

**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. 63/NB/DB/2022**

1. Rahul Ruhela, aged about 32 years, s/o Sri Hareesh Kumar Ruhela, presently serving as Junior Engineer (Agriculture), Minor Irrigation Department, Block Sitarganj, District Udham Singh Nagar.

2. Mukul Sati aged about 36 years, s/o Sri B. K. Sati, presently serving as Junior Engineer (Agriculture) (Head Quarter), Minor Irrigation Sub-Division, Ranikhet District Almora.

..... **Petitioners**

**vs**

1. State of Uttarakhand, through Secretary, Minor Irrigation Department, Government of Uttarakhand, Dehradun.

2. Chief Engineer and Head of Department, Minor Irrigation, Department, Uttarakhand, Dehradun.

3. Uttarakhand Public Service Commission, Gurukul Kangari, Haridwar through its Secretary.

4. Sri Brijmohan Singh Negi (Male), S/O Not known, presently serving as Junior Engineer (Civil).

5. Sri Sonu Kumar (Male), S/O Sri Rajendra Singh, presently serving as Junior Engineer (Agriculture).

6. Sri Narendra Kumar Tiruwa (Male), S/O Not Known, presently serving as Junior Engineer (Agriculture).

7. Sri Arvind Kumar (Male), S/O Not Known, presently serving as Junior Engineer (Agriculture).

8. Sri Sunil Kumar (Male), S/O Not Known, presently serving as Junior Engineer (Agriculture).

9. Sri Om Prakash (Male), S/O Not Known, presently serving as Junior Engineer (Agriculture).

10. Smt. Priyanka Chilwal (Female), W/O Not Known, presently serving as Junior Engineer (Agriculture).

11. Km. Ruchi Padaliya (Female), D/O Not Known, presently serving as Junior Engineer (Agriculture).

12. Km. Seema Khan (Female), D/O Not Known, presently serving as Junior Engineer (Agriculture).

13. Sri Rakesh Kumar Singh (Male), S/O Sri Vikram Singh, presently serving as Junior Engineer (Agriculture).
14. Sri Tinku (Male), S/O Not Known, presently serving as Junior Engineer (Agriculture).
15. Sri Joni Kumar (Male), S/O Not Known, presently serving as Junior Engineer (Agriculture).
16. Sri Durgesh Kumar (Male), S/O Not Known, presently serving as Junior Engineer (Agriculture).
17. Sri Sonu Kumar (Male), S/O Sri Sanjora Singh, presently serving as Junior Engineer (Agriculture).
18. Sri Pramod Kumar (Male), S/O Not Known, presently serving as Junior Engineer (Agriculture).
19. Sri Pankaj Kumar (Male), S/O Not Known, presently serving as Junior Engineer (Agriculture).
20. Sri Ranjeet Prasad (Male), S/O Not Known, presently serving as Junior Engineer (Agriculture).
21. Sri Narayan Prasad (Male), S/O Not Known, presently serving as Junior Engineer (Agriculture).
22. Sri Chhotte Lal (Male), S/O Not Known, presently serving as Junior Engineer (Agriculture).
23. Sri Jugendra Pratap Singh (Male), S/O Not Known, presently serving as Junior Engineer (Agriculture).

Respondent No. 4 to 23, through the Chief Engineer and Head of Department, Minor Irrigation, Department, Uttarakhand, Dehradun.

..... **Respondents**

Present: Sri Bhagwat Mehra, Advocate, for the petitioners  
 Sri Kishore Kumar, A.P.O. for the respondents no. 1 & 2  
 Sri Ashish Joshi, Advocate, for respondent no. 3  
 Sri Prem Kaushal, Advocate, for respondents no. 6, 9, & 20.

### **JUDGMENT**

**DATED: DECEMBER 11, 2025**

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

This claim petition has been filed by the petitioner for following reliefs:

*"A. To set-aside the impugned seniority list dated 20-05-2022 issued by the Respondent No. 2 (Annexure No. 1 to Compilation-I).*

*B. To declare the action of the Respondent No. 2 in altering/reversing the merit list prepared by the Commission in order of merit regarding the petitioners vis-à-vis private respondents which was prepared in the year*

*2013 and which remained intact till date, as arbitrary, illegal and ultra-vires/without authority of law.*

*C. To direct the Respondent No. 2 to prepare afresh the seniority list of personnel serving on the post of Junior Engineer, Minor Irrigation Department, strictly in accordance with law as well as Uttarakhand Government Servant Seniority Rules, 2002.*

*D. To pass any other suitable order as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.*

*E. To allow the claim petition with cost."*

2. Brief facts, giving rise to present claim petition, are as follows:

2.1 Petitioners are Diploma holder with 1<sup>st</sup> Division marks and have undergone one year Apprentice. The service conditions of the post of Junior Engineer (Agriculture Engineering) in Minor Irrigation are regulated by the Statutory Rules namely "Uttaranchal Service of Junior Engineers (Group 'C') Minor-Irrigation (Irrigation Department) Rules, 2003" notified on 17.10.2003. Rule 15 (6) of the said Rules is reproduced below:-

"(6) The Selection Committee shall prepare a list in the order of their proficiency as disclosed by the aggregate of marks obtained by each candidate at the written examination and interview and recommend such number of candidates as they consider fit for appointment. If two or more candidates obtained equal marks in the aggregate, the name of the candidate obtaining higher marks in the written examination shall be placed higher in the list. The number of names in the list shall be larger (but not larger by more than 25 percent) than the number of vacancies. The Selection Committee shall forward the list to the Appointing Authority".

2.2 Respondent No. 3 issued an advertisement dated 25.8.2011 whereby various posts of Junior Engineer in different Departments were advertised. By means of the said common advertisement, inter-alia in Minor Irrigation Department, 46 posts of Junior Engineer (Agriculture Engineer) were advertised. Out of the said 46 advertised posts, 25 posts were unreserved, 17 were reserved for Scheduled Castes and 4 for Scheduled Tribe.

2.3 Petitioners appeared in the written examination and in the interview also and result of the same was declared on 18.07.2013.

As per the score card, petitioner No. 1 scored 171 marks in written examination and 32 marks in Interview, total 203 marks. Against the total 46 posts, only 41 candidates were declared successful, and as many as five posts falling within horizontal as well as vertical reservation quota were carried forward on different grounds. In General Category, against 25 advertised posts, only 24 candidates were selected including Petitioner No. 2 and one post was carried forward on the ground of non-availability of a candidate belonging to horizontal reservation (Physically disabled). In the advertisement, no post was reserved for Physically Disabled person.

2.4 Petitioner No. 2 was also declared successful and his name is at Sl. No. 21. The cut off marks were declared by the Commission on 26.07.2013, according to which, the last candidate selected in General Category, scored 203 marks while in General (Uttarakhand Woman), the last selected candidate scored 183 marks. The name of the petitioner No. 1 did not figure in the said result despite scoring the same marks i.e. 203 as scored by the last selected candidate. Thereafter, petitioner No.1 enquired about the marks scored by the last candidates and as per his information, it was revealed that candidates selected with equal marks in total, but, they have scored less marks than the petitioner No.1 in the written examination, as such, by virtue of mandate of Rule 15 (6) as aforesaid, the name of the petitioner No.1 should have been placed above petitioner No. 2.

2.5 Feeling aggrieved, the petitioner No. 1 filed Writ Petition No. 1292 (S/S) of 2013 (Rahul Ruhela Vs. State of Uttarakhand and others in the Hon'ble Uttarakhand High Court at Nainital. The Hon'ble High Court directed that no appointment be given to the Respondent No. 4 therein, (petitioner No. 2 herein). However, the Respondent No. 2 herein issued common appointment order on 19-09-2013, whereby, various persons including the petitioner No. 2 as well as private Respondents were also appointed on the post of Junior Engineer, except the Petitioner No. 1. However, the appointment order of petitioner No. 2 was kept in abeyance by the Respondent No. 2 in view of interim order. The Respondent No. 2 issued

appointment order in favour of the petitioner No. 1 on 24-07-2014, whereby he was appointed on the post of Junior Engineer in Minor Irrigation Department.

2.6 Vide office memo dated 25-01-2022, the Respondent No. 2 circulated the tentative seniority list for Sl. No. 125 to Sl. No. 146 of the persons serving on the post of Junior Engineer in the Minor Irrigation Department. In the said tentative seniority list, Respondent No. 4 has been placed at Sl. No. 164 while other private Respondents have been placed from Sl. No. 168 to 187. The names of the petitioners have been placed at Sl. No. 189 and 188 respectively in the said tentative seniority list.

2.7 The seniority list has been prepared in complete violation of the Seniority Rules, 2002. The petitioners have been placed much below the private Respondents as the petitioners have scored 203 marks in the said selection while the Private Respondents have scored very less marks between 183 to 200 marks. The petitioners filed objections and submitted all the documents with it but the representation of the petitioners was rejected.

3. C.A./W.S. has also been filed on behalf of respondents no. 1 & 2 separately on the same lines. In the C.A/W.S. it has been contended that-

3.1 लघु सिंचाई विभाग में कनिष्ठ अभियन्ताओं के सम्बन्ध में “उत्तरांचल लघु सिंचाई (सिंचाई विभाग) कनिष्ठ अभियन्ता (समूह ग) सेवा नियमावली-2003” जारी की गयी थी तत्पश्चात उत्तरांचल लघु सिंचाई (सिंचाई विभाग) कनिष्ठ अभियन्ता (समूह ग) सेवा (संशोधन) नियमावली –2008 जारी की गयी है। कनिष्ठ अभियन्ता (समूह ग) सेवा (संशोधन) नियमावली-2008 के नियम 15 सीधी भर्ती की प्रक्रिया में निम्न प्राविधान किया गया है:—

15 (1) प्रतियोगिता परीक्षा में सम्मिलित होने के लिए आयोग, विहित प्रपत्र में आवेदन पत्र आमंत्रित करेगा।

15 (2) रिक्तियों की सूचना आयोग द्वारा समाचार पत्रों में विज्ञापित की जायेगी और ऐसे अभ्यर्थियों के आवेदन पत्र आमंत्रित किये जायेंगे जो परिशिष्ट के स्तम्भ-5 में विनिर्दिष्ट तकनीकी अर्हता रखते हों और जिनके नाम उत्तराखण्ड स्थित विभिन्न सेवायोजन कार्यालयों में पंजीकृत हों।

15 (2) रिक्तियों की सूचना आयोग द्वारा समाचार पत्रों में विज्ञापित की जायेगी और ऐसे अभ्यर्थियों के आवेदन पत्र आमंत्रित किये जायेंगे जो परिशिष्ट के स्तम्भ-5 में विनिर्दिष्ट तकनीकी अर्हता रखते हों और जिनके नाम उत्तराखण्ड स्थित विभिन्न सेवायोजन कार्यालयों में पंजीकृत हों।

15 (6) आयोग, अभ्यर्थियों को उनकी प्रवीणता क्रम में जैसा कि लिखित परीक्षा और साक्षात्कार में प्रत्येक अभ्यर्थी द्वारा प्राप्त अंकों के कुल योग से प्रकट हो एक सूची तैयार करेगा और उतनी संख्या में अभ्यर्थियों को जितने वह नियुक्ति के लिए उचित समझे, संस्तुत करेगा। यदि दो या दो से अधिक अभ्यर्थी कुल योग में बराबर-बराबर अंक प्राप्त करें तो लिखित परीक्षा में अधिक अंक प्राप्त करने वाले अभ्यर्थी का नाम सूची में ऊपर रखा जायेगा। यदि लिखित परीक्षा में भी दो या अधिक अभ्यर्थियों ने बराबर-बराबर अंक प्राप्त किये हों तो आयु में ज्येष्ठ अभ्यर्थी को चयन सूची में ऊपर रखा जायेगा। सूची में नामों की संख्या रिक्तियों की संख्या से अधिक (किन्तु 25 प्रतिशत से अनाधिक) होगी। आयोग सूची नियुक्ति प्राधिकारी को अग्रसारित करेगा।

3.2 चूँकि कनिष्ठ अभियन्ता का पद लोक सेवा आयोग की परिधि का पद है अतः विभाग द्वारा उपलब्ध करायी गयी रिक्त पदों की सूचना के आधार पर उत्तराखण्ड लोक सेवा आयोग हरिद्वार द्वारा विज्ञप्ति जारी की जाती है तथा लिखित परीक्षा, साक्षात्कार आदि के पश्चात् श्रेष्ठता क्रम में चयनित अभ्यर्थियों की सूचना शासन को उपलब्ध करायी जाती है। कनिष्ठ अभियन्ता पद हेतु नियुक्ति अधिकारी मुख्य अभियन्ता एवं विभागाध्यक्ष हैं अतः आयोग एवं शासन से प्राप्त सूचना के आधार पर विभाग द्वारा चयनित अभ्यर्थियों को नियुक्ति आदेश निर्गत किये जाते हैं। उत्तराखण्ड लोक सेवा आयोग, हरिद्वार द्वारा संयुक्त कनिष्ठ अभियन्ता चयन परीक्षा वर्ष 2011 के अन्तर्गत वर्ष 2011 में विभिन्न अभियन्त्रण विभागों में कनिष्ठ अभियन्ताओं की भर्ती हेतु विज्ञप्ति जारी की गयी थी जिसमें लघु सिंचाई विभाग हेतु कनिष्ठ अभियन्ता (कृषि) के कुल 46 पद (25 सामान्य, 17 अनुसूचित जाति, 04 अनुसूचित जनजाति), कनिष्ठ अभियन्ता (सिविल) के 02 पद (02 सामान्य) तथा कनिष्ठ अभियन्ता (यांत्रिक) के 01 पद (01 सामान्य) सम्मिलित थे। उत्तराखण्ड लोक सेवा आयोग द्वारा दिनांक 18.07.2013 को श्रेष्ठता क्रम में अन्तिम रूप से विभाग वार चयनित अभ्यर्थियों की सूची जारी की गयी थी। जिसमें लघु सिंचाई विभाग, हेतु कनिष्ठ अभियन्ता (कृषि) के 41 अभ्यर्थी, कनिष्ठ अभियन्ता (सिविल) के 02 अभ्यर्थी तथा कनिष्ठ अभियन्ता (यांत्रिक) के 01 अभ्यर्थी का नाम सम्मिलित था। कनिष्ठ अभियन्ता (कृषि) लघु सिंचाई विभाग की सूची में निम्न टिप्पणी की गयी थी:- अनारक्षित / विकलांग, श्रवण हास (पीन्डी) श्रेणी का 01, अनुसूचित जाति श्रेणी का 01 एवं अनुसूचित जनजाति श्रेणी के 03, रिक्त पात्र अभ्यर्थी उपलब्ध न होने के कारण अग्रणीत की जाती है। लोक सेवा आयोग द्वारा उक्त चयनित अभ्यर्थियों की सूची सचिव, लघु सिंचाई विभाग, उत्तराखण्ड शासन को उपलब्ध करायी गयी।

3.3 उत्तराखण्ड लोक सेवा आयोग द्वारा दिनांक 18.07.2013 को जारी लघु सिंचाई विभाग, कनिष्ठ अभियन्ता (कृषि) की चयनित अभ्यर्थियों की सूची में क्रमांक-20 पर मुकुल सती तथा क्रमांक 21 पर प्रियंका शर्मा का नाम अंकित है। जबकि दिनांक 18.07.2013

को उत्तराखण्ड लोक सेवा आयोग, हरिद्वार द्वारा जारी अभ्यर्थियों की सूची में श्री राहुल रूहेला का नाम सम्मिलित नहीं था। उत्तराखण्ड शासन के पत्रांक 836 दिनांक 06.08.2013 तथा पत्रांक 871 दिनांक 11.09.2013 से प्राप्त निर्देशों के क्रम में मुख्य अभियन्ता एवं विभागाध्यक्ष, लघु सिंचाई विभाग, उत्तराखण्ड, देहरादून के कार्यालय आदेश संख्या 1141 दिनांक 19.09.2013 के द्वारा चयनित अभ्यर्थियों की तैनाती की गयी जिसमें क्रमांक 20 पर मुकुल सती का नाम भी सम्मिलित था। परन्तु लोक सेवा आयोग द्वारा निर्गत सूची में श्री राहुल रूहेला का नाम सम्मिलित न होने के कारण उनका नाम सम्मिलित नहीं था। अतः राहुल रूहेला को 19.09.2013 को कोई नियुक्ति आदेश निर्गत नहीं किया गया था। श्री राहुल रूहेला (वादी संख्या-1) द्वारा मा० उच्च न्यायालय, नैनीताल में याचिका संख्या 1292/2013 (एस०एस०) राहुल रूहेला बनाम उत्तराखण्ड राज्य व अन्य दायर की गयी जिसमें राज्य सरकार एवं उत्तराखण्ड लोक सेवा आयोग के साथ-साथ श्री मुकुल सती को प्रतिवादी संख्या-04 तथा प्रियंका शर्मा को प्रतिवादी संख्या-05 बनाया गया। उक्त याचिका में दिनांक 18.09.2013 को पारित अन्तरिम आदेश में मा० उच्च न्यायालय द्वारा प्रतिवादी संख्या-04 (मुकुल सती) को अग्रिम आदेशों तक सक्षम अधिकारी द्वारा नियुक्ति आदेश निर्गत न करने के निर्देश किये गये। मा० उच्च न्यायालय के निर्देशों के क्रम में मुख्य अभियन्ता एवं विभागाध्यक्ष, लघु सिंचाई विभाग, उत्तराखण्ड, देहरादून के कार्यालय आदेश संख्या 1181 दिनांक 23.09.2013 द्वारा श्री मुकुल सती के नियुक्ति आदेश को मा० उच्च न्यायालय के अग्रिम आदेशों तक स्थगित किया गया।

3.4 रिट याचिका संख्या 1292/2013 (एस०एस०) में दिनांक 05.05.2014 को पारित आदेश में मा० उच्च न्यायालय द्वारा याचिकाकर्ता श्री राहुल रूहेला को चयनित घोषित करते हुए उसे नियुक्ति आदेश जारी करने के निर्देश दिये गये, दिनांक 05.05.2014 को पारित आदेश में मा० उच्च न्यायालय द्वारा यह भी निर्देश दिये गये कि क्योंकि विभाग में विकलांग श्रेणी का 01 पद रिक्त है जिसे आयोग द्वारा आगामी वर्षों हेतु अग्रणीत किया गया है। अतः प्रतिवादी संख्या-04 (मुकुल सती) को उक्त विकलांग श्रेणी की 01 रिक्ति के सापेक्ष नियुक्ति प्रदान की जाये। चूँकि कनिष्ठ अभियन्ता का पद लोक सेवा आयोग की परिधि का पद है इस लिए शासन के पत्रांक 351 दिनांक 30.05.2014 द्वारा मा० न्यायालय के दिनांक 05.05.2014 के आदेश के क्रम में अपनी अनुशंसा शासन को उपलब्ध कराये जाने हेतु लोक सेवा आयोग, उत्तराखण्ड से अनुरोध किया गया। जिसके क्रम में लोक सेवा आयोग के पत्र दिनांक 05.06.2014 द्वारा शासन को अवगत कराया गया कि मा० उच्च न्यायालय के उक्त निर्णय के विरुद्ध आयोग द्वारा डबल बेंच में अपील किये जाने की कार्यवाही गतिमान है तथा आयोग द्वारा अपनी अनुशंसा के सम्बन्ध में सूचना उपलब्ध नहीं करायी गयी।

3.5 उत्तराखण्ड शासन के पत्रांक 552 । दिनांक 24.07.2014 के द्वारा मा० उच्च न्यायालय द्वारा दिनांक 05.05.2014 को पारित आदेश का अनुपालन किये जाने का निर्णय लेते हुए मुख्य अभियन्ता एवं विभागाध्यक्ष, लघु सिंचाई विभाग, उत्तराखण्ड, देहरादून को दिनांक 05.05.2014 के मा० उच्च न्यायालय के आदेश का परिपालन करते हुए अनुपालन आख्या उपलब्ध कराने के निर्देश दिये गये। उक्त आदेश के क्रम में मुख्य अभियन्ता एवं विभागाध्यक्ष, लघु सिंचाई विभाग, उत्तराखण्ड, देहरादून के कार्यालय आदेश संख्या 577

दिनांक 24.07.2014 के द्वारा श्री राहुल रुहेला तथा कार्यालय आदेश संख्या 578 दिनांक 24.07.2014 के द्वारा श्री मुकुल सती को कनिष्ठ अभियन्ता के पद हेतु नियुक्ति आदेश निर्गत किये गये। रिट याचिका संख्या 1292/2013 (एस०एस०) में दिनांक 05.05.2014 को पारित आदेश के विरुद्ध मा० उत्तराखण्ड लोक सेवा आयोग, हरिद्वार द्वारा योजित विशेष याचिका संख्या 303/2014 को मा० उच्च न्यायालय द्वारा दिनांक 16.06.2017 यह उल्लेख करते हुए निस्तारित किया गया कि चूँकि उत्तराखण्ड शासन द्वारा दिनांक 05.05.2014 के आदेश को स्वीकार कर लिया गया है।

3.6 लोक सेवा आयोग द्वारा दिनांक 18.07.2013 को निर्गत सूची के क्रम में श्री मुकुल सती को छोड़कर शेष अभ्यर्थियों को दिनांक 19.09. 2013 के आदेश के द्वारा चयन वर्ष 2013-14 में तैनाती दी गयी है। जबकि श्री राहुल रुहेला एवं श्री मुकुल सती को मा० उच्च न्यायालय द्वारा पारित आदेश के क्रम में दिनांक 24.07.2014 के आदेश के द्वारा चयन वर्ष 2014-15 में नियुक्ति प्रदान की गयी है। मा० उच्च न्यायालय द्वारा याचिका संख्या 1292/2013 में दिनांक 05. 05.2014 तथा विशेष याचिका संख्या 303/2014 में दिनांक 16.06.2017 को पारित आदेश के क्रम में उत्तराखण्ड लोक सेवा आयोग द्वारा चयनित अभ्यर्थियों के श्रेष्ठता क्रम के सम्बन्ध में कोई संशोधित सूची उपलब्ध नहीं करायी गयी है।

3.7 उत्तराखण्ड सरकारी सेवक ज्येष्ठता नियमावली 2002 के भाग-2 ज्येष्ठता का अवधारण के नियम 5 में यह प्राविधान है कि किसी एक चयन के परिणामस्वरूप नियुक्त किये गये व्यक्तियों की परस्पर ज्येष्ठता वही होगी जो यथास्थिति, आयोग या समिति द्वारा तैयार की गयी योग्यता सूची में दिखायी गयी है, किन्तु प्रतिबन्ध यह है कि सीधे भती किया गया कोई अभ्यर्थी ज्येष्ठता खो सकता है, यदि किसी रिक्त पद का उसे प्रस्ताव किये जाने पर, वह विधिमान कारणों के बिना, कार्यभार ग्रहण करने में विफल रहता है, कारणों के विधिमान्यता के सम्बन्ध में नियुक्ति प्राधिकारी का भी विनिश्चय अन्तिम होगा। अग्रेतर प्रतिबन्ध यह है कि पश्चातवर्ती चयन के परिणामस्वरूप नियुक्त किये गये व्यक्ति पूर्ववर्ती चयन के परिणामस्वरूप नियुक्त किये गये व्यक्तियों से कनिष्ठ रहेंगे।

3.8 मुख्य अभियन्ता एवं विभागाध्यक्ष, लघु सिंचाई विभाग, उत्तराखण्ड देहरादून (जोकि कनिष्ठ अभियन्ता पद के नियुक्ति अधिकारी भी हैं) के कार्यालय ज्ञाप संख्या 302 दिनांक 20.05.2022 के द्वारा प्राप्त प्रत्यावेदनों का निस्तारण करते हुए कनिष्ठ अभियन्ताओं की अन्तिम ज्येष्ठता सूची निर्गत की गयी है जोकि नियमानुसार एवं उचित है। याचिकाकर्ताओं द्वारा अपने कथन में मुख्य अभियन्ता एवं विभागाध्यक्ष, लघु सिंचाई विभाग, उत्तराखण्ड, देहरादून के कार्यालय ज्ञाप संख्या 302 दिनांक 20.05.2022 द्वारा निर्गत कनिष्ठ अभियन्ताओं 02 की ज्येष्ठता सूची में लोक सेवा आयोग द्वारा जारी वरीयता सूची में बदलाव का उल्लेख किया गया है, जोकि सत्य नहीं है। मा० उच्च न्यायालय द्वारा पारित निर्णय के क्रम में उत्तराखण्ड शासन के निर्देशों के क्रम में नियमानुसार वरिष्ठता सूची निर्गत की गयी है। याची की याचिका सव्यय अस्वीकार होने योग्य है।



4. C.A./W.S. has been filed on behalf of the respondent no. 3 (Uttarakhand Public Service Commission), mainly stating therein that the Commission conducts the selection exercise on the basis of the requisition sent by the Government/Concerned Department along with the service rules and Government orders and the records of the candidates. After completion of the selection process, the Commission makes the list of selected candidates and sends the recommendation to the concerned department. It is stated here that regarding the determination of seniority amongst the employees the same will be done by the department. Present claim petition has been filed for quashing the seniority list dated 20-05-2022 issued by the respondent no.1, which is the matter concerning the Irrigation Department. The petitioner is not entitled for any relief sought by them and the claim petition is liable to be dismissed.

5. No C.A./W.S. has been filed on behalf of private respondent no. 4. C.A./W.S.

6. None has appeared on behalf of the private respondents no. 5, 7, 9, 10, 11, 13, 14, 15, 16, 17, 18, 21, 22 & 23 to argue the matter on the date of hearing, therefore, the Tribunal vide order dated 13.10.2025 decided to proceed ex-parte against these respondents. However, the C.A./W.S. filed on behalf of these private respondents is on record, therefore, averments of the C.A.W.S. are being taken as their submissions. In the C.A./W.S. they have stated that the answering respondents joined the service prior to the petitioners and as such the answering respondents are having more length of service, then the petitioners and therefore the answering respondents have rightly been placed in the seniority list. There is no illegality in the impugned seniority list and it is wrong to allege that there is any violation of Uttarakhand Government Servants Seniority Rules, 2002, in which it has been clarified that the incumbents appointed on the basis of later result, will remain junior to the incumbents appointed on the basis of earlier result. The petitioners were appointed consequently based on the order passed by Hon'ble High Court in the petition filed by the petitioner no. 1 in which

petitioner no. 2 was party respondent. There were no directions of Hon'ble Court regarding placement of the petitioner in the seniority list above answering respondents. The petitioners are not entitled for the relief and the claim petition deserves to be dismissed.

7. Ld. Counsel, who was contesting respondent no. 19 has stated that the respondent no. 19 is not interested to pursue the case, therefore, the Tribunal decided to proceed ex-parte against this respondent also vide order dated 13.10.2025. The C.A./W.S. has also been filed on behalf of respondents no. 6, 9, 19 & 20 mainly stating therein that there is no illegality in the impugned seniority list and it is wrong that there is any violation of the provisions of the Uttarakhand Government Servants Seniority Rules, 2002 and in fact the seniority list has been issued strictly in accordance with the said rules. The objection of the petitioner against the tentative list has rightly been rejected by a speaking and reasoned order and thus the present claim petition bears no merit and deserves to be dismissed.

8. Replying to the Counter Affidavits filed by the respective parties, the petitioners have also filed rejoinder affidavit and the averments made in the claim petition have been reiterated.

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

10. Learned counsel for the petitioner argued that the Petitioner No. 1 and 2 both scored 203 marks but petitioner 1 has more marks (171) in the written examination than the petitioner No. 2 (166). But the Commission recommended the name of the petitioner no. 2 in the selection list dated 18/7/2013. As per the Rule, the petitioner No. 1 should have been above Petitioner no. 2 in the seniority list. The recommendations of the Commission have been followed by the department as the Public Service Commission overlooked the Petitioner No.1 while submitting the merit list to the department. That is why the Petitioner No 1 could not be extended offer of appointment on 19/9/2013. Petitioner No 1 was given appointment on 24/07/2014 by the Respondent No. 2 only after the order dated 05/05/2014 of the Hon'ble

High Court in writ petition No. 1292 (SS) of 2013. The offer of appointment given to the Petitioner No. 2 was stayed by the Respondent No.2 on the order dated 18/9/2013 of the Hon'ble High Court of Uttarakhand at Nainital and was also given appointment by the Respondent No. 2 vide letter dated 24/07/2014 on the final order of the Hon'ble High court in writ petition No. 1292 (SS) of 2013. The respondent No 2 circulated the tentative seniority list of the JEs on 25/01/2022 and invited objections from the affected persons in which the petitioners were placed at sl. No. 189 and 188. The petitioner no.1 submitted his objection in respect of his place in the list, as it should have been at 168 in place of 189. But the respondent no. 2 then put the petitioners No 1 & 2 at Sl. No 188 and 189 in the final seniority list and their date of appointment is shown as 24/7/2014. This is in violation of the Uttarakhand Government Servants Seniority Rules, 2002. Petitioners No 1 & 2 should be placed at Sl. No 168 & 169 below Prianka Sharma at Sl. no 167. The Petitioner No. 1 would have been appointed by the Respondent no 2 against the vacancy available at the time, the offer of appointment was issued on 19/9/2013, had the Commission submitted proper selection list to the department. By virtue of the appointment orders issued on 24/07/2014 they have been placed at sl. no 188 & 189 for which the petitioners have no fault. It was due to mistake on the part of the Respondent No. 3, the Uttarakhand Public Service Commission that they recommended the name of the petitioner No. 2 in place of petitioner No. 1. Petitioner No. 2 was offered appointment on 13/9/2013 which was stayed by the Hon'ble High Court but subsequently allowed by the Hon'ble High Court with the order to adjust him against the vacancy for general category which was wrongly reserved for physically challenged persons. In view of the above the Petitioner no. 1 and 2 deserve to be placed at Sl. No 168 & 169 in the seniority list as per their marks in the examination conducted by Uttarakhand Public Service Commission. The impugned seniority list is liable to be quashed and the claim petition is liable to be allowed.

11. Learned A.P.O. argued that both the petitioners No.1& 2 were given offer of appointment by the Respondent No.2 on the order of the

Hon'ble High Court of Uttarakhand at Nainital in the writ petition No. 1292 (SS) of 2013. Whereas the private respondents have been given offer of appointment on 13/9/2013. By virtue of the prior appointment of the private respondents, the private respondents are above in the seniority compared to the petitioners as per Rule- 5 of the Uttarakhand Government Servants Seniority Rules, 2002. So, the seniority of the petitioners has been rightly decided. The claim petition is liable to be dismissed.

12. Learned Counsel for the respondent no. 3 argued that the Commission conducts the selection exercise on the basis of the requisition sent by the Government/Concerned Department along with the service rules and Government orders and the records of the candidates. After completion of the selection process, the Commission makes the list of selected candidates and sends the recommendation to the concerned department and regarding the determination of seniority amongst the employees the same is done by the department.

13. The submissions on behalf of the private respondents is that they have been given offer of appointment prior to the petitioners and they joined also, they are rightly placed in seniority above the petitioners.

14. Based on the arguments of the parties and the documents placed before the Tribunal, we find that the petitioners no. 1 and 2 both scored same marks 203. But the marks scored in the written examination by the petitioner No .1 were higher than the petitioner No.2. So, his name should have been recommended by the Commission for appointment.

15. The Commission recommended petitioner No. 2 by giving him benefit of the NCC- B certificate wrongly, this has been mentioned by the Hon'ble High Court in the judgment dated 05/05/2014. The Petitioner No. 1 was given offer of appointment on the order of the Hon'ble High Court of Uttarakhand at Nainital in the writ petition No 1292(SS) of 2013. The offer of appointment dated 13/09/2013 issued to the Petitioner No 2 was withheld by the Respondent No. 2 on the interim order of the Hon'ble High Court in the aforesaid writ petition. Both the petitioner 1 &

2 were appointed on the order of the Hon'ble High Court by respondent No. 2 vide order dated 24/07/2014. Because of the order of appointment issued after the order of appointments of private respondents Sl. 4 to 23, they were placed below them in the seniority by the respondents. The department did not consider the fact that the Petitioner No 1, who scored more marks than Petitioner No.2 in the written examination should have got offer of appointment along with petitioner No 2. In fact, one post of the general category was not filled, it was wrongly reserved for physically challenged persons. The petitioner No. 2 was given the offer of appointment against that vacancy wrongly reserved for physically challenged candidate. Both the petitioners No 1 & 2 deserve to be placed at Sl. no 168 & 169 in the seniority list as per their ranking in the merit list of Uttarakhand Public Service Commission. There is no fault on the part of the petitioners for the hardships they faced and it has been all because of the Uttarakhand Public Service Commission and the Department. Hence, the impugned seniority dated 20/5/2012 is liable to be quashed and the claim petition is liable to be allowed.

### **ORDER**

The claim petition is hereby allowed. The impugned seniority list dated 20/5/2022 is hereby quashed and the respondents are directed to prepare fresh seniority within three months of presentation of the certified copy of the judgement. No order as to costs.

**RAJENDRA SINGH**  
VICE CHARMAN (J)

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

*DATED: DECEMBER 11, 2025*  
*DEHRADUN*  
*KNP/RS*