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. 57/NB/DB/2022

Sunil Kumar (Male), aged about 42 years S/o Sri Bishan Lal, presently working as Additional Assistant Engineer, Construction Division, Uttarakhand Pey Jal Nigam, Bhimtal, District Nainital.

……Petitioner

Vs

1. State of Uttarakhand through its Secretary, Pey Jal, Uttarakhand Secretariat, Dehradun, District Dehradun.
2. Managing Director, Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam, Dehradun, District Dehradun.
3. Chief Engineer (Headquarters), Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam, Dehradun, District Dehradun
4. Sri S.C. Pant, Chief Engineer (Headquarter), Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam, Dehradun, 11 Mohini Road, Dehradun, District Dehradun.
5. Arvind Singh S/O Shri Alal Singh
6. Sanjay Kumar S/O Shri Raghuveer Singh
7. Sunil Kumar S/O ShriShri Prem Singh Phraswan
8. Virendra Prashad S/O Shri Gokul Rai
9. Sanjeev Kumar Verma S/O Shri Mul Chand Verma
10. Sunil Tiwari S/O Shri Jay Narayan Tiwari
11. Saurabh Kumar Sharma S/O Shri Vijay Kumar Sharma
12. Jeetmani S/O Shri Bhagwati Prashad
13. Madhukant Kothiyal S/O Shri Shankar Kotiyal
14. Gambhir Singh Tomar S/O Shri Bhav Singh Tomar
15. Pradeep Kumar S/O Shri Kashiram
16. Narendra Nawani S/O ShriRamesh Chandra Nawani
17. Radheshyam Singh S/O ShriShri Jaswant Singh
18. Surya Prakash Badoni S/O Shri Jyanti Prashad Badoni
19. Nitin Pandey S/O Shri Grish Chand Pandey
20. Manvirendra Singh S/O Shri Amar Singh
21. Girish Chandra Pant S/O Shri Lalit Prashad Pant
22. Subhash Chandra Bhatt S/O Shri Manhanand Bhatt
23. Satendra Pal Singh S/O Shri Shri Satya Pal Singh

24.Rajesh Joshi S/O Shri Teekaram Joshi
25.Daulat Ram S/O Shri Shivasharan
26.Anil Kumar Bizalwan S/O Shri Janardan Prashand Bizalwan
27.Sanjay Kumar S/O Shri Shobharam
28.Piyush Dimri S/O Shri Ganga Prashand Dimri
29.Ramakant S/O Shri Shiv Pujan Prashand
30.Vinod Prashad Raturi S/O Shri Gunanand Raturi
31.Laxmi Chand Ramola S/O Shri Puran Chandra Ramola
32.Pramod Prashad S/O Shri Anant Ram
33.Alla Diya S/O Shri Masita Ali
34.Hem Chandra Bailwal S/O Shri J.K. Bailwal
35.Shashipal Singh S/O Shri Dal Chandra
36. Ajay Kumar Gurung S/O Shri Tez Bhadur Gurung
37. Bishan Singh S/O Shri Jeet Singh
38. Baldev Singh S/O Shri Balbeer Singh
39. Subhash Chandra Bhatt S/O Shri Bheraw Dutt Bhatt
40. Ravindra Kumar S/O Shri Chandra Pal singh
41. Lalit Gaur S/O Shri Chandra Prakash Gaur
42. Mahendra Singh Manra S/O Shri Kripal Singh Manral
43. Pratap Singh S/O Shri Madan Singh
44. Deepak Kumar S/O Shri Prem Chand
45. Yatendra Singh Rawat S/O Shri Bhopal Singh Rawat
46. Arvind Chandra Sundli S/O Shri Rameshwar Prashad
47. Brindra Singh Rawat S/O Shri Mahraj Singh Rawat
48. Mukesh Kumar S/O Shri Hari Singh
49. Prem Kumar S/O Late Shri Denanath.

…….Respondents

Present: Sri Bhagwat Mehra, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondent No. 1
Sri Siddhant Manral, Advocate for respondents no. 2 to 4

JUDGMENT

DATED: JANUARY 22, 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 office memo dated 16-02-2022 (Annexure No. 9 to the petition), whereby, the seniority list of Junior Engineers (Civil) has been issued by the Chief Engineer (Headquarter), though, issued in compliance to the judgment of the Hon'ble Supreme Court but not strictly as per the mandate*

and spirit of the judgment passed by the Hon'ble Supreme Court dated 06-12-2019 passed in Civil Appeal No. 9247 of 2019, Dharmendra Prasad and others Vs. Sunil Kumar and others as well as the judgment dated 12-01-2022, passed in Contempt Petition (Civil) No. 718 of 2020.

II. To direct the respondents to place the petitioner in the seniority list issued by the office memo dated 16-02-2022 by applying the roster in totally cadre strength of the Junior Engineer (Civil), as directed by the Hon'ble Supreme Court in Civil Appeal No. 9247 of 2019, Dharmendra Prasad and others Vs. Sunil Kumar and others.

II.A. To quash the tentative seniority list dated 02-06-2023 passed by the Chief Engineer (Headquarter) (contained as Annexure No. 21 of this claim petition).

II-B. To issue appropriate order or direction for quashing the final seniority list dated 10-10-2023 (Annexure No. 23 to the Claim Petition), in view of the facts highlighted in the body of the Claim Petition, after calling the entire records from the respondents or in alternate, pass any appropriate orders keeping in view of the facts highlighted in the body of the petition or mould the relief appropriately, further the respondents be directed to comply the directions of the Hon'ble Apex Court order dated 02-05-2023 by which the Hon'ble Apex Court has held that the seniority will be fixed on the basis of regular appointment or on the basis of merit list ratio of the judgment 06-12-2019 on this question is final and binding.

III. Issue any suitable writ, order or direction, which this Hon'ble Court may deem fit and proper on the basis of the facts and circumstances of the case."

2. The brief facts of the case are that-

2.1 Pursuant to the advertisement issued by the Respondent department for filling up vacancies of 241 Junior Engineers (Civil), which included 104 posts under General Category, 52 posts under Other Backward Classes, 70 posts under Schedule Caste and 15 post under Schedule Tribes the petitioner appeared in the written examination and interview. The petitioner was selected and appointment order issued on 13.05.2005. The appointment orders were given to the candidates in each category proportionate to the quota reserved for the reserved category candidates. It is noteworthy to mention here that one of the conditions in the letter of appointment was that the seniority will be determined later.

2.2. Thereafter, a tentative seniority list was published on 14th September, 2010 based upon the merit list prepared on the basis of the marks obtained in the written test and interview. The final seniority list was published on 28.11.2014 after deciding objections.

2.3 The petitioner challenged the said seniority list before this Hon'ble Tribunal and the petition was dismissed by the Hon'ble Tribunal vide judgement dated 10.10.2017. The petitioner thereafter filed a review application to the said judgement before this Hon'ble Tribunal which was also rejected vide order dated 23.11.2017. The petitioner, thereafter, challenged the said order before the Hon'ble High Court of Uttarakhand at Nainital, vide Writ Petition (S/B) No. 17 of 2018, wherein the Hon'ble High Court vide its order dated 11.07.2018 set aside the order passed by the Tribunal in Claim petition as also the order passed in the Review Petition and gave direction to prepare fresh seniority list in accordance with law and the observations made in the judgment. Feeling aggrieved by the same, the candidates who rank higher in the merit as compared to the petitioner approached the Hon'ble Supreme Court of India, vide SLP Civil No. 23787 of 2018 and SLP Civil no. 24101 of 2018 which were later converted to Civil Appeal no. 9247 of 2019 and Civil Appeal No. 9248 of 2019, Dharmendra Prasad and Ors. V/s Sunil Kumar and Ors.

2.4 The Hon'ble Supreme Court of India vide its judgement dated 06.12.2019 allowed the said appeal and held that the seniority list has not been prepared in accordance with the roster circulated on 31.08.2001, which was required to be mandatorily followed in terms of Regulation-6 as well with the approval of State Government dated 03.05.2005 to fill up 88 post. The seniority list finalized on 28.11.2014 as well as the order of the Hon'ble High Court dated 11.07.2018 were set aside and the Chief Engineer (Headquarter), Peyjal Sansadhan Vikas Evam Nirman Nigam, Uttarakhand was directed to recast the seniority of the candidates in the order of merit by assigning their seniority as per the roster points given in circular dated 31.08.2001.

2.5 In compliance of the order dated 06.12.2019 passed by the Hon'ble Supreme Court of India the respondent issued an interim seniority list based on roster on 22.01.2020 and considered objections. Meanwhile Shri Sunil Kumar petitioner herein filed a contempt petition No. 718 of 2020 before the Hon'ble Supreme Court of India, which was disposed vide order dated 08.04.2022 as follows:-

> *"The contempt petition stand disposed of as direction issued by this court has been complied with. Any further grievance of the petitioner can be addressed before an appropriate Court. Pending application(s), if any, shall stand disposed of."*

2.6 The petitioner has filed present claim petition on 04.08.2022 before this Tribunal. The Chief Engineer (Headquarter), Peyjal Sansadhan Vikas Evam Nirman Nigam, Uttarakhand filed a Review Petition (Civil) No. 1130 of 2022 before the Hon'ble Supreme Court of India in Civil Appeal No. 9247 of 2019, in September 2022. Meanwhile the said review was allowed by the Hon'ble Supreme Court of India vide order dated 02.05.2023. Vide said order dated 02.05.2023 the ratio of the judgement dated 06.12.2019 was held to be final and binding. Relevant para of the said judgment is quoted below:

> "*The petitioners will accordingly re-frame the seniority list. In case any person has any objection to the revised seniority list, including his/her claim that he/she should be given seniority on the basis of roster points relying on any circular or the Uttar Pradesh Jal Nigam Subordinate Engineering Service Regulations, 1978, it will be open to him/her to challenge the revised seniority list in accordance with law. Of course, the ratio decidendi of the judgment dated 06.12.2019 cannot be agitated and questioned*."

2.7 In pursuance to the order dated 02.05.2023 passed by the Hon'ble Supreme Court, the Chief Engineer (HQ), vide its office memorandum dated 02.06.2023 prepared tentative seniority list dated 02.06.2023 and cancelled the previous list dated 16.02.2022. The said seniority list dated 02.06.2023 was strictly framed as per directions issued by the Hon'ble Supreme Court in its order dated

02.05.2023. However still objections were invited on the said tentative seniority list. Simultaneously against the invitation to the said objections one Shri Dinesh Chandra Arya preferred Claim Petition no. 49/NB/DB/2023 before this Tribunal and contended that the objections so invited are only against clerical mistakes. In the said petition the Hon'ble Tribunal vide its order dated 08.08.2023 directed Respondents to revise the circular inviting objections, which was complied by the Respondent vide office memorandum dated 21.08.2023.

2.8 The Respondent department, meanwhile dealt with all the objections raised by the candidates and issued final seniority list vide office memorandum dated 10.10.2023. No explanation has been given by the respondents, only by saying that the Hon'ble Apex Court vide order dated 02-05-2023 has decided the issue thus there is no need to decide the objections of the petitioner is misconceived because in view of the judgment of the Hon'ble Apex Court dated 02-05-2023 and as per the Seniority Rules of 1978, the authority is bound to give his finding on the each and every objection of the delinquent.

2.9. This Hon'ble Tribunal has by way of interim order restrained the respondents from making promotions pursuant to the earlier final seniority list which is under challenge in the claim petition but the respondents without taking leave or permission from this Hon'ble Court cancelled the impugned seniority list and issued another final seniority list which shows their arbitrariness and wilful disobedience of this Hon'ble Tribunal.

2.10 The respondents have further stated that the seniority list has been prepared based on merit but prior to the adoption of the Seniority Rules of 2002, there were separate Rules known **as Uttar Pradesh Jal Nigam Subordinate Engineering Service Rules 1978** (उत्तर प्रदेश जल निगम अधीनस्थ अभियंत्रण सेवा नियमावली 1978), **The Rule-23(1)** of the aforesaid Rules provide for seniority. The aforesaid Rule

provides for making of seniority on the basis of the approved list not from the selection list which itself was a provisional list and not a final list. It is further relevant to mention here that the aforesaid Rules are still applicable in the department and the validity of Rule 23(1) has not been challenged in any Court of law and the Rule is still applicable. It is further relevant to mention here that Hon'ble Apex Court in its judgment dated 06-12-2019 at Para No. 19 held the following:-

> *"19. We do not find any merit in the argument raised by the State that the seniority has to be fixed as per Rule-5 of the Uttarakhand Government servant Seniority Rules, 2002. Such Rules were not adopted to be applicable to the Nigam. The Rules were approved by the Board of the Nigam on 24th September, 2007 proposing that the provision shall be made in the propose of service regulations but the Rules were made applicable in the year of 2011 only. Such is the finding recorded by the High Court which is not disputed by the appellants or by the writ petitioners, such Rules have been framed under the proviso to Article 309 of the Constitution and they are not applicable to a creation under statue. These Rules are applicable to government servants in respect of whose recruitment and condition of Service Rules may be or have been made by the Government under the proviso to Article 309 of the Constitution. Since the employees of the Nigam are not government servant nor are their service conditions governed by Rules framed under the proviso to Article 309 of the Constitution, therefore, such Rules unless adopted by the Nigam cannot be extended to the employees of the Nigam."*

Thus, on this aspect the objections decided by the respondents are misconceived and liable to be rejected and consequently the final seniority list dated 10.10.2023 is liable to be quashed.

3. C.A./W.S. has been filed on behalf of the respondents no. 2, 3 and 4, which has also been adopted on behalf of respondent no.1. In their C.A./W.S., the official respondents have contended that the respondent department had dealt with all the objections raised by the

candidates and only after deciding the objections on the tentative seniority list dated 02.06.2023, the Respondent Department vide Office Memorandum dated 10.10.2023 issued the final seniority list. The Respondent Department has issued the final seniority list in consonance with the directions passed by the Hon'ble Supreme Court. Therefore, the impugned seniority list is wholly based on merits which is in compliance of the order passed by the Hon'ble Supreme Court and as such, the claim petition is devoid of merits and is liable to be dismissed.

4. None has appeared on behalf of the private respondents no. 5 to 49 despite sufficient service upon them through HOD. Initially private respondents no. 30,40 & 42 were represented through Advocate, who later on withdrew his Vakalatnama on their behalf. None of the private respondents have filed C.A./W.S. However, the Respondent no. 17, Sri Radhey Shyam Singh, who has also been arrayed as Respondent no. 4 in the connected Claim Petition No. 49/NB/DB/2023, has filed C.A/W.S. in that claim petition stating therein that the private respondent (Radhey Shyam Singh) has not concealed any facts before the appointing authority and the department.

5. The petitioner has filed R.A. to the C.A/W.S. filed on behalf of the official respondents in which, the petitioner has reiterated the averments as have been mentioned in the claim petition.

6. Supplementary Counter Affidavit has also been filed on behalf of the official respondents, to which, the petitioner has replied by filing Supplementary Rejoinder Affidavit.

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

8. Learned Counsel for the petitioner has filed written arguments. He has also orally argued that the respondent corporation while deciding the objections of the petitioner against the tentative seniority

list ignored the directions of Hon’ble Supreme Court passed in judgment dated 06.12.2019. Thereafter, the respondent department filed review application before the Hon’ble Supreme Court and the Hon’ble Supreme Court vide judgment and order dated 02.05.2023 passed the following order:

> *“The petitioners will accordingly re-frame the seniority list. In case any person has any objection to the revised seniority list, including his/her claim that he/she should be given seniority on the basis of roster points relying on any circular or the Uttar Pradesh Jal Nigam Subordinate Engineering Service Regulations 1978, it will be open to him/her to challenge the revised seniority list in accordance with law. Of course, the ratio decidendi of the judgment dated 06-12-2019 cannot be agitated and questioned. Recording the aforesaid, the review petition is allowed and disposed of in the above terms."*

8.1 Learned Counsel for the petitioner has further argued that as per the judgment of the Hon'ble Apex Court, the seniority was to be decided in terms of the Uttar Pradesh Jal Nigam Subordinate Engineering Service Rules, 1978. The inter-se seniority was to be fixed as per the Regulation-23(1) of the said Regulations which provides that the seniority shall be fixed from the date of joining, not as per merit list. As per roster, in first phase, total 88 appointments were made in which, as per the available vacancies, 38 Schedule Caste candidates were appointed and they have joined the service, but in the impugned seniority only 1 Schedule Caste candidate has been given seniority despite of joining of 38 candidates of S.C. category. In first phase of selection, the selection year of selected candidate is 2004-05 and the selection year of the subsequent phases candidate is 2005-06. Thus, in view of this, the candidates whose selection year is 2004-05, are senior to the candidates whose selection year is 2005-06. It is also argued that the name of Mr. Radheshyam Singh in the selection list has figured in the General Category but in the impugned tentative seniority list, he has been shown as Schedule Caste Candidate, which is against the settled law because Mr. Radheshyam Singh (Respondent no. 17) is permanent resident of State of U.P. and his seniority can be fixed in

the General Category only and also on the basis of his selection year i.e. 2005-06. Thus, the petitioner, being Schedule Caste category candidate and selected for the year 2004-05, is senior to other General Category candidates, who have joined the service in the selection year of 2005-06. In Paragraph No. 19, 20 and 21 the judgment dated 06-12-2019 passed by the Hon'ble Apex Court, the Hon'ble Apex Court has given its finding/verdict regarding the first phase of selection of 88 candidates, thus the seniority of the first phase candidate, is to be fixed as per their orders of appointments and they were to be placed above selected candidates of the year 2005-06.

8.2 Learned Counsel for the petitioner has further argued that the final seniority is against the observation in judgment and order dated 02-05-2023 of the Hon'ble Apex Court, in which the Hon'ble Apex Court has categorically held that **"***In case any person has any objection to the revised seniority list, including his/her claim that he/she should be given seniority on the basis of roster points relying on any circular or the Uttar Pradesh Jal Nigam Subordinate Engineering Service Regulations 1978, it will be open to him/her to challenge the revised seniority list in accordance with law."* He has also relied upon the decisions of Hon'ble Apex Court in the case of **(i) P. Sudhakar Rao and others Vs. U. Govinda Rao and others,** in which, the Hon'ble Apex Court has held that *inter-se-seniority in a particular service has to be determined as per the service rules* and **(ii) D.N. Agarwal Vs. State of Madhya Pradesh AIR 1990 SC 1331,** has held that **"***a regular appointment at a later date cannot relate back to an earlier date of ad-hoc appointment***."** Hence, the claim petition is liable to be allowed with cost.

9. Learned Counsel for the respondent corporation has also filed Written Arguments and has also argued orally that the Chief Engineer (Headquarter), Peyjal Sansadhan Vikas Evam Nirman Nigam, Uttarakhand filed a Review Petition (Civil) No. 1130 of 2022 before the Hon'ble Supreme Court of India in Civil Appeal No. 9247

of 2019, in September 2022. Meanwhile the said review was allowed by the Hon'ble Supreme Court of India vide order dated 02.05.2023 vide said order dated 02.05.2023 the ratio of the judgement dated 06.12.2019 was held to be final and binding, however as the question that whether or not the seniority has any reference to the roster points was not raised and examined and accordingly could not be read as ratio decidendi of the judgement dated 06.12.2019. In pursuance to the order dated 02.05.2023 passed by the Hon'ble Supreme Court, the respondent department prepared tentative seniority list dated 02.06.2023 and cancelled the previous list dated 16.02.2022. The respondents circulated a tentative seniority list dated 02.06.2023 in compliance of the judgment of the Hon'ble Supreme Court dated 02.05.2023. In this seniority list, the objections were invited in respect of the clerical errors only which was challenged by the another person, Sri Dinesh Chandra Arya by filing Claim petition No. 49/NB/DB/2023 in which the Hon'ble Tribunal directed the respondents to revise the circular inviting objections on the tentative seniority list issued on 02.06.2023. The respondents invited objections vide circular dated 21.08.2023 and decided the objections of all the candidates and issued the final seniority list dated 10.10.2023, which was challenged in the instant claim petition as well as in connected Claim Petition No. 49/NB/DB/2023, Dinesh Chandra Arya vs. State of Uttarakhand & others.

9.1 It has been further argued that no appointment has been made by the Respondent in contravention of the statutory Regulations. Regulation 23 provides that seniority of persons appointed in any branch of service shall be made as per substantive appointment. The appointment in Regulation 23 has been read in terms of Regulation 20 mandating the manner of appointment. Therefore, irrespective of the date of appointment, the seniority has been fixed as per the merit of the candidates determined by the Selection Committee. Regulation-6 itself contemplated that reservation of candidates belonging to SC, ST, Backward Classes

and the candidates of other categories shall be in accordance with the orders of the Government in force at the time of recruitment. In terms of such Regulations, the Government order dated 31st August, 2001 becomes applicable to determine the extent of reservation which includes the method of determining seniority as well. Apart from the statutory Regulation 6, even the approval of the State Government to fill up 88 posts specifically mentions that the reservation shall be made as per the 100 points roster as prescribed in the Circular dated 31st August, 2001. The final seniority list dated 10.10.2023 has been prepared strictly in accordance to the directions made by the Hon'ble Supreme Court of India in the aforesaid appeal. The said seniority list was prepared and finalized after disposal of all the objections made by the candidates. Hence, the petition filed by the petitioner is devoid of merits and is liable to be dismissed.

10. The arguments of learned Counsel for the Respondent no. 4 (Radheshyam Singh) in Claim Petition No. 49/NB/DB/2023 are being taken up as argument on behalf of respondent no.17 (Radheshyam Singh) in the instant case because of similarity of the matter and the relief being sought is the same. It has been argued that the answering respondent has been appointed on 16.05.2005 as General category candidate and his name in the seniority list also shows as General Category candidate and he has not concealed any facts.

11. Based on the argument of the parties and perusal of the record, it is clear that the Pey Jal Nigam issued appointment letters to 202 candidates as against the advertised vacancies of 176. Appointment letters were issued in five phases on 13/05/2005, 27/6/2005,9/8/2005, 27/9/2005 and 16/12/2005. The Respondent authorities followed roster dated 31/08/2001 while issuing appointment letters. The petitioner was appointed vide first appointment letter issued on 13/05/2005. The private respondents have been appointed vide appointment letters issued on the later dates. The answering respondent no. 17 (Mr Radheshyam Singh)

at Sl. 103 in the impugned seniority list dated 10/10/2023 was selected as General category candidate but was given offer of appointment as SC candidate vide letter dated 09/08/2005. His place at Sl. no 103 in the tentative seniority list dated 02/06/2023 is against SC candidate but in the final seniority list dated 10/10/2023 he has been shown at sl. no 103 as General Category candidate. But this anomaly is not the subject of discussion here.

12. The respondent authorities finalised the seniority list based on the merit list issued by the examination body, the Punjab Technical University (PTU) and applied Rule-5 of the Uttarakhand Governments Servants Seniority Rules of 2002 for determining the seniority. The respondent did not consider the fact that these Rules were adopted by the Pey Jal Nigam in 2011 only and before this, the petitioner and other appointees of the year 2004-05 and 2005-06 were governed by the **Uttar Pradesh Jal Nigam Subordinate Engineering Service Rules, 1978.** This has been clearly mentioned in para 19 of the judgement dated 06/12/2019 of the Hon'ble Apex Court in the Civil Appeal No. 9247 of 2019. The relevant para mentioned in the judgement is reproduced below:

> *"19. We do not find any merit in the argument raised by the State that the seniority has to be fixed as per Rule-5 of the Uttarakhand Government servant Seniority Rules, 2002. Such Rules were not adopted to be applicable to the Nigam. The Rules were approved by the Board of the Nigam on 24th September, 2007 proposing that the provision shall be made in the proposed service regulations but the Rules were made applicable in the year of 2011 only. Such is the finding recorded by the High Court which is not disputed by the appellants or by the writ petitioners, such Rules have been framed under the proviso to Article 309 of the Constitution and they are not applicable to a creation under statute. These Rules are applicable to government servants in respect of whose recruitment and condition of Service Rules may be or have been made by the Government under the proviso to Article 309 of the Constitution. Since the employees of the Nigam are not government servant nor are their service conditions governed by Rules framed under the proviso to Article 309 of the Constitution, therefore, such Rules unless adopted by the Nigam cannot be extended to the employees of the Nigam."*

Their seniority should have been determined as per the Rule 23(1) of the **Uttar Pradesh Jal Nigam Subordinate Engineering Service Rules, 1978**, which is as follows:

> 23(1) इस विनियम में यथा उपबन्धित के सिवाय सेवा की किसी शाखा में किसी श्रेणी के पद पर नियुक्त व्यक्तियों की ज्येष्ठता नियमित नियुक्ति के दिनांक के अनुसार और जहां दो या अधिक व्यक्ति एक ही दिनांक को नियुक्त किये जाये वहां उस क्रम के अनुसार जिसमें उनके नाम अनुमोदित सूची में रखे गये हो, अवधारित की जायेगी।

13. This issue has been extensively dealt by the Hon'ble Apex Court in the judgement passed in the Civil Appeal no. 9247 of 2019 and in the Review Petition (Civil) No. 1130 of 2022.

14. In view of the above, the seniority list issued vide letter dated 10/10/2023 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 10/10/2023 is hereby quashed and the respondent authorities are directed to redraw the seniority list as per the Rule 23(1) of the **Uttar Pradesh Jal Nigam Subordinate Engineering Service Rules, 1978** and the judgement dated 06/12/2019 of the Hon'ble Apex Court in Civil Appeal no. 9247 of 2019 and the judgment dated 02.05.2023 in the Review Petition (Civil) No. 1130 of 2022. No order as to costs.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

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

DATE: JANUARY 22, 2026
DEHRADUN.
KNP