

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

Present: Hon'ble Mr. Rajendra Singh,  
.....Vice Chairman (J)

Hon'ble Mr. A.S.Rawat  
.....Vice Chairman (A)

**CLAIM PETITION NO. 47/NB/DB/2024**

Girish Chandra Arya (Male) Aged about 59 years Adhaar No. 926976221032 S/o Sri Prem Ram Arya R/o Village Mathela P.O. Daula District Almora Presently Posted as Senior Assistant Zila Panchayat Nainital.

.....**Petitioner**

**Vs.**

1. State of Uttarakhand through its Secretary Panchayati Raj Uttarakhand Secretariat Dehradun
2. Director, Directorate Panchayati Raj, Sahastradhara Road Near I.T. Park Danda Lakhund Dehradun 248013.
3. Chairman Zila Panchayat Nainital
4. Apar Mukhya Adhikari Zila Panchayat Nainital.

.....**Respondents**

Present: Sri G.C.Kandpal, Advocate for the petitioner  
Sri Kishore Kumar, APO for the Respondents

**JUDGMENT**

**DATED: OCTOBER 28, 2025**

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

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

*“(i) To issue order or direction appropriate in nature and set aside the order dated 27-09-2024 (Contained as Annexure No. 1 to the claim petition) and further direct the respondent no.4 to act upon the order of the*

*respondent no.3 dated 05-09-2024 (Annexure No.2) and grant him the Grade Pay of Rs.4200/- (Level-6) by counting the service of the petitioner from his initial appointment i.e. the year 1994 for all purposes had it been the impugned order dated 27-09-2024 is never in existence after calling the entire records from the respondents or in alternate pass any appropriate orders keeping in view of the facts highlighted in the body of the petition or mould the relief appropriately.*

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

2. Brief facts of the case are as follows:

2.1 The petitioner was appointed as Supervisor (Class IV Post) on daily wages by due process of law in the year of 1994. Thereafter on 12.05.1999, the respondent department started the regularization process to regularize the petitioner and other similarly situated persons and recommended the case of the petitioner for regularization. In the said recommendation the respondents themselves stated that the petitioner is working for five years which means that the respondents admitted that the petitioner is working since 1994.

2.2 The respondents vide order dated 04.01.2001 regularized the petitioner on the post of Second Grade Clerk in pay of scale Rs. 3050-75-3950-80-4590 and pursuant to the regularization order, he joined his service as Second Grade Clerk in pay Scale of Rs. 3050-75-3950-80-4590. Thereafter, the respondent no.4 vide order dated 21.09.2007 promoted the petitioner on the post of Second Grade Clerk and pursuant to the order, he joined the service on 21-09-2007. The petitioner was granted 1st ACP after completion of 10 years of the service on the post of second Grade Clerk/Junior Clerk vide order dated 20.03.2018.

2.3 The respondent no.4 vide order dated 01-07-2020 promoted the petitioner on the post of Senior Assistant in the pay Scale of Rs. 29200-92300 (Level-5) Pay Band 5200-20200 and pursuant to the

order dated 01-07-2020 the petitioner joined the duties of Senior Assistant. The petitioner was granted only two promotions during the whole service career. But as per the service record the petitioner who joined the services as daily wager in the year 1994 is entitled for third ACP. The petitioner submitted several representations for granting third ACP in Grade Pay of Rs.4200/- by counting his service from the year of 1994 but the respondent no.3 and 4 have not taken any decision on the same.

2.4 Thereafter, the respondent no.4 vide letter dated 14-06-2024 submitted proposal of the petitioner for grant of Grade pay of Rs.4200/- (Level-6) to the respondent no.3 for consideration. The respondent no.3 vide its order dated 25-06-2024 recommended that the looking into the long services of the petitioner, he may be allowed the pay scale of Principal Assistant. The Joint Director vide its letter dated 02-07-2024 directed the respondent no.4 to look into the matter of the petitioner for granting him pay scale of Principal Assistant.

2.5 The respondent no.3 who is the appointing authority of the petitioner has granted him the benefit of Grade of Rs.4200/- (Level-6) vide its order dated 05-09-2024 and directed the respondent no.4 to the pass appropriate orders. The respondent no.4 who is subordinate to the respondent no.3 and having only power of executive, refused to comply the directions of the respondent no.3 and rejected the claim of the petitioner on his whims and fancies and also did not look into the records properly and by observing that the petitioner was appointed on 12-06-2001 on class IV post in the pay scale of Rs. 2550-55-2660-60-3200, but the real fact is that the petitioner was appointed in the department in the year of 1994 as daily wager and thereafter by the order no.416/I-341/2000-01 dated 04-01-2001 (Annexure No.5) his services were regularized on Second Grade Clerk post in pay Scale of Rs. 3050-75-3950-80-4590. Thus without perusing the records specifically the regularization order dated 04-01-2001 in which the post of the petitioner is shown as Second Grade Clerk which is available in the department the respondent no.4 on his whims and fancies shown

the petitioner as fresh appointment on the post of Class IV in the pay scale of Rs. 2550-55-2660-60-3200 and denied the Grade pay of Rs.4200/- (Level-6) and on the same forwarded the matter of the petitioner to respondent no.2 for appropriate direction but till date the respondent no.2 has not taken any decision in the matter, and the order of the respondent no.3 dated 05-09-2024 is still waiting for his compliance.

2.6 The petitioner is competing 60 years of age in the year 2025 and if the Grade Pay of Rs.4200/- (Level-6) despite of order of the appointing authority i.e. respondent no.3, the petitioner will suffer irreparable loss and financial loss and the petitioner has apprehension that for counting of service for retrial benefit they again count the service w.e.f. 2001 not from the date of initial appointment i.e. 1994 which again create financial loss to the petitioner in Gratuity and Leave Encashment. The right to get advancement in service by promotion within prescribed period is included in the right to life which is a fundamental right as provided in the Constitution of India and the same is property as per Article 300A to the constitution of India, which is not permissible to be curtail without due process of law.

2.7 The Hon'ble Apex Court as well as the Hon'ble High Courts in various judgments have held that the service served as daily wagers merged into regularization should be counted for the purpose of ACP and promotional avenues and also for retrial benefits. But in the instant case the respondent no.4 on his whims and fancies denied the benefit of Grade Pay of Rs.4200/- (Level-6) despite of order of the appointing authority i.e. respondent no.4.

3. C.A./W.S. has been filed on behalf of the respondents no. 3 & 4, mainly stating that-

3.1 Since the petitioner was appointed in Class IV post in the Pay Scale of Rs. 2550-55-2669-60-3200 in Zila Panchayat, Nainital on 12.06.2001 purely on temporary basis, his services as Peon were confirmed w.e.f. 01.04.2007, he has been promoted to the post of

Clerk Grade II in the Pay Scale of Rs. 3050-75-3950-80-4590 on 21.09.2007, he has been given the benefit of 1<sup>st</sup> ACP w.e.f. 21.09.2017 by granting him Pay Matrix Level-4, and has been promoted to the post of Senior Assistant in the Pay Scale of Rs. 5200-20200, Level 5 Pay Band of Rs. 29200-92300 on 01.07.2020, therefore, he is not entitled for any up gradation of his pay as per the relevant Government Orders.

3.2 The Government of Uttarakhand vide G.O. dated 22.09.2021 has restructured the cadre of Zila Panchayats, whereby 3 posts of Chief Assistant in the Pay Scale of Rs. 9300-34800, Grade Pay of Rs. 4200/- in the Zila Panchayats having more than 5 blocks (Sl. No. 11) have been sanctioned, which is duly applicable in the respondent Zila Panchayat, as there are 8 blocks namely Okalkanda, Dhari, Ramgarh, Bhimtal, Betalghat, Haldwani, kaladhungi, and Ramnagar in District Nainital. All three posts of Chief Assistant in the Pay Scale of Rs. 9300-34800, Grade Pay of Rs. 4200/- are filled up, and no post of Chief Assistant is vacant at present. The petitioner is the junior most Senior Assistant posted in Zila Panchayat, Nainital, and three persons namely Smt. Hanshi Bisht, Smt. Deepa Matiyali and Shri Anand Ballabh Papnai are senior to him. The petitioner for his promotion will be considered along with other Senior Assistant posted in Zila Panchayat, Nainital whenever the post of Chief Assistant fell vacant. The petitioner has not approached this Hon'ble Tribunal with clean hands, and has deliberately suppressed the material fact that the order dated 27.09.2024 issued by the Respondent No. 4 is not an order, but is a letter which has been submitted by the Respondent No. 4 on the request of Applicant/Petitioner himself, therefore, he is not entitled to get any relief.

3.3 In compliance of the order dated 02.07.2024 issued by the Respondent No. 2, the then Apar Mukhya Adhikari, Zila Panchayat, Nainital vide his letter dated 05.09.2024 and undated noting has finally disposed off the matter saying that the dues as admissible from time to time have already been given to him, and there is no any amount to be paid, which is not under challenge, and on this ground also the claim

petition filed by the petitioner is liable to be dismissed. The petitioner is not entitled to get any relief, and the claim petition filed by the Applicant/Petitioner is liable to be dismissed.

4. R.A. has been filed on behalf of the petitioner reiterating the averments made in the claim petition.

5. Heard learned Counsel for the parties and perused the record.

6. Learned counsel for the petitioner argued that the petitioner was appointed on daily wages class IV (supervisor) in the year 1994, he was regularized on 04.01.2001 and appointed as 2<sup>nd</sup> grade clerk on 04.01.2001 by the Respondent No 3. But Respondent No 4 vide order dated 21.09.2007 promoted the petitioner on 2nd Grade Clerk vide order dated 21.09.2007. He was granted 1<sup>st</sup> ACP and further promoted on the post Senior Asstt. (level-5). by the Respondent No 3 vide order dated 01.07.2020. The appointing authority approved him promotion to the grade pay of Rs 4200/- (Level-6) vide order dated 05.09.2024. But Respondent 4 did not comply the direction of the respondent no 3 although he is junior to respondent no 3. The petitioner should be considered for 3<sup>rd</sup> ACP in the grade pay of Rs 4200/-. Learned counsel for the petitioner has argued that the respondent No 4 has overlooked the regularization and appointment of the petitioner on the post of the 2<sup>nd</sup> grade clerk in 2001. The order dated 04.01.2001 has been signed by the Chairman, Zila Panchayat, but order for appointment on the post of 2<sup>nd</sup> Grade Clerk was issued by the Additional Executive Officer of Zila Panchayat Nainital in 2007. The respondent no. 4 considered regularization of the petitioner on Class IV post in the pay scale of Rs. 2550-55-2660-60-3200 as 1<sup>st</sup> appointment. His 1<sup>st</sup> promotion as 2<sup>nd</sup> grade clerk in the scale of 3050-75-3950-80-4590 1<sup>st</sup> ACP and promotion on the post of Senior Asstt. in level-5 (grade pay of Rs. 2800/-) as three promotions given to him. The plea of the respondents is not as per the facts and he is entitled to the 3<sup>rd</sup> ACP. In view of the

above the impugned letter dated 27.09.2024 of the respondent no 4 is liable to be quashed and claim petition is liable to be allowed.

7. Learned counsel for the Zila Panchayat, Nainital, Respondent No 2 & 3 argued that the petitioner who was appointed on daily wages was temporarily appointed on 12.06.2001 on the post of Class-IV by the order of Respondent no 4. The petitioner joined on the same day. He was made permanent on the post of peon on 16.04.2007 by the order of the Chairman, Zila Panchayat Nainital. He was promoted on the post of 2<sup>nd</sup> grade Clerk vide order dated 21.09.2007 and confirmed on the post vide order dated 29.03.2012 of Additional Chief Executive, Zila Panchayat Nainital. The petitioner was granted 1<sup>st</sup> ACP after completion of 10 years of service vide w.e.f. 21.09.2017 vide order dated 20.03.2018. The petitioner was promoted on post of Senior Asstt. in the level -5 vide order dated 01.07.2020. He has represented to the respondents for granting him the scale at the level-6. The matter was referred to the Director Panchayati Raj as well the Financial Advisor that he was not eligible for promotion to the level of Head Clerk and the post of Head Clerk in the organization were not vacant. So in view of the above, his request for promotion at the level-6 (Grade pay of Rs. 4200/-) cannot be accepted. The claim petition is liable to be dismissed. Learned A.P.O. appearing on behalf of the Respondent No 3 & 4 concurred the arguments of the Learned Counsel for the Zila Panchayat Nainital.

8. Based on the argument of the learned counsels for the parties and the documents presented to the Tribunal, we find that the petitioner was appointed as Class-IV employee in the Zila Panchayat Office, Nainital vide order dated 12.06.2001, which he joined on the same day. He was regularized on the post of peon vide order dated 16.04.2007 w.e.f. 01.04.2007 of Chairman Zila Panchayat. He was appointed on the post of 2<sup>nd</sup> grade Clerk vide order dated 21.09.2007 of the Chairman of the Zila Panchayat, which he joined on the same day. The order dated 14.01.2001 of the Chairman, Zila Panchayat, Nainital appointing him on the post of 2<sup>nd</sup> Grade Clerk was not

implemented and there is no joining letter also from the petitioner in support of his being appointed to the post of 2<sup>nd</sup> Grade Clerk rather he gave joining on the post of the 2<sup>nd</sup> grade clerk on 21.09.2007. So, he cannot be considered to have been appointed on the post of 2<sup>nd</sup> Grade Clerk on 14.01.2001. The petitioner was granted 1<sup>st</sup> ACP under MACP Scheme w.e.f. from 21.09.2017 vide order dated 20.03.2018. Even he has requested vide his letter dated 17.01.2018 addressed to the Additional Chief Executive officer that he has completed 10 years of service and he may be considered for grant of benefit of 1<sup>st</sup> ACP. Further the petitioner was promoted on the post of the Senior Asstt. vide order dated 01.07.2020. He made many representations to the higher authorities in the department for promotion on grade pay of Rs. 4200/-. He was informed by the department that there is no provision to grant grade pay of Rs 4200/- to the Senior Asstt. and the petitioner cannot be promoted to the post of the Head Asstt. also. There were three posts of Head Asstt. and no post was vacant for promotion. The petitioner got two promotions and benefit of one ACP during his service career, so he cannot be given another promotion under ACP also.

9. In view of the above, the claim petition is liable to be dismissed.

### **ORDER**

The claim petition is hereby dismissed. No order as to costs.

**RAJENDRA SINGH**  
VICE CHAIRMAN (J)

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

*DATED: OCTOBER 28, 2025*  
*DEHRADUN*  
*KNP*