

**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. 01/NB/DB/2025

Sukhbeer Singh (Male) aged about 44 years, S/o Shri Dayaram, posted as Assistant Agriculture Officer Grade-1, Office of Chief Agriculture Officer, Pithoragarh, District-Pithoragarh, Uttarakhand.

.....**Petitioner**

Vs.

1. State of Uttarakhand through Secretary Agriculture, Secretariat Dehradun,
2. Director Agriculture, Uttarakhand, Dehradun,
3. Chief Agriculture Officer, Pithoragarh, District- Pithoragarh,
4. Rajendra Upreti,
5. Kalyan Singh,
6. Narayan Singh,
7. Pooja Samant,
8. Rohit Bisht,
9. Himanshu Joshi,
10. Anand Goswami,
11. Yogesh Rubali,
12. Piyush Mishra,
13. Navin Chandra Joshi,
14. Arvind Bhatt,
15. Kiran Arya,
16. Mamta Joshi,
17. Ban Bhushan Bhatt,
18. Shri Narendra Singh Mehta.

.....**respondents**

Present: Sri Kishore Rai, Advocate for the petitioner

Sri Kishore Kumar, A.P.O., for the respondents no. 1 to 3

JUDGMENT

DATED: NOVEMBER 12, 2025

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

- i) To issue an order or direction to call for the record and to quash the impugned order dated 23.09.2016 passed by the respondent no. 2/ Director Agriculture, Uttarakhand, Dehradun, so far as it relates to the private respondent no. 4 to 18. (Annexure No. 1 to the claim petition)*

ii) To issue a order or direction directing the respondent no. 1, 2 and 3 to place the petitioner at serial no. 14 of the seniority list of Assistant Agriculture Officer (Grade- 1) Development Cour Branch in the respondent department.

iii) To issue any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

iv) To award the cost of claim petition to the petitioner.

2. Heard learned Counsel for the parties on delay condonation application.

3. In the delay condonation application, which is supported by an affidavit, the petitioner has taken the following grounds to condone the delay in filing the claim petition:-

"2. That the present claim petition is being filed by the petitioner for challenging the impugned order dated 23.09.2016 passed by the respondent no. 2/ Director Agriculture, Uttarakhand, Dehradun, so far as it relates to the private respondent no. 4 to 18. The petitioner is further seeking a writ, order or direction in the nature of Mandamus directing the respondent no. 1, 2 and 3 to place the petitioner at serial no. 14 of the seniority list of Assistant Agriculture Officer (Grade- I) Development Branch in the respondent department".

3. That the petitioner approached the respondent department for the redressal of his grievances by making representation however the same cannot be decided by the respondent department/ competent authority. Further before approaching this Hon'ble Tribunal the petitioner approached the Hon'ble High Court of Uttarakhand by preferring a writ petition bearing no. 2121/2024 and the Hon'ble High Court has granted liberty to the petitioner to approached this Hon'ble Tribunal for redresssal of his grievances and the petitioner immediately approached this Hon'ble Tribunal for redressal of his grievances without any further unnecessary delay.

4. That the delay in filing the present claim petition is neither deliberate nor intentional but due to the reasons stated above same is liable to be condoned in the interest of justice by of this Hon'ble Tribunal

5. That in view of the facts and circumstances stated in the accompanying affidavit it is just and expedient in the interest of justice that this Hon'ble Court may graciously be pleased to condone the delay of 2192 days in filing the present claim petition and same may kindly

be treated as filed within the time otherwise the applicant shall suffer irreparable loss and injury.”

4. The official respondents have filed the objections to the delay condonation application mainly objecting the claim petition *inter-alia* on the ground of the delay and it has been stated that the petitioner has not provided any concrete reason for filing the petition beyond the limitation period. Moreover, the petitioner has filed the present claim petition challenging the order dated 23.09.2016 in the year 2025 with a delay of about 8 years. In this regard, it is to be said that the petition filed by the petitioner has been filed late. The time limit for filing the petition in the Hon'ble Tribunal is one year, as prescribed under Section 5(b)(i) of the Uttar Pradesh Public Services Tribunal Act 1976. In this regard, Section 5(b)(i) of the U.P. Public Services (Tribunal) Act 1976 is as under:

5(b) The provisions of the Limitation Act, 1963 (Act 36 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.

5. The petitioner has also filed reply to the objections filed by learned A.P.O. In the reply, it has been stated that petitioner is regularly approaching the respondent department for redressal of his grievances, however, the same could not be considered at their ends, further the petitioner has also approached, the Hon'ble High Court of Uttarakhand twice for the redressal of his grievances and Hon'ble High Court has granted liberty to the petitioner to approach this Hon'ble Tribunal for redressal of his grievances and the petitioner approached this tribunal well within time without any further and unnecessary delay. The assertion of the respondent that claim petition is filed with the delay of 8 years is not tenable for the reason that the petitioner is regularly approaching the respondents for his grievances furthermore, the Hon'ble Apex Court in catena of judgments held and emphasized that right to be considered for promotion to be a fundamental right and the Hon'ble Apex Court also emphasis that under Article 14 and 16(1) of the Constitution of India held that if a person who satisfies the eligibility and the criteria for promotion but still not considered for promotion then there is a clear violation of his/her fundamental right. It has further been submitted that the judgment of Hon'ble Apex Court relying upon the various earlier pronouncement of

Hon'ble Apex Court has passed the judgment in the case of Ajay Kumar Shukla and others vs. Arvind Rai and others, Civil Appeal No.5966 of 2021 categorically condoned the delay of 11 years while challenging the seniority list, it is further submitted that the Hon'ble Apex Court also considered the version of the appellants who challenged the seniority list after a lapse of 11 years and relying upon the aforesaid judgment, the delay caused in the present claim petition is liable to be condoned as the delay is neither intentional nor deliberate on the part of petitioner and the valuable rights of the petitioner are at stake and the claim petition is to be on its own merit rather than venturing into the delay. It is further submitted that the private respondent despite sufficient service has not filed their objection, therefore, the delay caused in preferring the present claim petition on behalf of petitioner is liable to be condoned. It is further submitted that the private respondent whose right is likely to be interfered with have not turned up meaning thereby they accepted the version of the petitioner in the claim petition and the delay caused in present claim petition is liable to be condoned in the interest of justice and it is submitted that claim petition was filed under bona fide belief and on legal advice, and the delay therein was neither intentional nor deliberate. Mere filing of the claim petition with some delay cannot be treated as an attempt to "overcome a lacuna." The petitioner was diligently pursuing the remedies available in law, and delay occurred due to circumstances beyond control. The petitioner has explained sufficient cause for the delay in filing the present claim petition, which occurred due to reasons beyond the control of the petitioner, therefore, the delay may be condoned and the aforesaid Claim Petition be treated within time before this Hon'ble Court, keeping in view the aforesaid submissions as well as submissions made in the Delay Condonation Application.

6. In the instant petition, the petitioner is challenging the impugned order dated 23.09.2016. the petitioner has taken the ground that prior to this, he approached Hon'ble High Court of Uttarakhand by preferring a writ petition No. WPSS No.2121 of 2024 "Sukhbeer Singh vs. State of Uttarakhand and others" and the Hon'ble Court has granted liberty to approach this Hon'ble Tribunal and the remedy of the grievances of petitioner lies before this Hon'ble Tribunal. In support of his case, learned counsel for the petitioner has relied upon the judgment of Hon'ble Supreme Court in the case Ajay Kumar Shukla and others vs. Arvind Rai and others. The view of

the Hon'ble Supreme Court in this case that 3-4 years is a reasonable period for challenging the issue and in case someone agitates the issue of beyond this period, he has to explain the delay and laches in approaching the adjudicatory forum, by furnishing satisfactory explanation. This judgment will not help the petitioner, as in the instant case, the petitioner has not satisfactorily explained the long delay of 2192 days. The cause of action arose to the petitioner when the impugned order dated 23.09.2016 was passed. Thereafter, within one year, the petitioner should have challenged the said order before the Tribunal till 22.09.2017. The petitioner filed the aforesaid writ petition before the Hon'ble High Court in the year 2024, which was dismissed by the Hon'ble High Court vide order dated 12.11.2024 on the ground of alternative remedy with liberty to the petitioner to approach the Public Services Tribunal for redressal of his grievance. Moreover, in the aforesaid writ petition, the Hon'ble High Court has not condoned the delay. Hence, the present petition filed by the petitioner is beyond the period of limitation. The petitioner has also not satisfactorily explained the delay of 2192 days after the cause of action arose till the filing of Writ Petition before the Hon'ble High Court, which cannot be condoned

7. The claim petition is accordingly, dismissed at the admission stage, as barred by limitation. No order as to costs.

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

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

DATE: NOVEMBER 12, 2025
DEHRADUN.
KNP