

**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. 37/NB/DB/2022

Madan Ram (Male), aged about 58 years, S/o Sri An Ram Arya, presently serving as Assistant Engineer, Rural Works Department, Circle Pithoragarh, District Pithoragarh.

.....Petitioner

Vs.

1. State of Uttarakhand through Secretary, Rural Works Department, Government of Uttarakhand, Dehradun.
2. Chief Engineer Level-1, Rural Works Department, Uttarakhand, Tapovan Marg, Raipur Road, Dehradun.
3. Sri Lalita Prasad Joshi, Retired Assistant Engineer, C/O Chief Engineer Level-I, Rural Works Department, Uttarakhand, Tapovan Marg, Raipur Road, Dehradun.
4. Secretary, Finance Department, Government of Uttarakhand, Dehradun.

.....Respondents

Present: Sri Bhagwat Mehra, Advocate, for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents no. 1,2 & 4

JUDGMENT

DATED: DECEMBER 17, 2025

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

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

"A. To set aside the impugned communications dated 13-08-2020, 28-10-2020 and 17-03-2021 issued by the Respondent No. 2 (Annexure No. 1 to 3 respectively to Compilation-1).

B. To direct the official Respondents to grant the benefit of pay protection/similar pay as was/is being given to his juniors, and also in view of Rule-22 (b) of Financial Hand Book, from due date.

C. To issue any other order or direction, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

D. Award the cost of the claim petition in favour of the petitioner."

2. The facts of the case, in brief, are as follows:

2.1 The petitioner was initially appointed on the post of Draughtsman in the erstwhile Rural Engineering Services Department w.e.f. 26.05.1986. He was promoted/appointed on the post of Junior Engineer (Technical) on 19.03.1994 on regular and substantive basis. He was further promoted to the post of Assistant Engineer vide order dated 03.02.2016.

2.2 One Sri Lalita Prasad Joshi, much junior to the petitioner in the service, was promoted to the post of Assistant Engineer on 31.05.2018, i.e. after a period of more than 02 years from the promotion of the petitioner. In the seniority list of Assistant Engineer, issued on 03.02.2020 by the respondent No. 1, the petitioner's name is placed at Sl. No. 114 while the name of Sri Lalita Prasad Joshi is mentioned at Sl. No. 121.

2.3 In the month of February, 2020, the petitioner came to know about the fact that his salary has been fixed lower than his junior in the cadre as in the month of January, 2020, itself, the junior of the petitioner e.g. Sri Lalita Prasad Joshi was drawing much higher salary than petitioner and the difference was about more than Rs. 50,000/- As such, the petitioner immediately submitted representation on 26-02-2020 to Respondent No. 2 requesting to grant benefit of pay protection as per Rule-22 (b) of the Financial Handbook. The petitioner also enclosed the copy of the relevant extracts of Govt. Order dated 28.12.2016 and also salary slips of his and Sri Lalita Prasad Joshi along with the representation.

2.4 When no action was taken in the matter, the petitioner again submitted a detailed representation on 22.05.2020 to the respondent No. 2, who vide letter dated 13-08-2020, virtually rejected the request of the petitioner on totally baseless grounds, which was communicated to the petitioner vide covering letter dated 31.08.2020.

Thereafter, the petitioner immediately submitted a detailed representation on 04.09.2020 to respondent No. 1. The respondent No. 2 sent a communication on 28-10-2020 to the Chief Engineer Level-II, reiterating the contents of earlier communication dated 13.08.2020, which was communicated to the petitioner by the subordinate authority on 05.11.2020.

2.5 The seniority list dated 03.02.2020 was finalized by the respondent No. 1 vide office memo dated 05.11.2020. In the final seniority list also, the petitioner is much senior to Sri Lalita Prasad Joshi. The name of the petitioner is mentioned at Sl. No. 117 while the name of Sri Lalita Prasad Joshi is mentioned at Sl. No. 125. Sri Lalita Prasad Joshi has retired from service in the month of May, 2020 after attaining the age of superannuation, consequently the said person is being impleaded as formal party respondent through the Head of Department/Respondent No. 2. The petitioner again submitted a representation on 24.02.2021 in the matter, after finalization of the aforesaid seniority list.

2.6 However, the respondent No. 2 vide letter dated 17.03.2021 has again rejected the petitioner's request. The action of the respondent No. 2 cannot be justified in the eyes of law. The reasoning given by the respondent No.2 denying the legitimate claim is totally arbitrary and illegal. The relevant extracts of Uttarakhand Government Servant Salary Rules, 2016 which were notified on 28-12-2016 and in Rule-7 (10)(1)(d) of the same, it is mentioned in internal page 11 of the said Rules that the benefit of pay protection/benefit of Rule-22 (b) of the Financial Hand Book shall also be granted to those persons, whose junior is drawing higher salary.

3. Opposing the claim petition, C.A./W.S. has been filed on behalf of the respondents no.1, 2 & 4 mainly stating therein that the petitioner is not entitled to get equal/same salary to his Junior Shri Lalita Prasad Joshi as he is not covered under the provisions of the Uttarakhand Government Pay Rules, 2016 and Rule 22 (b) (2) (1) of the Financial Handbook Part-2 (Part 2 to 4). In the light of the

provisions of Rule 10(1) of the Uttarakhand Government Servants Pay Rules, 2016 and Rule 22 (b) (2) (1) of and Financial Hand Book Part-2 (Parts 2 to 4), the petitioner and Shri Lalita Prasad Joshi were appointed in different cadres and pay scales, and as a result of promotion to the post of Assistant Engineer from different cadres and pay scales, the pay structure at lower and higher posts is not uniform, hence the case of the petitioner is not covered under the provisions given in Rule 10 (1) of Uttarakhand Government Servants Pay Rules-2016 and Rule 22 (b) (2) (i) of Financial Hand Book Part-2 (Parts 2 to 4), hence the petitioner is not entitled to get equal/same pay as Assistant Engineer Shri Lalita Prasad Joshi, who is junior to him. The petitioner has given a representation dated 22.05.2020, which was disposed of in the light of the provisions under the Uttarakhand Government Pay Rules-2016 and the Superintending Engineer, Rural Construction Department, Circle Pithoragarh and Chief Engineer (Level-2), Rural Construction Department, Kumaon Division-Nainital was directed to inform the petitioner. In the final seniority list of Assistant Engineer (Civil) working in the department by the office memorandum dated 05.11.2020 of the Uttarakhand Government, the petitioner is placed at sl. No. 117 and Shri Lalita Prasad Joshi at sl. No. 125, but the petitioner and Shri Lalita Prasad Joshi were promoted to the post of Assistant Engineer from the posts of Junior Engineer (Technical) and Junior Engineer (Civil) respectively, which are different cadres posts and the seniority list are separate. In light of the provisions contained in the Uttarakhand Government Servants Pay Rules, 2016, and Rule 22(b) of the Financial Handbook, the petitioner has no legal right to receive any relief and the claim petition is liable to be dismissed.

4. Despite sufficient service upon respondent no. 3, neither C.A./W.S. has been filed nor anyone has appeared on his behalf, therefore, the Tribunal vide order dated 02.09.2024 decided to proceed ex-parte against respondent no.3.

5. The petitioner has also filed R.A. and he has reiterated the averments made in the claim petition.

6. We have heard the Learned Counsel for the parties and perused the record carefully.

7. Learned Counsel for the petitioner argued that the petitioner was appointed as draughtsman on 26.05.1986 in the Rural Development Department. He was promoted as *Sangarak*/Junior Engineer (Technical) on 19.03.1994 and Asstt. Engineer on 03.02.2016. Private respondent, Mr Lalita Parsad Joshi (Respondent No. 3) was appointed as Junior Engineer and was promoted as Asstt. Engineer on 31.05.2018 after two years from the date of promotion of the petitioner. The seniority list of Asstt. Engineers was issued by the department on 03.02.2020, in which, the name of the petitioner figures at Sl. No 114 above the private respondent no.3 at Sl. No 121. But the petitioner was drawing pay Rs. 104801/- pm and the Private respondent Rs 166445/- pm on 26.02.2020 as per the pay slips obtained from IFMS of Government of Uttarakhand. So, the difference in the salary of the petitioner and the private respondent is against the Financial Rules FR-22 (b) of Financial Hand Book. The petitioner is entitled to get the salary at least equal to what his junior is drawing. The petitioner has submitted many representations to correct the anomaly in his pay scale but the department has not rectified the same. In view of the facts mentioned above, the impugned orders dated 13.08.2020, 28.10.2021 and 17.03.2021 are liable to be quashed and the Claim petition is liable to be allowed.

8. Learned A.P.O. argued that the petitioner was born in the cadre of the draughtsman and the private respondent in the cadre of Junior Engineer. The petitioner was appointed in the pay scale of Rs 470-735 on 26.05.1986 and promoted on the post of *Sangarak*/Junior Engineer(Technical) on 19.03.1994 in the pay scale of Rs 1600-2600 and further on the post of the Asstt. Engineer on 03.02.2016 in the pay scale of Rs 56100-177500 (Level-10). Whereas the private respondent was appointed on the post of the Junior Engineer on 05.08.1987 in the pay scale of Rs 515-860 and promoted on the post of Assistant Engineer on 01.06.2018 in the pay scale of Rs. 15600-39100/-. Their pay has been fixed as per the prevailing rules. The

initial scale of the private respondent is higher than the petitioner, so his salary on promotion has been fixed at higher level than the petitioner. The pay of the petitioner cannot be stepped up and be made equal as both the persons have been promoted from the different cadres in view of Rule 10 (1) of the Uttarakhand Government Servants Pay Rules-2016 and Rule 22-b (1) (2) (1) of the Financial Hand Book Part -2 (from Part 2 to 4). In view of the prevailing Rules and the facts mentioned above, the claim petition is liable to be dismissed.

9. Based on the arguments of the Learned Counsel for the parties and the documents placed, we find that the petitioner has been appointed as draughtsman in the pay scale of Rs. 470-735 and the private respondent as Junior Engineer in the scale of - Rs 515-860. Both were promoted on the post of Asstt. Engineer on 03.02.2016 and 01.06.2018 respectively and their pay has been fixed. As per Rule 10 (1) of the Uttarakhand Government Servants Pay Rules-2016 and Rule 22 (b) (2) (i) of the Financial Hand Book Part-2 (Parts 2 to 4), the pay of the junior and the senior can be compared when both junior and senior are in the same cadre and they are promoted from the same cadre. Although both were promoted in same cadre but they were promoted from different cadres. Hence, in view of the above, the Claim petition is liable to dismissed.

ORDER

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

RAJENDRA SINGH
VICE CHARMAN (J)

DATED: DECEMBER 17, 2025
DEHRADUN
KNP

A.S.RAWAT
VICE CHARMAN (A)