

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIUBUNAL
DEHRADUN**

Present: Hon’ble Mr. A.S. Rawat

.....Vice Chairman (A)

CLAIM PETITION NO. 143//SB/2024

Vinod Chauhan, aged about 39 years. S/o Sri Sovendra Singh, R/o House No. 25, Lane No. 2A, Tapovan Enclave, Aamvala Tarla, Near Shanti Vihar, Raipur Road, Dehradun, Uttarakhand-248001.

..... **Petitioner**

Vs.

1. State of Uttarakhand, through Principal Secretary, Forest, Government of Uttarakhand, Sachivalaya, Subhash Road, Dehradun-248001.
2. Principal Chief Conservator of Forest (HoFF), Uttarakhand, 85- Rajpur Road, Forest Headquarters, Van Bhawan, Dehradun-248001.
3. Chief Conservator of Forest, Human Resource Development and Personnel Management, Uttarakhand, 85- Rajpur Road, Forest Headquarters, Van Bhawan, Dehradun-248001.

..... **Respondents**

Present: Ms. Ketki Chaudhary, Advocate, for the petitioner
Sri V.P.Devrani, A.P.O. for the respondents

JUDGMENT

DATED: JANUARY 08, 2026

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

- “i. To issue order or direction quashing the order dated 15.07.2024 as passed by the PCCF/HoFF vide which the representation of the petitioner dated 19.10.2023 was disposed mechanically and without application of mind.*
- ii. To issue order or direction commanding the respondents to grant the benefit of the charge of ACF/SDO to the petitioner with retrospective effect from 25.08.2022 as was given to his immediate junior Range Officers placed below the petitioner in the seniority list dated 11.07.2022 (Annexure A-16).*
- iii. Any other order or direction the Hon’ble Court may deem appropriate.”*

2. Brief facts of the case are that the petitioner was appointed as Range officer in the year 2014 and was posted as Range officer in Dehradun Forest Division on 11/05/2017. Petitioner got married on 13/05/2018 but could not inform the department about his marriage. He was given show cause notice which he replied and requested to update his service book accordingly. He was issued a charge sheet on 16/02/2022 by the Principal Chief Conservator of Forests, the Disciplinary Authority, after submission of explanation as per the provisions of the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003 as amended in 2010.

3. The Principal Chief Conservator of Forests (HoFF), the Disciplinary Authority awarded punishment of Censure to the petitioner vide order dated 26/08/2022. The petitioner appealed against this punishment order to the Principal Secretary, Forests, the Appellate Authority, who set aside the punishment of Censure vide order dated 01/09/2023 with the warning to remain cautious in future.

4. In the meantime, the PCCF (HOFF) invited applications vide letter dated 16/03/2022 from the Range Officers in the department for deputation as DLM/DSM in the Uttarakhand Forest Development Corporation and the petitioner submitted his application. The petitioner was not recommended for the post of DLM/DSM, because of the charge sheet pending against him. The posting order for the DLM/DSM was issued vide order dated 27/06/2022 of PCCF (HoFF) Uttarakhand. The petitioner was also not considered for the posting as ACF/SDO, as PCCF (HoFF) did not recommend his name due to the pending departmental proceedings against him, whereas 16 persons, some of them, junior to him were given charge of the ACF vide order dated 25/08/2022 of the Government.

5. The petitioner filed Claim Petition No. 175/SB/2023 before this Tribunal to issue directions to the respondent to grant him benefit of the charge of ACF/SDO. This Tribunal vide order dated 16/10/2023 directed the petitioner to submit representation to the respondents and

the respondent no 2 was directed to pass a reasoned and speaking order on the representation of the petitioner within 12 weeks.

6. The petitioner submitted representation dated 19/10/2023 to the Principal Chief Conservator of Forests (HoFF), respondent no. 2, which was disposed of after long time vide letter dated 15/07/2024 by the Respondent No. 2 and informed about the reason for not posting him as ACF/SDO as he was awarded punishment of censure vide order dated 26/08/2022. The punishment of Censure was expunged by the Appellate Authority vide order dated 01/09/2023 with warning to remain cautious for future. Two disciplinary proceedings have been initiated against the petitioner vide order dated 15/09/2022 and 18/11/2022. He will be considered for promotion after final decision in these disciplinary proceedings against him.

7. It is submitted that there was no disciplinary proceeding pending against the petitioner in between 27/08/2022 to 14/09/2022 and he would have been posted as ACF /SDO had the matter related to his posting been kept in the sealed cover. The department did not adopt sealed cover procedure in the case of the petitioner as assigning responsibilities of the higher post of ACF/SDO is like a promotion. The department followed other criteria as ACRs and clearance from the vigilance angle while selecting the Range Officers for assigning the charge of ACF without promoting them. The sealed cover procedure should have been followed. Hence, his claim petition is liable to be allowed.

8. The respondents filed Counter Affidavit, denying the averments made in the claim petition, except those, which have been accepted in the Counter Affidavit.

9. The petitioner has also filed R.A. to the Counter affidavit filed by the respondent authorities, denying all the contentions made in the Counter Affidavit. It is submitted that the charge sheet dated 16/02/2022 was issued against the petitioner on petty matter. He was not considered for the higher post of DLM/DSM on 27/06/2022 and

the order dated 25/08/2022 for posting as ACF/SDO was issued a day before awarding him penalty on 26/08/2022 deliberately to deny him opportunity of getting higher responsibility. The petitioner was entitled to get the charge of ACF after 27/08/2022 to 14/09/2022 as there was no charge sheet against him during the period. The petitioner was fully entitled to be considered for the charge of DLM/DSM on 27/06/2022 and ACF /SDO on 25/08/2022. Second and the subsequent enquiry against the petitioner dated 15/09/2022 and 18/11/2022 would not come on the way of getting promotion. The respondents have contended that the sealed cover procedure was not adopted as it was an officiating charge and not a regular promotion. But they overlooked the fact that the officiating charge of ACF also hold significant implications as that carries weightage at the time of induction in IFS. The PCCF (HoFF) should have issued order for posting of the petitioner after conclusion of the disciplinary proceedings against him. Moreover, the minor penalty should not have been bar to the promotion as laid down in the OM dated 15/05/1971.

10. I have heard learned Counsel for the parties and perused the record.

11. Learned Counsel for the petitioner argued that there was no disciplinary proceeding pending against the petitioner in between 27/08/2022 to 14/09/2022 and he would have been posted as ACF/SDO had the matter related to his posting been kept in the sealed cover. The department did not adopt sealed cover procedure in the case of the petitioner as assigning responsibilities of the higher post of ACF/SDO is like a promotion. The department followed other criteria as ACRs and clearance from the vigilance angle while selecting the Range Officers for assigning the charge of ACF without promoting them. The petitioner in support of his version, has relied on the judgement of the Hon'ble Apex Court in the matter of **Delhi Jal Board vs Mohinder Singh (2000(7) SCC 210)**. The relevant para of the judgment is as under:

“The right to be considered by the Departmental Promotion Committee is a fundamental right guaranteed under Article 16 of the Constitution of India, provided a person is eligible and is in the zone of consideration. The sealed cover procedure permits the question of his promotion to be kept in abeyance till the result of any pending disciplinary inquiry. But the findings of the Disciplinary Enquiry exonerating the officer would have to be given effect to as they obviously relate back to the date on which the charges are framed. If the disciplinary inquiry ended in his favour, it is as if the officer had not been subjected to any Disciplinary Enquiry. The sealed cover procedure was envisaged under the rules to give benefit of any assessment made by the Departmental Promotion Committee in favour of such an officer. If he had been found fit for promotion and it he was later exonerated in the disciplinary inquiry which was pending at the time when the DPC met. The mere fact that by the time the disciplinary proceedings in the first inquiry ended in his favour and by the time the sealed cover was opened to give effect to it, another departmental enquiry was started by the department, would not, in our view, come in the way of giving him the benefit of the assessment by the first Departmental Promotion Committee in his favour in the anterior selection.....”.

12. The petitioner has also relied upon the judgment of Hon'ble Madras High Court dated 18.11.2020 passed in W.P. No. 7203 of 2020, **A. Jayakumar Vs. State of Tamil Nadu and another**, in which, the stand taken by the Hon'ble Apex Court in the matter of Delhi Jal Board vs Mohinder Singh (2000(7)SCC 210) has been reiterated that- *“On the crucial date of consideration of promotion, if an employee/ officer who was not facing any disciplinary action i.e. no charge was pending, no matter whether any subsequent charge memo was issued against, his name has to be necessarily included.”* Learned Counsel for the petitioner further argued that the petitioner should be considered for assigning higher duties of ACF / SDO and his claim petition is liable to be allowed.

13. Learned APO argued that three charge sheets have been issued against the petitioner:

- (i) Charge sheet dated 16/02/2022 in which the penalty of censure has been given by the disciplinary authority vide order dated 26/08/2022 which has been set aside by the appellate authority vide order dated 01/09/2023 and simple warning has been given to the petitioner.
- (ii) Charge sheet dated 15/09/2022 in which penalty of stoppage of five increments with cumulative effect has been imposed vide order dated

9/01/2025 after consultation with the Uttarakhand Public Service Commission.

- (iii) Charge sheet dated 18/11/2022 in which penalty of censure has been imposed on the petitioner vide order dated 29/04/2024.

13.1 The petitioner was not considered for in -charge ACF/ SDO due to ongoing disciplinary proceedings against the petitioner. Giving charge of the ACF/SDO is a temporary arrangement for administrative purpose. Since this was not a regular promotion, the sealed cover procedure was not adopted. The petitioner submitted his representation as per directions of Hon'ble Tribunal given in the Claim petition No. 175/SB/2023 and the representation was decided by the Principal Chief Conservator of Forests (HoFF). Sixteen Range officers were given charge of ACF vide order dated 25/08/2022. The petitioner was not considered for the temporary charge due to ongoing disciplinary proceedings against him and subsequently the effect of the penalty of censure imposed on him. Learned APO also argued that the judgement of the Hon'ble Apex Court and the Hon'ble High Court of Madras as relied upon by the petitioner are not applicable, as the same are related to the promotion. The OM of the Department of personnel is also not applicable to the present claim petition.

14. Based on the arguments of the parties and the documents submitted, the Tribunal finds that the posting of the Range Officer as in charge ACF/SDO is a temporary arrangement in the Forest Department for administrative arrangement, when the regular promotions cannot be done. The department has followed the criteria as Seniority, vigilance clearance while selecting the Range Officers for posting as ACF/ SDO. As it was not a regular promotion, the sealed cover procedure was not followed in this case. At the time of postings of Range Officer as DLM /DSM on 27/06/2022 and 16 Range Officers as ACF/SDO on 25/08/2022, there was a disciplinary proceeding pending against the petitioner, which was decided on 26/08/2022 with the penalty of censure and the effect of the censure was after that, which was revoked vide order dated 01.09.2023 of the Appellate Authority. Learned APO was asked to produce the copy of the

proceeding of the meeting held to recommend the charge of ACF/SDO but the same was not submitted on the plea that no such meeting was held and the proposal of the PCCF (HoFF) for giving temporary charge for the positions of DSM/DLM and ACF/SDO has been accepted and final order were issued.

15. In view of the above, the Tribunal is of the view that the posting of the Range Officers on the post of the ACF /SDO in giving higher responsibility was part of the temporary arrangement. The department has considered Seniority and the Vigilance clearance of the Range Officers while selecting them for the officiating charge. There was operation of the effect of the penalty of censure after 27.08.2022 and subsequently, there were two disciplinary proceedings, started against the petitioner. The sealed cover procedure has not been adopted as it was not a regular promotion. The decisions of the Hon'ble Apex Court and the Hon'ble High Court of Madras as relied upon by the petitioner to substantiate his claim are not applicable in the instant case, as these are applicable in case of promotion. So, Tribunal does not find any procedural lacuna while selecting the Range Officers for officiating the post of SDO/ACF Hence, the claim petition is liable to be dismissed.

ORDER

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

A.S.RAWAT
VICE CHAIRMAN (A)

DATED: JANUARY 08, 2026
DEHRADUN
KNP