

**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.149/NB/DB/2022

1. Deepak Chandra Pancholi (Male) aged about 29 years, S/o Late Kheema Nand Pancholi, R/o 79, Officers Colony, Bhatkot, District - Pithoragarh, Presently posted as Revenue Sub Inspector, Tehsil-Didihat, District - Pithoragarh
2. Himanshu Negi (Male) aged about 26 years, S/o Late Dev Singh Negi, R/o 79, Officers Colony, Bhatkot, District Pithoragarh, Presently posted as Revenue Sub Inspector, Tehsil- Didihat, District -Pithoragarh

.....**Petitioners**

vs.

1. Commissioner Kumaon Mandal Nainital, District - Nainital
2. District Magistrate Pithoragarh, District - Pithoragarh
3. State of Uttarakhand through Secretary Department of Revenue Government of Uttarakhand Dehradun.

..... **Respondents**

Present: Sri Sandeep Kothari & Sri Akram Parvez, Advocates
for the petitioners
Sri Kishore Kumar, APO for the Respondents

JUDGMENT

DATED: NOVEMBER 07, 2025

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

"i) To direct the respondents to consider the period of substantial appointment of the claimant / petitioners with regard to claimant/ petitioner no.-1 from 25.04.2016 till he has completed the training i.e. 03.04.2018 and with regard to the claimant/ petitioner no.-2 from 26.03.2016 to 03.04.2018 for the purpose of seniority and other service benefits to be granted to the claimants/ petitioners and the

said period is liable to be considered and the claimants/petitioners are liable to be granted the consequential benefits treating him to be substantially appointed on 25.04.2016 and 26.03.2016 respectively.

ii) To award the cost of the petition and compensation or to pass any such order or direction which this Hon'ble Tribunal may deem fit and proper."

2. Brief facts of the case are as under:

2.1 The fathers of the petitioners were working in the revenue department. While they died under harness, the petitioners have been appointed as Revenue Sub Inspectors vide order dated 25.04.2016 and 26.03.2016 respectively. It is submitted that the appointment orders itself mentioned that the petitioners have to undergo the training of Revenue Sub Inspector and only thereafter the seniority shall be finalized. Subsequent thereto, they have undergone training and have completed the Patwari Training 30.03.2017. On completion of the training, the composite appointment orders have been issued by the District Magistrate, Pithoragarh on 03.04.2018, wherein, the names of the petitioners figured at serial no. 65 and 66 respectively. However, even as on date the service rendered from 25.04.2016 till 03.04.2018 and from 26.03.2016 to 03.04.2018 has not been counted for the purpose of service benefit including the seniority and the date of substantial appointment has been ignored by the respondent authorities, petitioners of seniority w.e.f. 26.03.2016 respectively.

2.2 The petitioners have been appointed under Dying in Harness Rules which is a substantial appointment made against a regular vacancy in regular pay-scale, there is no reason neither any occasion not to consider the claim of the petitioners.

2.3 The State Government has issued the order on 10.10.2013, wherein, it has specifically been mentioned that the appointment made under Dying in Harness Rules are the substantial appointment made against the substantial vacancy and there is no question of placing such person appointed under Dying in Harness Rules below the other employees and the same are required to be given benefits

of seniority from the date of substantial appointment even they are appointed against the supernumerary post. There is no reason nor any occasion available with the respondent authorities not to count the service rendered from 25.04.2016 till 03.04.2018 and from 26.03.2016 to 03.04.2018 of the petitioners.

2.4 The petitioner no.1 preferred representation on 03.08.2018 which was duly acknowledged by the office of the Commissioner Kumaon Mandal, Nainital and directed the District Magistrate to do needful vide order dated 13.08.2018, however, nothing has been done till date. In the representation, it has been specifically mentioned that in the identical circumstances one Shri Harish Chandra Tiruwa was also appointed as Patwari and he has been given all service benefits treating him it to be a substantially appointed on the post of Patwari from the initial date of appointment and this makes it absolutely clear that in only District Pithoragarh, wherein, the petitioners are working and discriminate treatment has been made. Hence, the respondents be directed to decide the representation of the petitioners considering their cases for grant of service benefits and seniority with effect from first date of substantial appointment dated 25.04.2016 and 26.03.2016 respectively.

3. A delay condonation application has also been filed on behalf of the petitioner to condone the delay in filing the claim petition stating therein that the petitioners are claiming that their seniority be counted from the date of substantial appointment and it is the case of the claimant that it is a continuous cause of action and hence the delay condonation application has not been preferred. It is submitted that at the time of the appointment of the petitioners dated 25.04.2016 and 26.03.2016, they were not aware about any consequence in future that their seniority will not be counted from the date of substantial appointment and they could only realize in the year 2022 that their seniority has wrongly been drawn ignoring the date of substantial appointment. No sooner the aforesaid aspect was came into knowledge of the petitioners they filed a claim petition and there is no

inordinate delay in preferring the claim petition. The delay occasioned in claim petition is liable to be condoned. It is further submitted that the delay in filing the instant claim petition has been caused due to administrative exigencies and time consumed at the level of corporation, inasmuch as, the matter in issue is to be considered at the different levels and the delay of 284 days has been occasioned in filing the claim petition and the same is neither deliberate nor intentional and it is in the interest of justice that the delay in preferring the appeal may be condoned. The petitioners prayed to allow the delay condonation application and condone the delay of 284 days delay in filing the claim petition.

4. The delay condonation application has been opposed by the respondents by filing objections stating therein that the petitioners are seeking seniority from the date of substantial appointment with an inordinate delay, thus the claim petition has been filed in a very belated stage and day by day delay is not explained by the petitioners. The cause of action arose in the year 2018 and the limitation was upto 2019 when they completed the training, but the petitioners deliberately did not file any proceedings before any court of law. As per Section 5(b) (i) of the U.P. Public Services Tribunal Act, 1976, as applicable in the State of Uttarakhand, the period of limitation for challenging any order or proceeding before the Tribunal is one year from the date of cause of action. The provisions of the Limitation Act, 1963 (Act of 1963) shall mutatis mutandis apply to reference under section 4 as if a reference were a suit filed in civil court so, however that (i) Notwithstanding the period of limitation prescribed in the Schedule to the said Act, the period of limitation for such reference shall be one year. Whereas, the present claim petition has been preferred beyond the prescribed period of limitation. Thus, it is clear that under 1996 Act, the claim petition is to be filed within one year from the date of cause of action and the claim petition is highly time barred. Hence, the application is liable to be rejected and

petition being time barred, is also needs to be dismissed at the admission stage.

5. We have heard both the sides on the delay and perused the record.

6. Present claim petition has been preferred by the petitioners for considering the period of substantial appointment of the petitioners after completion of the training from 03.04.2018 for the purpose of seniority and other service benefits. It is the submission of learned Counsel for the petitioners that they moved representation to the respondent authority on 03.08.2018, which is undecided. Thereafter, they waited for the decision on their representation from the respondent authorities till 2022. Present claim petition was filed before this Tribunal on 25.11.2022. In the delay condonation application, the petitioners have taken the ground that they were not aware about any consequence in future that their seniority will not be counted from the date of substantial appointment and they could only realize in the year 2022. The petitioners have further stated that the delay in filing the instant claim petition has been caused due to administrative exigencies and time consumed at the level of corporation, inasmuch as, the matter in issue is to be considered at the different levels and the delay of 284 days has been occasioned in filing the claim petition and prayed to condone.

7. The present claim petition has been preferred beyond the prescribed period of limitation. As per the U.P. Public Services Tribunal Act, 1976, the claim petition should have been filed within one year from the date of cause of action arose in the year 2018. But the petitioners approached this Court by filing claim petition on 25.11.2022. After filing objections to the delay condonation application, the petitioners were given many opportunities to file reply to the objections to the delay condonation application. On the point of delay, the petitioners could not explain the day-today delay in preferring the claim petition. Hence, we find that the petitioners failed to explain the day-today delay of 284 days in filing this petition after the cause of action arose and we are of the view that the petition is

time barred and the delay condonation application deserves to be dismissed. Consequently, the claim petition also deserves to be dismissed at the admission stage, being time barred.

8. The delay condonation application is hereby rejected and the claim petition, being time barred, is also dismissed at the admission stage.

A.S.RAWAT
VICE CHAIRMAN (A)

RAJENDRA SINGH
VICE CHAIRMAN (J)

DATED: NOVEMBER 07, 2025
DEHRADUN
KNP