the office of Chief General Manager, Uttarakhand Jal Sansthan, Dehradun,

11. Shri Arun Kumar, presently posted as Assistant Engineer served through the office of Chief General Manager, Uttarakhand Jal Sansthan, Dehradun,

12. Shri Ramashankar, presently posted as Assistant Engineer served through the office of Chief General Manager, Uttarakhand Jal Sansthan, Dehradun,

13. Shri Satyavan Singh Rawat, presently posted as Assistant Engineer served through the office of Chief General Manager, Uttarakhand Jal Sansthan, Dehradun,

14. Shri Baliram Chaudhary, presently posted as Assistant Engineer served through the office of Chief General Manager, Uttarakhand Jal Sansthan, Dehradun,

15. Shri Vinod Pandey, presently posted as Assistant Engineer served through the office of Chief General Manager, Uttarakhand Jal Sansthan, Dehradun

16. Shri Madan Sain Verma, presently posted as Executive Engineer served through the office of Chief General Manager, Uttarakhand Jal Sansthan, Dehradun,

17. Shri Satish Chandra Nautiyal, presently posted as Executive Engineer (Officiating) served through the office of Chief General Manager, Uttarakhand Jal Sansthan, Dehradun,

.....Respondents

Present: Ms. Devika Tiwari, Advocate for the petitioners
Sri Kishore Kumar, A.P.O. for the respondent no.1
Sri Vinod Tiwari, Advocate for the respondent no. 2
Sri Ashish Joshi, Advocate for respondent no. 3

JUDGMENT

DATED: AUGUST 08, 2025

Per: Hon'ble Sri A.S.Rawat, Vice Chairman(A)

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

“a) Issue an order or direction for quashing and setting aside the impugned seniority list dated 12-02-2021 (Annexure no. 1) issued by the respondent no.1.

(b) Consequently issue an order or direction for quashing impugned order dated 30.3.2015 (Annexure no. 8) issued by respondent no. 3.

(c) Issue an order or direction commanding respondent no 3 to prepare a de-novo merit list of Assistant Engineer (Civil) and Assistant Engineer (Electrical/ Mechanical) in Uttarakhand Jal Sansthan, on the basis of total scaled marks scored.

(d) Issue an order or direction commanding respondent no. 1 to prepare de-novo Seniority List of Assistant Engineers in Uttarakhand Jal Sansthan, by placing names of petitioners in appropriate place as per law and further direct respondents to provide further direct respondents to provide all consequential benefits to petitioners from the date his juniors were promoted.

(e) Issue any order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of this case.

(f) Award the cost of Claim Petition in favour of petitioners.

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

2.1 Respondent no.1 sent a requisition on 18.08.2011 to respondent no. 3 for conducting Combined State Engineering Service Examination-2012 as per Uttar Pradesh Palika and Jal Sansthan Waterworks Engineering (Centralised) Service Rules, 1996 and the modification order 2002, in respect of the proposal for the appointment for Asstt. Engineers.

2.2 In pursuance to the above requisition, respondent no. 3 issued advertisement dated 26.5.2012 of Combined State Engineering Service Examination-2012 for recruitment to the post of Assistant Engineers (hereinafter called A.E.) in various State departments. The examination consisted of a written examination and interview. In the written examination, candidates had to appear for 4 papers, out of which 2 papers were common to all candidates; and 2 papers were optional/engineering subject papers based on the stream /subject of engineering candidates. The optional subjects available to candidates were Civil, Mechanical, Electrical and

Agricultural Engineering. Each candidate attempted separate optional papers of varying level of difficulty.

2.3 The petitioners opted for Electrical/Mechanical (hereinafter called E/M) engineering optional papers in their written examination. The petitioners appeared in the examination and interview of Combined State Engineering Service Examination-2012 and were declared successful by respondent no 3. It is submitted that respondents no. 5, 6, 9 and 10 opted for Civil Engineering as an optional paper in the said examination. Further respondents no. 4, 7, 8, 11, 12, 13, 14, 15 are Junior Engineers (hereinafter called JE) promoted under promotional quota to the post of A.E. in Uttarakhand Jal Sansthan.

2.4 Thereafter respondent no. 1 vide order dated 06.06.2014, regularly appointed the petitioners to the post of AE in Uttarakhand Jal Sansthan (hereinafter called Jal Sansthan). Petitioners joined their duties on 9.6.2014. In Jal Sansthan unified post of AE exists with no further bifurcation of AE(Civil) and AE(E&M) and both petitioners and respondents no 5, 6, 9 and 10 were directly appointed to the post of AE in Jal Sansthan.

2.5 On 27.9.2014, respondent no 1 sent a letter to respondent no. 3 regarding combined seniority list of direct recruits to the post of AE (Civil/E/M) in Jal Sansthan. In the said letter respondent no. 1 stated that as per provisions of Uttarakhand Jal Sansthan Engineering Service Rules, 2011(hereinafter called Service Rules), a combined seniority list is to be prepared for AE (Civil/E/M). However, as the selections were made branch-wise, so respondent no. 3 was requested to provide a combined seniority list for direct recruits on the basis of scores in the examination-

2.6 The respondent no. 3 wrote letter dated 09.12.2014 to respondent no 1. In this letter respondent no 3 replied that as the educational qualifications of AE (Civil) and AE (E/M) is different and such persons attempted separate papers for optional subjects with

varying level of difficulty; so it was not possible to prepare a combined merit list. In Jal Sansthan unlike other State Engineering departments no separately marked posts for Civil/ Electrical/ Mechanical exist. Further it was stated that in the year 2007 respondent no 3 provided a combined seniority list for direct recruits to Uttarakhand Jal Sansthan, in pursuance to which a final seniority list was issued by respondent no. 2. Thus, respondent no. 3 was requested to provide a combined seniority list for direct recruits of Combined State Engineering Service Examination 2012.

2.7 Respondent no. 3 vide letter dated 30.3.2015 issued two separate merit lists for directly recruited AE(Civil) and AE(E/M) working in Jal Sansthan based on the scores of such persons. It is important to point out here that in the said merit lists, the scores of AE (E/M) were scaled and scores of AE(Civil) were not scaled. As a result of this, in this merit list scores of former were shown to be much less than scores of latter. In the merit list, total scores of petitioners were 414.37, 411.48 and 416.38 respectively and those of respondent no 5, 6, 9 and 10 were shown as 453.375, 451.375, 449.875 and 448.875 respectively. This classification is unreasonable and unjust as for preparing a combined seniority list of A.E., scaled marks of both A.E. (Civil) and A.E. (E&M) need to be compared. However, the respondent no 3 provided respondent no 1 with unscaled/raw marks of AE (Civil) and scaled AE (E&M) for preparing combined seniority list.

2.8 On 23.6.2015, respondent no.1 issued a final seniority list of Assistant Engineers in Jal Sansthan. In the said list, separate seniority lists for AE (Civil) and AE(E/M) were issued. Further in paragraph no 4 of said order, it was stated that vide letter dated 5.2.2015 respondent no 3, was asked to issue a combined seniority list of all directly recruited AE (Civil/E/M). This was because in Jal Sansthan unlike other Engineering Departments, there are no separate posts of AE (Civil/E/M). However, this list was later quashed, being in violation to Service Rules. On 28.4.2020

respondent no. 2 issued an interim seniority list wherein petitioners' names appeared at Serial No. 85, 89 and 84 respectively. Further objections were also invited by respondent no 2 from affected persons within 15 days of the date of issuance of the said list.

2.9 By letter dated 10.5.2020 petitioners submitted their representation against the interim seniority list dated 28.4.2020, to Secretary, Jal Sansthan. In the said representation petitioners highlighted the fact that in Jal Sansthan single post of AE exists, and there are no separate cadres of AE (Civil) and AE(E/M). The nature of work of all AE is similar with no regard whatsoever to branch specialization. Further in the Combined State Service Examination - 2012 different optional papers with varying level of difficulties were attempted by AE (Civil) and AE (E/M). So in a combined seniority list of AE, scaled marks of both AE (Civil) and AE (E/M) need to be considered. However, the combined seniority list was prepared by taking unscaled/raw marks of AE (Civil) and scaled marks of AE (E/M); due to which AE (Civil) were placed above AE (E/M).

2.10 On 12.2.2021 respondent no 1 issued final seniority list, thereby confirming the interim seniority list dated 28.4.2020 and rejected the objections of petitioners. Further respondents no 5, 6, 9 6,9 and 10 were placed above petitioners by comparing unscaled/raw marks of the former to scaled marks of latter. In the said list quota of promotees vis-à-vis direct recruits is taken to be in ratio 3:2; whereas, as per the service rules applicable on petitioners, the same should be in ratio 1:1. Further in the said list seniority of respondent no 16 and 17 was calculated from their date of promotion/appointment, even when their degree of Bachelors in Engineering from a deemed university became valid only after the year 2018. As a result of all this seniority of petitioners in the said list was lowered causing great prejudice to them. It is submitted that the said seniority list is arbitrary and unjust. Further said list has been issued in contravention to Service Rules and relevant law.

2.11 On 01.02.2021 petitioner no 3, applied for query under RTI from respondent no 3. In response to this respondent no 2 supplied a reply dated 18.2.2021. In paragraph no 4 of the reply, it has been stated that as per provisions of Uttarakhand Public Service Commission Examination Result Preparation Procedure Rules - 2012, method of scaling is used. The scaling formula is reproduced hereinafter for kind perusal of this court:

"Scaled Marks= $M + (X-m) S/s$ Where:

M: is assumed mean (may be taken as 50% of the maximum marks in a subject) for all candidates in all optional subjects/papers.

X: Raw marks obtained by the particular candidates in that particular optional subjects/papers.

m: Mean of all the raw marks in the particular optional subjects/paper.

S: assumed standard deviation (may be taken as 1/5th of the assumed mean) for all candidates in all optional papers.

s: Standard deviation of raw marks in particular subject."

In the merit list dated 30.4.2015 prepared by respondent no 3, in calculation of total score of AE(E/M) their scaled marks of optional paper I and II were used; whereas in calculation of total score of AE(Civil) their unscaled/raw marks were used. This is because in merit list dated 30.4.2015, total marks of petitioners i.e. 414, 411 and 416 respectively are equivalent to total scaled marks of petitioners. Further in merit list dated 30.04.2015 total marks of respondents no 5, 6, 9 and 10 i.e. 453.375, 451.375, 449.875 and 448.875 respectively are equivalent to their total unscaled/raw marks as indicated in the table above.

2.12 Petitioner no. 3 on 25.2.2021 again applied for RTI query from respondent no 3. In response to this respondent no 2 supplied a reply on 16.3.2021. Paragraph no 5 of this reply mentioned that when optional subjects are allowed then to compare the difficulty level of papers scaling method is used. When selection is made from same optional subject then scaling method is not used. Hence for AE (Civil) scaling method was not used. Thus there is a clear admission

by respondent no 3 of the fact that marks provided by them of AE (E/M) were scaled whereas marks of AE (Civil) were unscaled/raw. The respondent no 3 failed to realize that scaled marks of AE(Civil) along with scaled marks of AE(E/M) i.e. both were required by respondent no 1 for preparing a combined seniority list of A.E. in Jal Sansthan.

2.13 The Apex court vide its judgment dated 3.11.2017 in C.A. No. 17869-17870 of 2017, held that award of engineering degrees by deemed universities without approval of AICTE was illegal, which could not be cured by ex-post facto approval. Further directions were issued to suspend engineering degrees awarded by Deemed Universities till such students pass an examination under joint supervision of AICTE-UGC. Further every single advantage on the basis of such degree was also suspended, and it was made clear that any promotion or advancement in career on basis of such degree shall also stand withdrawn. In pursuance to this judgement, respondent no. 17 and 18 appeared in the joint examination conducted by AICTE-UGC in the year 2018 and cleared the same. It is submitted that the engineering degrees of respondent no 17 and 18 became valid on their being declared successful in joint examination conducted by AICTE-UGC in the year 2018. Thus in the seniority list dated 12.2.2021 they cannot be given retrospective seniority from earlier dates i.e. 01.07.2009 and 27.4.2013 respectively, especially when they became eligible for appointment as A.E. after 2018.

2.14 The similar controversy has already been decided by Uttarakhand High Court in Writ Petition (S/B) 168/2017 wherein petitioners on passing the joint examination in 2018 were claiming such degree to be valid from its very inception. Division Bench vide its judgement dated 18.3.2019, rejecting the contention of petitioners held that any advantage or benefit which petitioners had before in their bachelor degree stood suspended as a result of above judgement of Supreme Court, to be restored only on their passing

the test. It is significant to point here that the aforesaid judgement dated 18.3.2019 was assailed before Hon'ble Apex Court by means of SLP No. 017469/2019, which was disposed off vide judgement dated 14.10.2019. In view of this judgement dated 18.3.2019 was upheld.

2.15 The petitioners are aggrieved by final seniority list dated 12-02-2021 of AE in Jal Sansthan, wherein direct appointees of AE(Civil) i.e. respondent no.-5, 6, 9 & 10 have been placed above AE(E/M) i.e. petitioners, by comparing unscaled/raw marks of former with those of scaled marks of latter. Further in the said final seniority list promotes JE i.e. respondent no 4, 7, 8, 11, 12, 13, 14, 15 have been placed above petitioners by following the amended ratio of promotes vis-à-vis direct recruits of 3:2 in place of 1:1 which is applicable on petitioners. Further respondent no 16 and 17 have been placed higher to petitioners in seniority list dated 12.2.2021, in clear contravention to dated 18.3.2019 passed in WP(SB) 168/2017.

2.16 Rule 6 of the Service Rules states that recruitment to the post of AE shall be made from following sources i.e. 45% of posts are to be filled direct recruitment; 50% of the posts by promotion of JE/Additional AE who completed minimum 10 years of service and 5% of posts by promotion of JE who completed 7 years of service and hold graduate degree in civil/electrical/mechanical from university established under law. Thus it can be seen that the 45% of posts of AE were to be filled by direct recruitment. Further Part V talks about Procedure for Direct Recruitment, Rule 16(4) wherein states that Commission shall prepare a list of candidates in order of merit and forward the list to appointing authority. Rule 18 states that appointing authority shall make appointment on receipt of the list prepared by Commission under rule 16. Rule 20 talks about combined selection list and states that if in any year of recruitment appointments are made both by direct recruitment and promotion, a combined select list shall be prepared by taking names of candidates from relevant lists. Rule 31 provides that matters not specially

covered by these rules or special order, persons appointed to the service shall be governed by the rules, regulations and orders applicable generally to the government servants serving in connection with affair of the State.

2.17 Rule 24 of the service rules talks about seniority, relevant extract of which is extracted below:

"24. Seniority:

(1) Except as hereinafter provided, the seniority of any person shall be fixed in accordance with the Uttarakhand Government Servant (Fixation of Seniority) Rule 2002.

(2) The seniority inter-se of persons appointed directly on the result of any one selection, shall be same as determined by the selection committee or commissions as the case may be.

(4) Where appointments are made both by promotion and direct recruitment or from more than one source and the respective quota of the sources is prescribed, the inter se seniority shall be determined by arranging the names in cyclic order in combined seniority list prepared in accordance with rule 20, in such manner the prescribed percentage is maintained."

2.18 On conjoint reading of all the above sections it is clear that a combined seniority list of promotees and direct recruits for the post of AE was to be prepared, by arranging the names of persons in cyclic order as per combined selection list prepared under rule 20. Further Combined selection list is to be prepared by taking names of candidates from the relevant lists of direct recruits and promotees. As per rule 16(4) Commission is required to prepare a list of candidates for direct recruitment in order of merit and send the same to appointing authority, based on which appointments are to be made.

2.19 In year 2013 the Service rules were amended w.e.f. 23.9.2013. In the said amendment Rule 6(3) was amended to reduce the quota of direct recruits to 40% from earlier 45% of posts. The quota of promotion of Junior/Assistant Engineers with graduate

degree in Civil/E/M engineering was increased from 5% to 7.33% of posts. Further a new category under Rule 6(3)(d) similar to category in Rule 6(3)(b) was added; wherein quota of 2.67% posts were to be filled by promotion of Junior/Additional Assistant Engineers who fulfilled the eligibility under category (b) and who on the first day of year of recruitment completed minimum service of 10 years.

2.20 The appointment of petitioners was made in pursuance to the advertisement dated 26.5.2012. Thus the reduction of direct quota posts to 40% by the 2013 amendment to the service rules does not apply on petitioners. Further the said amendment to the Service rules violates Article 14, as a new and artificial category in Rule 6(3)(d) similar to that of promotee JE under Rule 6(3)(b) is sought to be created, with no intelligible differentia existing between the two. Before the abovementioned service rules, Uttar Pradesh Pallika and Jal Sansthan Waterworks Engineering (Centralised) Service Rules 1996 (hereinafter called Centralised Service Rules 1996) were applicable. Rule 6(3) talks about source of recruitment to post of AE and states that posts mentioned in Schedule III shall be filled in equally from the two sources (i.e. promotion and direct recruitment) i.e. 1:1 ratio. Further the second proviso thereto states that out of posts of AE to be filled by promotion 5% of vacancies were to be filled from amongst such JE who possess Bachelors degree from any recognized institution. It is submitted that since the recruitment of the petitioners was done under these rules, so the promotes vis-a-vis direct recruits ratio of 1:1 under these rules is applicable on petitioners.

3. C.A.s/W.S. has been filed on behalf of the respondents no. 1 & 2 separately, stating therein that the complete selection process including conducting of examination, interview and preparation of merit list and seniority list is done by respondent no 3 and answering respondents have no role to play in the same. In fact, respondent no 2 merely adopts the seniority list prepared by respondent no. 3 and in the same manner interim seniority list dated 28/04/2020 was also

prepared and objections were duly invited. Similarly, the contents of the petitioner qua-single post of AE in respondent no 2 department and there being no cadre of AE (Civil) and AE (E/M) has no relevance with answering respondent as answering respondent merely adopts the merit and seniority list prepared by Respondent No.3. Also, in view of the submissions made in the instant para answering respondent has no role to play in combined state service examination or scaling of marks of AE (Civil) and AE (E/M).

3.1 In addition, it has been stated in the C.A/W.S. filed on behalf of respondent no. 1 that in Uttarakhand Jal Sansthan Engineering Service Rules, 2011 (hereinafter referred to as "Engineering Rules") there is no provision for preparation of separate seniority list, as in Uttarakhand Jal Sansthan Branch-wise posts have not been marked or sanctioned and it was for this reason that respondent No.1 requested respondent no. 3 to prepare combined seniority list. It was also stated by Respondent No.1 vide its letter dated 05.02.2015 that in the past also a combined seniority List has been requested from Respondent No.3 for the selection in the year 2007 and Respondent No. 3 has provided a combined seniority list. In fact, Respondent No.3 had provided separate merit list of the selected candidates as per branches i.e. Civil, Electrical and Mechanical i.e. separate merit list of selected candidates for Civil, another list of selected candidates for Electrical and another list for Mechanical candidates. Further, there is no provision in Uttarakhand Jal Sansthan Engineering Service Rules, 2011 for preparation of separate Seniority List of Assistant Engineers therefore Respondent No.1 followed the separate Lists provided by Respondent No.3 and prepared a combined seniority list in the same sequence as provided by respondent no.3.

3.2 It is further submitted that respondent no 1 merely prepares the seniority list according to merit list prepared by respondent no 3 and in the same manner, tentative seniority list dated 28.04.2020 was also prepared and objections were duly invited. As far as the

contention of the petitioner qua unsealed marks of AE (Civil) candidates is concerned, in this regard, this aspect has to be considered by Respondent No.3 and answering respondent no. 1 has no control over the same. The seniority list dated 12.02.2021 was prepared in compliance of judgment passed by this Tribunal in the claim petition 42/DB/2018, Kailash penuily v/s State of Uttarakhand and others.

3.3 It is also submitted that respondent No. 16 filed a Writ Petition No. 27/SB/2015 seeking notional promotion and in this Writ Petition, the Hon'ble High Court passed an order dated 28-04-2017 granting the Notional Promotion to Respondent No. 16 w.e.f 2009 and accordingly in compliance of order dated 28-04-2017 of the Hon'ble High Court, the Respondent No. 16 was given notional promotion w.e.f 2009. It is further submitted that respondents No. 16 & 17 passed the AICTE Examination which was also conducted in compliance of directions of the Hon'ble Apex Court and both Respondent No. 16 & 17 passed this examination, also the Hon'ble Apex Court has also directed that who soever candidate will pass this examination, such candidates will be restored with all the benefits already granted to them.

4. The petitioners filed R.A. denying the contentions made in the C.A/W.S. and reiterated the averments made in the claim petition. It has further been stated that on 01.02.2021 petitioner no 3, applied for RTI query from respondent no 3. In response to this respondent no 2 supplied a reply dated 18.2.2021(Annexure no 12 of the Claim Petition). Para 4 of the reply stated that the method of scaling given in the provisions of Uttarakhand Public Service Commission Examination Result Preparation Procedure Rules 2012 was used in determining seniority. The scaling formula has already been reproduced in para no 4(14) of the claim petition and is not being repeated here again for the sake of brevity.

5. C.A./W.S. has also been filed on behalf of respondent no. 3, in which, it has been stated that-

5.1 The introductory facts are same as in counter affidavit filed by Respondents 1 & 2. The qualification mentioned for the post of AE (Electrical/Mechanical), the examination was held in 2 different subjects and the questions which were asked from the candidate are entirely different in their nature which are concerned with their respective subjects. Rule 16(3) of Uttarakhand Jal Sansthan Engineering Service Rules, 2011 specifically provides that after the result of the written examination have been received and tabulated the Commission shall having regard to the need for securing due representation of the candidates belonging to the Schedule Caste, Schedule Tribe and Other categories under rule 6, invite for interview such amount of candidates who on the results of the written examination have achieved the standard fixed by the Commission in this respect. The marks awarded to each candidate in the interview shall be added to the marks obtained by him in the written examination. The Rule 16 (4) further provides that the Commission shall prepare the list of candidates in order of their merit as disclosed by the aggregate of the marks obtained by them in the written examination and interview. If two or more candidates have obtained equal marks in the aggregate the name of the candidate obtaining higher marks in the written examination shall be placed higher in list. The Commission shall forward the list to the Appointing Authority.

5.2 If the selection done in the examination on written/interview basis and on one post candidate is to be selected from question paper of different-different subjects then the Commission will proceed in pursuance of the Sub-rule-3 of Rule 4.2.2 (A) of the Examination Result Making Procedure Rules, 2012 which states that if in any examination there are two or more optional subjects then the Commission will follow the Scaling process. Therefore, as per the provisions mentioned in Part-4 and Part-5 of Uttarakhand Jal Sansthan Engineering Service Rules, 2011 and Examination Result Making Procedure Rules, 2012, the scaling process for selection on the posts of Assistant Engineer (Electrical/ Mechanical) was adopted

and as per the requisition provided by the State Government the separate recommendation has been sent for the post of Assistant Engineer (Civil) and Assistant Engineer (Electrical/Mechanical) as per the merit on the basis of the marks obtained by them in the examination.

5.3 The papers for the post of AE (Electrical/Mechanical) are totally different in nature as their degrees for the respective subjects have also been obtained by the candidates from separate courses and keeping in view of the above the scaling procedure has been adopted for these posts of AE (Electrical/ Mechanical) to make them at par so that no controversy will arise regarding their seniority based on the marks obtained by them on the post of AE(Electrical/ Mechanical).

6. In reply to the C.A./W.S. filed on behalf of the respondent no. 3, R.A. has been filed by the petitioners and it has been stated that:

6.1 By Uttar Pradesh Pallika and Jal Sansthan Waterworks Engineering (Centralized) Service Rules 1996 (hereinafter called Centralized Service Rules 1996); a centralized engineering service common to all Jal Sansthan's, Water works of Municipal Corporations and Municipal Councils in State of UP was created. Therein post of AE (hereinafter called AE) was made a part of U.P. Pallika and Jal Sansthan and Water Works Engineering (Superior Service). These Rules were adopted by State of Uttarakhand vide its modification order dated 07.11.2002.

6.2 Part-II of Uttarakhand Jal Sansthan Engineering and Service Rules 2011(hereinafter called Service Rules 2011), talks about 'Cadre and Number of Members'. As per Rule 4 of Service Rules 2011, a unified cadre of AE exists in Jal Sansthan.

6.3 As per Service Rules 2011 (Annexure no 15 of the Claim Petition); appointments to post of AE in Jal Sansthan are to be made by direct recruitment and by promotion of JE. Rule 24(1) states that the inter-se seniority of direct recruits is to be determined by the

commission i.e. respondent no 3. Rule 24(2) states that inter-se seniority of promotees' will be the same as in their feeder cadre. Further Rules 24(3) states that once inter-se seniority of direct recruits and promotes is determined; a combined seniority list of AE appointed from various sources, is to prepared by arranging the names from above two lists in a cyclic order in terms of Rule 20.

6.4 The respondent no 3 vide letter dated 30.3.2015 issued the merit in which consists of two separate merit lists of direct recruits of AE(Civil) and AE(E/M) working in Jal Sansthan, based on the scores of such persons. Merit list of AE(Civil) is based on the unscaled marks in optional papers, whereas AE(Electrical/Mechanical) is based on the scaled marks. This was done by respondent no 3, treating candidates of A.E.(Electrical/Mechanical) to have appeared in two different optional subjects [as per admission of respondent no 3 in reply dated 25.2.2021 to RTI query] (Annexure no 14 of the Claim Petition). As a result of this, scores of AE(Civil) were much higher than those of AE(Electrical/Mechanical).

6.5 The order dated 30.3.2015 was issued in contravention of Rule 24(1); which mandates Commission i.e. respondent no 3 to determine inter-se seniority of direct recruits in Jal Sansthan, which they failed to provide by this order. This order is also in contravention to the directions contained under letter dated 5.2.2015 issued by respondent no 1 to respondent no 3. Respondent no 3 in the impugned order dated 30.3.2015, should have used the scaling method as provided under Examination Result Making Procedure Rules-2012; to scale the marks of all directly recruited AE (Civil/Electrical/Mechanical) in Jal Sansthan. As per scores provided by respondent no 3 vide order dated 30.3.2015, respondent no. 1 arranged the inter-se seniority of direct recruits of AE(Civil) and AE(Electrical/Mechanical). As a result of this in the seniority list dated 12.2.2021, petitioners i.e. AE (E/M) were placed below those of respondent no 5, 6, 9 and 10 i.e. AE(Civil), thereby lowering petitioners' seniority.

7. The private respondents neither filed Counter Affidavit/W.S. nor appeared for hearing after sufficient service of notices. It was decided to proceed ex-parte against them.

8. We have heard the Learned Counsels for the petitioners and private respondents, Learned APO and perused the record carefully.

9. The Learned Counsel for the petitioner argued that the Uttarakhand Public Service Commission (hereinafter Commission) selected Asstt. Engineers through Combined State Engineering Service Examination-2012 for Uttarakhand Jal Sansthan (Peyjal Department). The appointment of Asstt. Engineers was made on the basis of the merit list submitted by the Commission. The Jal Sansthan requested the Commission to provide the combined merit list of the AE (Civil) and AE (Electrical and Mechanical) appointed in 2007 and 2012 to determine the seniority list of the Asstt. Engineers in the department. The Commission submitted two merit lists of the Engineers appointed in 2012, one for AE (Civil) and another for AE(Electrical and Mechanical) and informed that combined seniority list cannot be prepared as the educational qualification of the candidates, subjects for the examination were different and the difficulty level of the papers was also different. While preparing merit list, the Commission resorted to scaling of marks in case of the AE (Electrical and Mechanical) as per the provisions of the Examination Results Making Procedure Rules -2012. In case of AE (Civil) marks were not scaled. So the Commission instead of preparing a combined merit list for the Civil/Electrical/Mechanical prepared two merit lists, one for AE (Civil) in which unscaled marks were used and other for AE (Electrical and Mechanical) in which scaled marks were used. This has been done in total disregard of the fact that the Cadre of the Asstt. Engineer in the Jal Sansthan is a unified cadre. This puts the petitioners whose marks have been scaled in a disadvantageous position vis-a-vis the other AE (Civil) as they became junior to them. The Rules 16(3) and 16(4) of Uttarakhand

Jal Sansthan Engineers Service Rules, 2011 lay down that the Commission will prepare the inter-se *seniority* list of the Asstt. Engineers directly recruited. The Tribunal vide order dated 13/11/2024 directed the Commission to examine the issue and submit the report, which has been submitted by the respondent No 3 on 6/3/2025. So based on the facts the claim petition is liable to be allowed.

10. Learned counsel for the Commission argued that the respondents submitted the requisition for recruitment of the AE (Civil), AE (Electrical and Mechanical) posts. The candidates for AE (Civil) were recommended based on the gross marks scored by them in the written examination of 4 papers and the interview but in case of the AE (Electrical and Mechanical) by scaling their marks in the two optional papers related to Electrical and Mechanical engineering as per the provisions of Examination Results Making Procedure Rules -2012. As per requisition for candidates of Civil, Electrical and Mechanical combined from the Jal Sansthan, two merit lists one for AE (Civil) and another for AE (Electrical and Mechanical) were submitted to the department. The inter- se-seniority was given separately as the qualifications and the difficulty level of the papers was different.

11. Learned Counsel for the respondent no. 2 argued that seniority has been decided on the basis of the merit lists submitted by the Commission. The Commission submitted two merit lists and did not submit combined merit list even on the request of the department as the same was required for preparation of the combined seniority list Asstt. Engineer which is unified cadre. The department will accept the combined merit list in case the Commission submits the same.

12. Learned A.P.O. agreed with the arguments of the learned counsel for Jal Sansthan.

13. Based on the arguments of the parties and the documents submitted, we find that the cadre of the Asstt. Engineer is a unified cadre and there are no specified posts for the Asstt. Engineers Civil/ Electrical/ Mechanical in the Uttarakhand Jal Sansthan even in the hierarchy above. The Jal Sansthan sent requisition of 10 posts of Asstt. Engineer (Civil) and 5 posts of Asstt. Engineer (Electrical and Mechanical) posts for recruitment which were advertised by the Commission for inviting applications.

14. The Commission based on the requisition of the Jal Sanathan selected AE (Civil) and AE (Electrical and Mechanical), through Combined State Engineering Service Examination- 2012. While preparing the merit list for AE (Mechanical and Electrical) the Commission resorted to scaling of the marks of optional Papers I & II for the candidates of Electrical and Mechanical Engineering discipline as per the Examination Result Making Procedure Rules - 2012. But in case of the AE (Civil) unscaled marks were considered. The Commission submitted two merit lists and even after request of the department Jal Sansthan for preparation of combined seniority list of the AEs. The onus to prepare the inter- se- seniority in case of the direct recruits is upon the Commission as per Uttarakhand Jal Sansthan Engineers Service Rules, 2011. The department prepared the seniority list based on the merit lists submitted by the Commission. This has resulted in scaled marks of the AE(E/M) compared with the AE (Civil) which was erroneous on the face of it. This has put the AE (E & M) in a disadvantageous position in comparison to the AE (Civil). The method adopted by the Commission to determine the combined seniority is unjustified as the candidates were selected from different streams.

15. The Tribunal vide order dated 13/11/2024, ordered the Commission (Respondent No 3) to examine the issue of scaled marks of E/M and unscaled marks of Civil and submit the report for the purpose of combined seniority list. In compliance of the Tribunal's order, the respondent no. 3 submitted that report on

06/3/2025. The report was accepted after discussion. Now, the Commission is bound to prepare the combined merit list of the directly recruited AEs as per Uttarakhand Jal Sansthan Engineers Service Rules, 2011 and they are being directed accordingly.

16. In view of the above, the impugned seniority list dated 12.02.2021(Annexure-1) and impugned order dated 30.03.2015 (Annexure-8) are liable to be quashed and fresh seniority list of the selected Asstt. Engineers to be drawn as per the scaled marks of AE (Civil) and scaled marks of AE (Electrical and Mechanical). Hence, the claim petition is liable to be allowed.

ORDER

The claim petition is hereby allowed. The impugned seniority list dated 12.02.2021(Annexure-1) and impugned order dated 30.03.2015 (Annexure-8) are hereby quashed. The Uttarakhand Public Service Commission (respondent No 3) is directed to prepare a combined merit list of directly recruited Asstt. Engineers as per the scaled marks of Civil, Electrical and Mechanical streams and submit the same to the Respondent No 2 within one month of presentation of the certified copy of the order of the Tribunal. The respondents No 1 & 2 are also directed to prepare the seniority list on receiving the combined merit list of Asstt. Engineers from Uttarakhand Public Service Commission, within one month thereafter. No order as to costs.

RAJENDRA SINGH
VICE CHAIRMAN (J)

A.S.RAWAT
VICE CHAIRMAN (A)

DATED: AUGUST 08, 2025
DEHRADUN
KNP