

**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. 148/NB/DB/2023**

Rajdeep Pant, aged about 48 years (Male) S/o Shri Bhuwan Chandra Pant,  
presently posted as Kshetriya Yuva Kalyan Evam Prantiya Rakshak Dal  
Adhikari, Dhari, District Nainital

.....**Petitioner**

Vs.

1. State of Uttarakhand through Principal Secretary, Youth Welfare, Civil Secretariat, Uttarakhand Dehradun
2. Principal Secretary, Personnel Department, Civil Secretariat, Dehradun.
3. Director, Youth Welfare and Prantiya Rakshak Dal (PRD), Uttarakhand Dehradun

.....**Respondents**

Present: Sri R.C.Tampta, Advocate for the petitioner  
Sri Kishore Kumar, A.P.O. for the respondents

**JUDGMENT**

**DATED: SEPTEMBER 29, 2025**

**PER: SRI A.S.RAWAT, VICE CHAIRMAN (A)**

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

*“a) To declare/declaration the amendment made in the Rule 5(d)(1) of the Uttarakhand Youth Welfare and Prantiya Rakshak Dal Gazetted Officer Service Amendment Rules, 2015 and to place the name of the person as their seniority in the eligibility list for District Youth Welfare Officer as ambiguous confusing and also unreasonable and strike down the same and further the respondent to count the service of petitioner on the date of issuing the joining letter dated 21.11.2008 and promoted him as per his seniority.*

*b) To issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.*

*c) Award cost of the petition."*

2. Brief facts of the case are that the petitioner is presently working as Regional Youth Welfare PRD Officer, Dhari, District Nainital since 04-12-2008. The department is preparing a common seniority list to promote the persons in higher post when the cadre of Regional Youth Welfare Officer, PRD and Physical Trainer are different. The educational qualification of Regional Youth Welfare and Prantiya Rakshak Dal Officer is Graduate and the training of the officers as per Rules provided in Uttarakhand Police Regulation Act. On the other hand, for the Physical Trainer educational qualifications is Intermediate and having diploma of Vyayam Visharad.

2.1 In the amendment made in the Uttarakhand Youth Welfare and Prantiya Rakshak Dal, 2014, in Rules 5(4)(a) in which the seniority is counted as per the merit for both of cadre.

2.3 The rules governing the service condition of the petitioner are known as 'Uttar Pradesh Pradeshik Vikas Dal Subordinate Service Rules, 1980". Clause-5 of the Rules deals with the recruitment for various posts, Sub clause- 2 of Clause-5 mentions that for the promotion to the post of Distt Organizer, prepare a joint eligibility list based on the names of the candidates in the order of seniority in the respective cadres of 1. Asstt. Distt. Organizer, (which was abolished by the Government later on) 2. Vikas Khand Organiser and 3. Physical Instructor and then promote on the basis of seniority cum fitness. In the year 2014 the posts of Distt. Organizer were abolished and the District Youth Welfare and Prantiya Rakshak Dal Officers posts were created.

2.4 The Secretary, Youth Welfare and Prantiya Rakshak Dal Uttarakhand issued Government orders on 30.06.2003 & 18.07.2003. As per the Government order dated 18.07.2003, it is clarified that the cadre of Physical Instructor and Youth Welfare PRD Officers are

separate and the other Government order issued on 30.06.2003 clarified that if the post of District Youth Welfare and Prantiya Rakshak Dhal Officer has been vacant then the senior most Kshetriya Youth and Welfare Prantiya Rakshak Dal Officer have taken the official work and hold the office of District Youth Welfare and Prantiya Rakshak Dal.

2.5 The State of Uttarakhand framed separate Rules in the month of May, 2014 known as Uttarakhand Youth Welfare and Prantiya Rakshak Dal Gazetted Service Rules, 2014 and as per these Rules, the post of District Youth Welfare and PRD Officer is to be filled by way of direct recruitment and promotion in the ratio of 50% by promotion and 50% posts to be filled by the preparing a combined eligibility list of employees of Regional Youth and PRD Officer and Physical Instructor Cadre as per their seniority subject to rejection of unfit.

2.6 The State Government issued a notification on 13-08-2015 and amended Rules 5(4)(a) which provides that for the purpose of promotion to the District Youth Welfare and PRD Officer, preparation of joint eligibility list in the order of their date of substantive appointment mentioned in the seniority list of their respective cadre. The Rules are confusing and will certainly affect the right of being considered from two sources for which the joint eligibility list is to prepared, because of this the right of the promotion of the petitioner will be almost stopped. The State Government has issued a government order dated 17-02-2017 and given the ACP to those candidates who have completed ten years satisfactory service from their date of joining.

2.7 The petitioner has completed more than 15 years services and still been deprived for promotion despite of his eligibility as per the rules. In this regard petitioner submitted a detailed representation before the authority concerned which is still pending.

2.8 Feeling aggrieved from the inaction on the part of the respondent authorities, the petitioner approached the Hon'ble High Court of Uttarakhand at Nainital by means of Writ Petition No. 247 of

2023 (S/B), the petitioner withdrew the above writ petition with liberty to avail such other remedy, as may be available in law and the Hon'ble High Court vide its order dated 20-06-2023 permitted the petitioner to withdraw the same. The action of the respondent is not sustainable in the eyes of law. Thus, is in violation of Article 14,16 & 21 of the Constitution of India as well as against the provision of law. Hence this claim petition.

3. Learned A.P.O. has filed C.A/W.S. and primarily objected maintainability of the claim petition on ground that the petitioner has filed the petition with a prayer to declare Rule 5 (4) (a) of the Uttarakhand Youth Welfare and Prantiya Raksha Dal Gazetted Officer Service Amendment Rules, 2015 as illegal. Therefore, the petitioner's petition is liable to be dismissed. It is further submitted that since promotions to the post of District Youth Welfare and Training Officer are made from the cadre of Regional Youth Welfare and Training Officers and Physical Instructors, it is in accordance with the rules to prepare a joint seniority list for promotion purposes. The minimum educational qualification for the post of Physical Instructor is a graduate degree equivalent to that of a Regional Youth Welfare and Training Officer. Further the revised rules have not been repealed by the Hon'ble High Court. The Hon'ble High Court had ordered that promotions be made in accordance with the rules that were in effect at the time of the vacancies. Various promotions have been made since 2015 in compliance with these orders.

4. R.A. has been filed on behalf of the petitioner in which he has reiterated the same averments as have been stated in the claim petition.

5. We have heard learned Counsel for the parties and perused the record.

6. In the instant case, the petitioner has challenged the amendment made in the Rule 5(4)(a) of the Uttarakhand Youth Welfare and Prantiya Rakshak Dal Gazetted Officer Service

Amendment Rules, 2015 declaring them ambiguous, confusing and also unreasonable and requested to strike down the same.

7. The Hon'ble High Court of Uttarakhand at Nainital has settled the controversy that this Public Services Tribunal has no power to look into the constitutional validity of the Rules. In the decision of *Shyam Lal and another vs. State of Uttarakhand and others*, in WPSB No. 39/2020, Hon'ble High Court has clearly laid down that the Uttarakhand Public Services Tribunal has no power to decide the questions relating to *vires* of statutory provisions and Rules. In Paragraphs No. 30 to 38, Hon'ble High Court has held, as under:

“30. The 1976 Act does not contain any specific provision conferring power on the Tribunal, constituted under the said Act, to decide questions relating to the *vires* of statutory provisions and Rules. The power to create or enlarge jurisdiction is legislative in character. The Legislature alone can do it by law and no court, whether superior or inferior or both combined, can enlarge the jurisdiction of a Court. (A.R. Antulay). In the absence of any such power being conferred on it by the Legislature, it is not the function of this Court to confer any such jurisdiction on the Tribunal constituted under the 1976 Act, for the jurisdiction of a Court/Tribunal can be created, enlarged or divested only by the Legislature, and not by the Court. (A.R. Antulay; and Shorter Constitution by D.D. Basu (18th Edition) Reprint 2002). The High Court would not ordinarily, in the exercise of its power of judicial review, prescribe functions to be discharged by the Tribunal which the State Legislature has not stipulated.

31. Even otherwise, as held by the Supreme Court in Madras Bar Association, the answer to the question, whether any limitation can be read into the competence of the legislature to establish and confer jurisdiction on Tribunals, would depend upon the nature of jurisdiction that is being transferred from Courts to Tribunals. These yardsticks would vary depending on whether the jurisdiction is being shifted from the High Court, or the District Court or a Civil Judge. The 1976 Act was promulgated for adjudication of disputes relating to employment matters of public servants of the State Government etc. The jurisdiction of the Civil Courts, for redressal of their grievances, was taken away, (Public Services Tribunal Bar Assn.), and cases then pending in the Civil Court were transferred to it. Unlike the Tribunal constituted under the 1976 Act, cases pending in the High Court were initially transferred to the Administrative Tribunals constituted under the 1985 Act. It is only in terms of the law declared by the Supreme Court, in L. Chandra Kumar, were the decisions of these

Tribunals, constituted in terms of the 1985 Act and as enacted by Parliament under Article 323-A of the Constitution, made subject to the judicial review of the High Court under Article 226 of the Constitution of India.

32. The Service Tribunals constituted under the 1976 Act have not been conferred jurisdiction, by the Legislature to adjudicate disputes relating to the *vires* of statutory provisions or rules. It is, therefore, not open to the High Court, when the validity of statutory provisions are under challenge before it in proceedings under Article 226 of the Constitution of India, to relegate the person aggrieved thereby to avail the remedy of approaching the Public Services Tribunal constituted under the 1976 Act.

33. The fact however remains that this would, as held by the Supreme Court in *L.Chandra Kumar*, enable a litigant to avoid approaching the Public Services Tribunal, and to directly invoke the extra-ordinary jurisdiction of the High Court under Article 226 of the Constitution of India, by raising a challenge, albeit frivolous, to the constitutional validity of a statutory provision or rule. This would, in turn, result in docket explosion in the High Court, and its precious time and resources being needlessly spent in adjudicating such frivolous challenges to the constitutional validity of statutory provisions and Rules. In this context it is useful to note that, in *Krishna Sahai*, the Supreme Court had commended to the State of Uttar Pradesh to consider the feasibility of setting up of an appropriate tribunal under the 1985 Act in the place of the Public Services Tribunal functioning under the 1976 Act so that, apart from the fact that there would be uniformity in the matter of adjudication of service disputes, the High Court would not be burdened with service litigation; and a Tribunal, with plenary powers, could function to the satisfaction of everyone

34. Again in *Rajendra Singh Yadav*, the Supreme Court opined that there was no justification why a Service Tribunal of a different pattern should operate in the State of Uttar Pradesh with inadequate powers to deal with every situation arising before it; a Tribunal set up under the Administrative Tribunals Act would have plenary powers to deal with every aspect of the dispute; the U.P. Services Tribunal should be substituted by a Tribunal under the Administrative Tribunals Act, as early as possible, to enable uniformity of functioning, and the High Court being relieved of the burden of dealing with certain service disputes; steps should be taken to replace the Service Tribunal, by a Tribunal under the Administrative Tribunals Act, 1985, as that would give the Tribunal the necessary colour in terms of Article 323-A of the Constitution; disputes which arise, on account of the Service Tribunal not having complete jurisdiction to deal with every situation arising before it, would then not arise; and several States had already constituted such Tribunals under the 1985 Act.

35. Both in Krishna Sahai and in Rajendra Singh Yadav, the Supreme Court had opined that it would be appropriate for the State of Uttar Pradesh (which would also include the successor State of Uttarakhand) to change its manning to maintain judicial temper in the functioning of the Tribunal. The State Government was directed to consider the feasibility of setting up an appropriate Tribunal under the Administrative Tribunals Act, 1985 in the place of the existing Service Tribunal established under the 1976 Act. (Public Services Tribunal Bar Assn.). Despite repeated directions of the Supreme Court, and though nearly three decades have since elapsed, the Public Services Tribunal constituted under the 1976 Act has not been substituted by a State Administrative Tribunal under the 1985 Act.

36. Article 144 of the Constitution requires all authorities, Civil and Judicial, in the territory of India to act in aid of the Supreme Court. The singular Constitutional role of the Supreme Court under the Constitution, and correspondingly of the assisting role of all authorities-civil or judicial in the territory of India - towards it, mandate the High Court, which is one such judicial authority covered under Article 144 of the Constitution, to act in aid of the Supreme Court. While the High Court is independent, and is a co-equal institution, the Constitutional scheme and judicial discipline requires that the High Court should give due regard to the orders of the Supreme Court which are binding on all courts within the territory of India. (Spencer & Co. Ltd. and another v. Vishwadarshan Distributors (P) Ltd.; M/s Bayer India Ltd. and others v. State of Maharashtra and others; CCE v. Dunlop India Ltd.; and E.S.P. Rajaram v. Union of India]).

37. The orders of the Supreme Court are judicial orders, and are otherwise enforceable throughout the territory of India under Article 142 of the Constitution. The High Court is bound to come in aid of the Supreme Court in having its orders worked out. (Spencer & Co. Ltd.; M/s Bayer India Ltd.; and E.S.P. Rajaram). The High Court has an obligation, in carrying out the Constitutional mandate, maintaining the writ of the Supreme Court running large throughout the country. (M/s Bayer India Ltd.; E.S.P. Rajaram; and Spencer & Co. Ltd.). Acting in aid of the Supreme Court, the High Court should ensure that the orders of the Supreme Court are adhered to by all, both in letter and spirit. It is obligatory for this Court, therefore, to ensure that the orders of the Supreme Court, in Krishna Sahai; and Rajendra Singh Yadav, are adhered to by the Government of Uttarakhand and, as directed therein, to take action forthwith to ensure that an Administrative Tribunal is constituted for the State of Uttarakhand under the 1985 Act. Let a copy of this order be sent to the Chief Secretary, Government of Uttarakhand. The Chief Secretary is requested to take necessary action forthwith, and submit an action taken report to this Court within four months from today.

38. In so far as the present case is concerned, the petitioner has challenged the constitutional validity of the Rules made under the proviso to Article 309 of the Constitution of India. He cannot, therefore, be relegated to approach the Public Services Tribunal.”

8. This Tribunal also vide its judgment and order dated 10.08.2020, passed in *Claim Petition No. 89/DB/2018, Himanshu Naugai & others vs. State of Uttarakhand & others*, relying upon the aforesaid judgment of the Hon’ble High Court, dismissed the claim petition for want of jurisdiction.

9. In the instant claim petition, the petitioner has challenged the constitutional validity of the Rules framed under proviso to Article 309 of the Constitution of India. The Hon’ble Court has clearly settled that this Tribunal cannot decide questions relating to Constitutional validity of Statutory provisions/Rules. Therefore, the petitioner cannot be relegated to approach the Tribunal.

10. This Tribunal, therefore, is of the view that the challenge to Rule 5(4)(a) of the Uttarakhand Youth Welfare and Prantiya Rakshak Dal Gazetted Officer Service Amendment Rules, 2015, cannot be adjudicated by this Tribunal and, therefore, this Tribunal is unable to give such declaration, as desired by the petitioner.

11. As a result thereof, we have no option but to dismiss the claim petition for want of jurisdiction (as to subject matter) without going into the merit of the claim petition. No order as to costs.

**RAJENDRA SINGH**  
VICE CHAIRMAN(J)

**A.S.RAWAT**  
VICE CHAIRMAN (A)

*DATED: SEPTEMBER 29, 2025*  
*DEHRADUN*  
*KNP*