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. 176/DB/2022

1. Kunwar Pal, s/o Chattar Singh, Tube Well Operator, Nalkool Khand, Haridwar, District Haridwar.
2. Rajkumar Pal, posted as Tube Well Operator, Nalkool Khand, Dehradun, District Dehradun.
3. Gareeb Singh, posted as Tube Well Operator, Nalkool Khand, Dehradun, District Dehradun.
4. Neelam Kumar, posted as Tube Well Operator, Nalkool Khand, Dehradun, District Dehradun.
5. Irshad Ali, posted as Tube Well Operator, Nalkool Khand, Dehradun, District Dehradun.
6. Pramod Kumar, s/o late Sh. Baburam, posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
7. Mukesh Kumar, posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
8. Mohd. Sipten, posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
9. Rampal, posted as Tube Well Operator, Nalkool Khand, Dehradun, District Dehradun.
10. Mohd. Kasim, posted as Tube Well Operator, Nalkool Khand, Dehradun, District Dehradun.
11. Mohd. Akram, posted as Tube Well Operator, Nalkool Khand, Dehradun, District Dehradun.
12. Ishrar Ahmed, posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
13. Sulendra Kumar, posted as Tube Well Operator, Nalkool Khand, Dehradun, District Dehradun.
14. Amar Singh, posted as Tube Well Operator, Nalkool Khand, Dehradun, District Dehradun.

15. Ravinder Kumar, posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
16. Satish Kumar, posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
17. Brijpal, posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
18. Ombeer Singh, s/o Ram Singh, posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
19. Sunder Pal posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
20. Sunil Kumar, posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
21. Jagveer, posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
22. Somdutt, posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
23. Girvar Singh, s/o Ram Prasad, posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
24. Dharampal Singh, s/o Kali Ram, posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
25. Satish Kumar Saini, posted as Tube Well Operator, Nalkool Khand, Roorkee, District Haridwar.
26. Gulzar Hassan, posted as Tube Well Operator, Nalkool Khand, Dehradun, District Dehradun.
27. Vinod Kumar, posted as Tube Well Operator, Nalkool Khand, Dehradun, District Dehradun.
28. Rajesh Kumar, posted as Tube Well Operator, Nalkool Khand, Dehradun, District Dehradun.

……Petitioners

VS

1. State of Uttarakhand through Secretary for Department of Irrigation, Government of Uttarakhand, at Dehradun.
2. Engineer-in-Chief, Department of Irrigation, Government of Uttarakhand, Yamuna Colony, Dehradun.

…….. Respondents

Present: Sri Abhishek Chamoli, Advocate, for the Petitioners
Sri V.P. Devrani, A.P.O., for the Respondents

JUDGMENT

Dated: SEPTEMBER 23, 2022

Justice U.C. Dhyani (Oral)

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

> "(i) To issue an order or direction to quash the order dated 16/11/2022 by which respondent no. 2 have rejected the representation of the petitioners to include the name of the petitioner in the Eligibility list and to make joint/combined seniority list as per the Prevailing Service Rules 2003 which is arbitrary and malafied.
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> (ii) To quash the order dated 05/09/2016 of Respondent no. 2 by which an artificial quota has been created by the respondents Contradictory to prevailing Service Rules.
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> (iii) To issue an order or direction to the respondents to include the name of the appointee of the year 2012 to 2014 of the Tube well operators (petitioners) in the eligibility list prepared for the promotion to the post of Seench supervisor for the vacancy year 2021-22 and 2022-23 as under the provisions of Service Rules 2003.the petitioners appointed in the year 2012,2013, are seniors to the appointee of the year 2013 and 2014 included in the eligibility list and after inclusion of the name of the petitioners consider for promotion to the post of seench supervisor on the basis of seniority subject to rejection of unfit as per provision of Service Rules 2003.
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> (iv) To issue an order or direction to the respondents to make a combine/joint seniority list of Tube well operator and Seenchpals as after the promulgation of service rules 2003 both the cadres are govern by the same rules and further promotion for both the cadre are on the post of Seench Supervisor.
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> (v) To award any other relief in favour of the petitioner which this Hon'ble court may deem fit and proper in the circumstances of the case.
>
> (vi) To award the cost of the petition."

2. This is 2nd round of litigation between the parties. In the 1st round, in Claim Petition No. 104/DB/2022, a direction was given to Respondent No.2 to decide petitioners' representation, in accordance with law, *vide* order dated 21.09.2022. Petitioners' representation was rejected, therefore, they have filed present claim petition.

3. The claim petition is supported by the affidavit of Sri Kunwar Pal, petitioner no.1. Relevant documents have been filed along with the same.

4. Petition has been contested on behalf of respondents. Sri Hareesh Chamoli, Assistant Engineer, Tubewell Division, Haridwar, Uttarakhand, has filed C.A. on behalf of Respondents No. 1 & 2. Document have been filed in support of Counter Affidavit.

5. During the course of hearing, Ld. A.P.O. objected that the petitioners have not arrayed the appointees of the years 2013 and 2014, over whom they claim seniority [Relief Clause 8(iii)], as party respondents. Therefore, petitioners be directed to implead them, as they are necessary parties.

6. In reply, Ld. Counsel for the petitioners submitted that the process will take a long time. He submitted that respondents in their C.A. have admitted that the service conditions of the petitioners and those over whom the petitioners claim seniority, are governed by the Irrigation Department, Uttaranchal Service of Revenue Subordinate Cadre (Group 'B' and 'C') Rules, 2003, therefore, determination of *inter se* seniority and prospects of promotion be left to the discretion of the competent authority in the respondent department. Ld. Counsel for the parties have no objection to such innocuous prayer.

7. Rule 5 of the Rules of 2003 reads as under:

> "5. **Source of recruitment.**
> - Recruitment to the various posts of the Service shall be made as follows :
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> A. Seenchpal/Tube-well Operator/Revenue clerk. - The post of Seenchpal/Tube well operator/Revenue clerk shall be filled in by direct recruitments by selection through a Committee by inviting the application forms from such candidates whose names are enrolled in various offices of Employment Exchange in Uttaranchal.
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> B. Seenchpryvekshak. - The recruitment to the Service shall be made by promotion subject to the rejection of unfit, amongst the seenchpal/Tube-well operator in the office of canal and tube-well

operators in the office of tube-well who have completed 8 years of Service.

C. Ziledar. - The recruitment to the Service shall be made by promotion, subject to rejection of unfit, amongst the Seenchpryvekshak who, on the first day of the year in which selection is made, have completed 7 years of Service and have qualified the departmental examination.

D. Deputy Revenue Officer. - The recruitment to the Service shall be made by promotion, subject to rejection of unfit, amongst Ziledars who, on the first day of the year in which selection is made, have completed 6 years of Service and have also passed canal law examination.

E. Head Revenue clerk. - The recruitment to the Service, shall be made by promotion subject to rejection unfit, amongst the Revenue clerk, who have completed 8 years of Service."

8. Rule 17 and Rule 21 of the Rules of 2003 read as under:

"17. **Combined select list.**

- (i) If in any year of recruitment appointments are made both by direct recruitment and by promotion, a combined list shall be prepared by taking the names of candidates from the relevant lists in such manner that the prescribed percentage is maintained, the first name in the list being of the person appointed by promotion.

The persons promoted from the feeding cadre having higher pay scale shall be senior to the persons promoted from feeding cadre having lower pay scale.

21. Seniority.

- The seniority of persons substantively appointed in any category of posts shall be determined in accordance with the Government Servant Seniority Rules, as amended from time to time."

9. Ld. Counsel for the parties submitted that the claim petition may be disposed of by directing Respondent No.2 to determine inter se seniority of the petitioners *vis-à-vis* those over whom they claim seniority.

10. Respondent No.2 is, therefore, requested to consider and decide the prayer of the petitioners in the light of the Irrigation Department, Uttaranchal Service of Revenue Subordinate Cadre (Group 'B' and 'C') Rules, 2003, by a reasoned and speaking order, in accordance with law, as expeditiously as possible, without unreasonable delay, on presentation of

certified copy of this order along with representation of the petitioners highlighting their grievance.

11. Needless to say that the decision so taken shall be intimated to the petitioners soon after informed decision is taken by the competent authority in the respondent department.

12. The claim petition thus stands disposed of, with the consent of Ld. Counsel for the parties.

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: SEPTEMBER 23, 2025
DEHRADUN
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