

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. 46/NB/DB/2021

Diwan Singh Rautela (Male) aged about 52 years, S/o Late Umed Singh Rautela R/o Bithoriya No.1, Dhar, P.O. Haripur Nayak, Haldwani, District Nainital.

.....Petitioner

Vs.

1. State of Uttarakhand through Secretary, Forest Department, Civil Secretariat, Subhash Marg, Dehradun, Uttarakhand.
2. Principal Chief Conservator of Forest (HoFF), 85, Rajpur Road, Dehradun, Uttarakhand.
- 3 Chief Conservator of Forest, Human Resource Development and Personal Management, 85-Rajpur Road, Van Bhawan, Third Floor, Dehradun, Uttarakhand **and 212 private respondents.**

.....Respondents

Present: Sri Piyush Tiwari, Advocate, for the petitioner

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

JUDGMENT

DATED: JANUARY 07, 2026

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

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

"i) *To quash the impugned Seniority list dated 14.10.2020 (being Annexure 1) as well as Impugned promotion orders dated 23.10.2020, 29.10.2020, 27.11.2020, 01.12.2020, 06.05.2021, 27.05.2021 & 31.05.2021 (being annexure 2 to 8) passed by respondent no 3 and subsequent promotion order.*

ii) To issue an order or direction to respondent no 3 to give promotion to the petitioner on the post of Deputy Forest Ranger from the post of Forester on the basis of date of his promotion as Forester i.e. 29.11.2011 and placed him at the appropriate

seniority before his any junior was promoted to the rank of Dy. Ranger pursuant to the seniority list dated 14.10.2020.

iii) Issue any other or further, order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

iv) To award the cost of the petition in favour of the petitioner and against the respondents.”

2. Brief facts of the case are as under:

2.1 The petitioner was appointed as forest guard on 31.08.1989 and was promoted to the rank of Forester on 29.11.2011. The service condition of the post of Forest Guard at that time, was governed by the rules known as Lower Subordinate Forest Service Rules, 1980, which were adopted by State of Uttarakhand and D.F.O. still remain the appointing authority for Lower Subordinate Service in Uttarakhand.

2.2 The division which conducted recruitment process early, forest guard of these divisions by virtue of their early joining became senior. However, since they were from different division cadre there was no dispute of seniority among them at that point of time.

2.3 In the year 2016 in supersession of the 1980 Rules, the Govt. of Uttarakhand framed new rules known as the Uttarakhand Subordinate Forest Service Rules, 2016 notified on 27.10.2016. By way of the aforesaid rules, the Forest Guard post was upgraded from Class IV to Class III and by virtue of these rules, the appointing authority is Chief Conservator of Forest, Human Resource Development and Personnel Management, Uttarakhand as such the cadre of the forest guard has become of state level instead of divisional cadre.

2.4 After framing of aforesaid rules of 2016, the seniority list as on 01.07.2019 of Foresters was finalized vide order dated 12.02.2020. By this seniority list, the promotion from the rank of Forester to Dy. Ranger (also called as Dy. Forest Range Officer) is required to be considered. The said seniority list was prepared on the basis of Rule 6 of Uttarakhand Government Servant Seniority rules 2002. For preparing of above seniority list following criteria was taken into account: -

1) Seniority list is prepared on the basis of date of joining in Forest Guard.

2) Thereafter date of promotion as Forester is taken into account.

2.5 This has created anomaly, as in some of the divisions, the Forest Guards, who although were appointed late in comparison of other division were promoted earlier, as such they became senior to those Forest Guards who were enrolled in the service earlier. Some Foresters who had not even completed 8 years of mandatory service for promotion to the post of Dy. Ranger, were placed senior, whereas those who had completed 08 years of service were placed junior. The reason was simple that seniority was maintained from the rank of Forest Guard and in accordance of Rule-6 and Rule-8, considering the Cadre of Forester as one cadre. The respondents failed to appreciate that they are integrating the various cadre Divisions (headed by DFO) and therefore the above rules were not applicable. The list was required to be prepared in terms of Rule -7 of the Uttarakhand Government Servants Seniority Rules, 2002 notified on 13.08.2002.

2.6 After finalization of seniority list on 12.02.2020, a meeting of the Departmental Promotion Committee was convened and thereafter, a promotion order was issued on the same day from the rank of Forester to Dy. Range Officer. The serious anomaly which was left that some of the Foresters who although had joined early in service, but they were promoted late in the post of Forester and thus were not completing 8 years of mandatory service, therefore promotion order in respect of these senior personnel were not issued. Promotion orders of only those Foresters were issued who had completed 8 years of residency period.

2.7 On 01.10.2020, again respondent had issued the tentative seniority list of Forester. Petitioner as per the previous formula of respondent was at 74th position to be promoted and hoping promotion in the year, but in this seniority list respondent had antedated the

promotion of those Forester who are junior to the petitioner and placed them senior to the petitioner. This led to gross illegality with petitioner.

2.8 The petitioner preferred a representation on 10.10.2020 and stated that earlier seniority list was being prepared on the basis of seniority rules of 1980 on divisional basis and now is prepared on State basis as per Service Rules of 2016. The petitioner requested to place him at Seniority no 74.

2.9 On 14.10.2020, the seniority list was finalized, but seniority order of petitioner remains intact. Thereafter petitioner received a letter dated 636/1-12 dated 21.10.2020 through Kisanpur Range, Distt-Nainital, wherein respondent no 3 has called him for personnel hearing, but since the letter was received late, petitioner couldn't attend the hearing. However, petitioner again requested for hearing. Petitioner again preferred a representation dated 22.10.2020 in continuation of representation dated 10.10.2020, wherein documents in support of his contention was adduced. Thereafter petitioner met respondent no.3 who after going through the matter assured that the justice will be done with the petitioner and his case will be reconsidered, but no action was taken.

2.10 Thereafter, respondents further issued promotion order vide letter dated 29.10.2020, 06.05.2021, 27.05.2021, 31.05.2021. All these all Foresters were promoted later to the petitioner in the rank of Forester, but again due to antedating of their seniority to the petitioner they were given promotion. The respondent had initiated action for committing perpetual wrong by way of carrying out further promotional exercise for next vacancy year. For this purpose, Character Roll, Vigilance Certificate, punishment details were called for vide letter dated 14.06.2021. On the other hand, for updating the seniority list as on 01.07.2021 a tentative seniority list was further issued on 21.06.2021.

2.11 Similar nature of controversy arises before the Hon'ble Delhi High Court in WP(C) No. 799/2008 in which, the Hon'ble High Court gave a direction to *re-draw the seniority list with the date the incumbent*

joined the service as medical officer i.e. lowest post in the cadre, subject to their fitness. A review petition was filed against the judgment dated 02.05.2011 and the Hon'ble Delhi High Court observed that the view taken by them was not correct. Hon'ble High Court in para 34 had disposed of the review petition recalling the mandamus issued vide order dated 02.05.2011 and directed to look into the grievance of the petitioner.

2.12 The principal of integration of seniority mentioned in the above judgement has also been issued by DoP&T, Government of India vide OM dated 11.11.2010. The provision made in Rule 7 of Uttarakhand Government Servant Seniority Rules 2002 and para 2.2.2 of OM dated 11.11.2020 is almost identical. It speaks about the procedure where promotion to a grade/post are made from more than one grade. In this case inter-se-seniority of the candidate of various feeder grades is required to be prepared. It is also pertinent to mention that petitioner has filed a Writ Petition (S/S) No.785 of 2021 titled Diwan Singh Rautela Vs State of Uttarakhand, which was heard on 06.07.2021. After hearing the matter, the court relegated the petitioner to this Tribunal, for redressal of his grievances, therefore this claim petition is being filed.

2.13 There is no provision for grant of retrospective promotion either in Uttarakhand Government Servant Seniority rules of 2002 or in service rules. In a recent judgment dated 19.11.2019 titled K. Meghachandra Singh vs Ningam Siro, Hon'ble Supreme Court held that seniority of an employee in public service is not to be calculated from the date when vacancy arose, but from the date of actual appointment. A person cannot be said to have been recruited to the service only on the basis of initiation of process of recruitment, but he is born in the post only when formal appointment order is issued. The act of the respondent authority is illegal and arbitrary in nature adversely affecting the interest of petitioner as the petitioner is right person to be promoted on said post than the person junior to them who had been given promotion.

3. C.A./W.S. has been filed on behalf of the respondents no. 2 & 3, mainly stating therein that-

3.1 At this point it is also pertinent to mention that till the promulgation of Uttarakhand Subordinate Forest Service Rules 2016, the appointments and promotions were regulated by the Uttarakhand Range Officers, Deputy Rangers and Foresters Service Rules 1951, wherein the appointing authority of forester was Conservator of Forests, whereby the promotions were undertaken at Circle level as per circle level seniority and vacancies. This had created a big anomaly in the State, where forest guards in certain circles could get timely promotion owing to availability of vacancies at circle level in the promotion quota, whereas forest guards in certain other circles were deprived of promotion owing to lack of vacancies at circle level in the promotion quota. In order to overcome such discrepancies at State level due to lack of vacancies in promotion quota, it was decided to amend the rules to increase the promotion quota to 100%. Pending the amendment of rules, the State Government vide its letter 476/X-1-2010-14(2)/2001 dated 06.05.2010 and 576/X-1-2010-14(2)/2001 dated 10.05.2010 provided in-principle approval and directions to provide the forest guards ad-hoc promotion as per state-level seniority. In compliance of the order, a list of eligible forest guards was circulated vide CCF(HRD&P)'s letter no. 234/1-12(7) dated 10.09.2010. However, the ad-hoc promotion was challenged in various Court cases and due to stay orders, several forest guards were deprived of ad-hoc promotion while certain forest guards got promoted prior to the stay order. Thereafter, the Uttarakhand Range officers, Deputy Rangers and Foresters Service (amendment) Rules, 2011 came in force with prospective effect on 26.11.2011 and accordingly instructions to regularize the ad-hoc promotions were issued vide further list of eligible forest guards which was circulated vide CCF(HRD&P)'s letter no. 348/1-12(7) dated 30.11.2012. However, due to Court cases and stay order, the promotion of certain forest guards was delayed till the year 2014 for reasons beyond their control. While deciding the representation made by the foresters whose promotions were delayed

beyond their control, it was decided to grant them notional promotion from the date of their eligible promotion year after vacancies arose on account of aforesaid amendment in the rules. The promotion of all foresters who were granted ad-hoc promotions in the meantime, were also granted regular promotion with effect from the date of promulgation of rules i.e. from 26.11.2011.

3.2 The Uttarakhand Government Servants Relaxation in Qualifying Service for Promotion Rules, 2010 provides for one-time relaxation of qualifying service by 50%, whereby the qualifying service for the promotion from forester to deputy ranger gets reduced from 8 years to 4 years. Hence, irrespective of the date of actual promotion to forester or date of notional promotion, the private respondents were eligible for promotion to the post of Deputy Ranger. The Foresters whose promotions from forest guards were delayed due to reasons beyond their control regained their seniority in the seniority list of foresters as per the date of their substantive appointment in the feeding cadre, that is, forest guards as per provisions of Rule 6 of the Uttarakhand Government Servant Seniority Rules, 2002. Hence it is clear that the private respondents are senior to the petitioner and their promotion orders are as per law.

3.3 The seniority list was prepared in accordance with Rule-6 and 8 and not under Rule-7 as this rule is not applicable in cases where promotions are made from a single feeding cadre, namely, forest guards. Even if according to the petitioner, Rule-7 is applied considering division level cadres as separate cadres, it is humbly submitted that the promotion (ad-hoc as well as regular promotion thereafter) was a result of a single selection process at the State level considering the State level seniority of forest guards, considering the fact that no junior forest guard should get undue advantage of earlier promotion in a division while a senior forest guard of another division is deprived of promotion.

3.4 The promotion to the post of Deputy Rangers will be as per seniority that is, the seniority list of Foresters cadre, subject to rejection

of unfit. The seniority list has been prepared as per rules and the promotions were also done as per rules.

3.5 It is submitted that the seniority is based on the date of appointment to the first posting of forest guard and not based on date of promotion to forester. Hence there is no question of antedating any seniority. Several foresters who have been part of the selection list of 2010 and 2012, but their promotions got delayed due to reasons beyond their control while their juniors in certain circles got promoted in the meantime, were given the benefit of notional promotion from the date of regularization of ad-hoc promotion of their juniors. It is pertinent to mention that the first tentative seniority list was issued vide letter no. 14/1-12(29) dated 01.07.2020 seeking objections to reach the office of respondent no.3 before 18.07.2020.

3.6 No representation was preferred by the petitioner on this tentative seniority list. However, representations received from several other foresters were disposed off as per law, which resulted in several changes to the tentative seniority list. A second tentative seniority list was issued vide letter no.503/1-12(29) dated 01.10.2020 for seeking further objections if any to reach the office of respondent no.3 before 10.10.2020. Since no further objections were received within the stipulated time, the final seniority list was issued vide letter no.581/1-12(29) dated 14.10.2020. The representation dated 10.10.2020 of the petitioner against the tentative seniority list dated 01.10.2020 was received in the office of respondent no.3 only on 19.10.2020. Though the objections were not received in the stipulated time period, however, in the interest of justice, time for personal hearing was granted on 27.10.2020 vide letter 636/1-12 dated 21.10.2020. However, due to late receipt of the letter, a request was made by the DFO, Haldwani vide his letter 1551/1-12 dated 02.11.2020 that further time may be granted for personal hearing of the petitioner. Accordingly, another date and time for personal hearing was granted vide letter no.883/1-12 dated 09.12.2020 wherein the date for personal hearing was fixed on 21.12.2020, in the interest of justice, providing adequate time for

postal delays if any. However, the petitioner did not turn up for personal hearing on the prescribed date, due to which no further action could be taken.

3.7 The insertions and deletions mentioned by the petitioner in the claim petition as a result of disposal of objections received to the tentative seniority and also information was received from various divisions regarding deaths, retirements, errors, inadvertent missing, wrongful or duplicate entries, promotion to higher posts, etc.

3.8 The promotion order dated 29.10.2020, 06.05.2021, 27.05.2021, 31.05.2021 were issued in respect of the forest guards, who were senior to the petitioner but whose promotion to the post of forester was delayed due to reasons beyond their control, regained their seniority on their promotion to the post of forester, as provided in Rule-6 of the Uttarakhand Government Servant Seniority Rules 2002 which mentions that "A person senior in the feeding cadre shall even though promoted after the promotion of a person junior to him in the feeding cadre shall, in the cadre to which they are promoted, regain the seniority as it was in the feeding cadre."

3.9 The Uttarakhand Government Servants Relaxation in Qualifying Service for Promotion Rules, 2010 rules also allow promotion of foresters to deputy rangers after having completed 4 years (50%) of qualifying service. The operation of these rules was suspended for a short time in 2017, but was later amended in 2021 to allow relaxation during the selection year 2021-22. So, even if the actual date of assumption of charge of foresters is taken into account, they would be eligible for promotion even without counting the notional promotion.

3.10 The promotion of forester takes place from a single feeding cadre, that is, forest guard and the seniority of promotee foresters is dependent on their date of appointment in the first post, that is, forest guard. The private respondents were senior to the petitioner in the forest guard cadre. However, the petitioner had got advantage of promotion prior to his seniors.

3.11 The DoP&T OM dated 11.11.2010 issued by the Government of India does not pertain to the present matter in question. It is humbly reiterated that the promotion of forester takes place from a single feeding cadre, that is, forest guard and the seniority of promotee foresters is dependent on their date of appointment in the first post, that is, forest guard, which is a single cadre and whose appointing authority is Chief Conservator of Forests (HRD) and the seniority is maintained at the State level.

3.12 The explanation provided in Rule-7 of the Uttarakhand Government Servant Seniority Rules, 2002 provides for specifying a particular back date with effect from which a person is substantively appointed. But the posts of forest guard, forester and deputy rangers belong to a single service, namely, Uttarakhand Subordinate Forest Service and are governed by the Uttarakhand Subordinate Forest Service Rules 2016, amended from time to time. Hence there is no question of the date of notional promotion being given on a date when personnel are not borne in the service.

3.13 The petitioner has already been promoted on 01.04.2022 on the completion of qualifying service and subject to availability of vacancy and as such his prayer has become infructuous. As far as he is challenging the promotion of his seniors in the seniority list, the grounds for the same are misinterpreted, erroneous and mis-stated as mentioned in the above paragraphs of this counter affidavit. Hence, the claim petition is devoid of any merits and is liable to be dismissed with costs.

4. None has appeared on behalf of the private respondents no.4 to 215. They have also not filed any C.A./W.S. Therefore, the case was ordered to be proceeded ex-parte against private respondents no. 4 to 215 vide order dated 24.03.2025.

5. Rejoinder Affidavit has also been filed on behalf of the petitioner denying the contentions made in the Counter Affidavit and has reiterated the averments made in the claim petition.

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

7. Learned Counsel for the petitioner argued that the petitioner was appointed as Forest Guard on 31/08/1989 as per U.P. Lower Subordinate Services Rules 1980. DFO was appointing authority for the forest guards. Conservator of Forest was the Appointing Authority of Foresters, Deputy Rangers and CCF was for the Ranger officers. Uttarakhand Government notified the Uttarakhand Subordinate Services Rules, 2016 in supersession of the rules of U.P. Division wise and the circle wise cadres were converted to the State Level Cadres. As a follow up action for implementation of the Rules of 2016, cadres of Foresters and the deputy Rangers were merged and an integrated seniority list was drawn. While drawing seniority list for the foresters, the respondents relied on the seniority at the forest guards level. This has resulted in many persons have been shown senior who were still forests guards but appointed earlier to those who were promoted earlier to the foresters. So while promoting the foresters to the deputy Rangers level the foresters who were promoted earlier became deputy rangers. This has led to anomaly in the seniority list. In case of the cadres of the forest department the Uttarakhand Govt. Servants Seniority Rules, 2002 are applicable. Rule-7 of the seniority rules clearly says that where the appointment is by promotion only from more than one feeding cadres, the seniority inter-se of a persons appointed through one selection shall be determined according to the date of the order of the substantive appointment in the respective feeding cadres. So the seniority of the deputy rangers is to be prepared on the basis of the date of appointment in the Foresters cadres rather than the seniority at the Guard level. The impugned seniority which has been prepared in utter violation of the Uttarakhand Govt. Servants Seniority Rules, 2002 is liable to be quashed.

8. Learned A.P.O. argued that before promulgation of Uttarakhand Subordinate Services Rules, 2016, the appointment and promotions of Range Officer, Deputy Range Officers and the Foresters were

regulated by Uttarakhand Rangers, Deputy Rangers and the Foresters Rules, 1951 where in the appointing authority for foresters was conservator of forests , promotions of the vacant foresters' posts were done at the circle level and seniority of the foresters was maintained at the circle level. In some of the circles the forest guards who were appointed later were promoted earlier and in some of the circles much later. This resulted in the forest guards who were appointed earlier became junior to those who were appointed later. To overcome this anomaly, it was decided that the appointment to the posts of the foresters and the deputy Rangers was made by 100% promotion. Pending to the approval of the revised recruitment rules the Government decided to provide ad hoc promotions to the forest guards as per state level eligibility list which was circulated vide letter dated 10/09/2010. However ad hoc promotion done as per this eligibility list were challenged in the various courts and due to stay orders many forest guards who were appointed as forest guards later were promoted earlier.

9. The Uttarakhand Range Officers, Deputy Rangers and Foresters Rules, 2011 came into force with prospective effect w.e.f. 26/11/2011 and accordingly orders were issued to regularise the foresters promoted on ad hoc basis. The forest guards whose promotions were delayed due to the court cases were given notional promotions on the date, when the vacancies arose on account of the aforesaid rules. They were given regular promotions w.e.f. 26/11/2011. Further for promotion from foresters to the deputy Rangers qualifying service is 8 years but as per provisions of relaxation rules the foresters who completed 4 years of the service, were promoted and many private respondents were also promoted in the process. First tentative seniority list was circulated on 01/07/2020 seeking objections before 18/07/2020 but the petitioner did not prefer any representation. However, representations received from many candidates were disposed off as per rules. Which resulted several changes in the tentative seniority list. A second tentative seniority list was issued 01/10/2020 to seek further objections to reach before 10/10/2020. No

objection was received till 10/10/2020 and final seniority list was issued on 14/10/2020. The petitioner did not submit his objections till 10/10/2020 to the Additional PCCF, Personnel & HRD. As the petitioner did not raise objections before stipulated period, he loses the right to challenge the same before the Tribunal as he has been given ample opportunity to object. Hence the claim petition is liable to be dismissed.

10. Based on the arguments of both the parties and the documents placed, the Tribunal finds that the APPCF personnel & HRD circulated the tentative seniority list twice and gave ample time to submit objections. No objection was submitted against the tentative seniority by the petitioner within the stipulated time. His representation did not reach to APPCF Personnel in time. He was given opportunity even after the last date of submission of the objections but he did not avail that opportunity also. The final seniority was issued by the APPCF Personnel. As the petitioner did not object to the tentative seniority, he lost his right to appeal against the seniority list finalized. In view of the above, the claim petition is devoid of merits and same 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: JANUARY 07, 2026
DEHRADUN
KNP*