

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
AT DEHRADUN**

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. Arun Singh Rawat

-----Vice Chairman (A)

CLAIM PETITION NO. 28/DB/2022

1. Raj Bahadur (Male), aged about 50 Years, S/0 Late Sh. Shriram samaj, posted as Secretariat Attendant (Class IV) in office of Secretary, Tourism, Uttarakhand Secretariat, Dehradun.
2. Mewa Lal (Male), aged about 52 Years, S/0 Late Sh. Jangli Singh, posted as Secretariat Attendant (Class IV) in office of Secretary. Food & Civil Supply, Uttarakhand Secretariat, Dehradun.
3. Indramani Bijalwan, (Male), aged about 43 Years, S/0 Late Sh. Sundarmani Bijalwan, posted as Secretariat Attendant (Class IV) in office of Hon'ble Agriculture Minister, Vishan Sabha, Dehradun.
4. Padam Singh (Male), aged about 47 Years, S/o Late Sh. Gyan Singh Negi, posted as Secretariat Attendant (Class IV) in office of Addi Secretary, Drinking Water Department, Uttarakhand Secretariat, Dehradun.
5. Madan Singh (Male), aged about 48 Years, S/o Late Sh. Jagat Singh, posted as Secretariat Attendant (Class IV) in office of Addl Secretary Irrigation, Uttarakhand Secretariat, Dehradun.
6. Guru Prasad, (Male), aged about 54 Years, S/o Sh. Kula Nand, posted as Secretariat Attendant (Class IV) in office of, Secretary Drinking Water Department, Uttarakhand Secretariat, Dehradun.
7. Ganga Singh (Male), aged about 52 Years, S/o Late Bachan Singh, posted as Secretariat Attendant (Class - IV) in office of Hon'ble Chief Minister, Uttarakhand Secretariat, Dehradun.
8. Jagat Singh Dasila (Male), aged about 49 Years, S/O Late Madan Singh, posted as Secretariat Attendant (Class IV) in office of, Hon'ble Minister, Drinking Water, Uttarakhand Secretariat, Dehradun

.....Petitioners.

VS.

1. State of Uttarakhand through Chief Secretary, Uttarakhand Government, 4 Subhash Road, Uttarakhand Secretariat, Dehradun.
2. Chief Secretary, Uttarakhand Government, 4 Subhash Road, Uttarakhand Secretariat, Dehradun.
3. Additional Chief Secretary, Secretariat Administrative Department, Uttarakhand, 4 Subhash Road, Uttarakhand Secretariat, Dehradun.
4. Secretary, Secretariat Administrative Department (SAD), Uttarakhand, 4 Subhash Road, Uttarakhand Secretariat, Dehradun.
5. Addl. Secretary, Secretariat Administrative Department- 2 (SAD-2), Uttarakhand, 4 Subhash Road, Uttarakhand Secretariat, Dehradun.
6. Joint Secretary, Secretariat Administrative Department- 2 (SAD-2), Uttarakhand, 4 Subhash Road, Uttarakhand Secretariat, Dehradun.

....Respondents

Present: Sri Deepak Singh, Advocate, for the petitioners(online)
 Sri V.P.Devrani, A.P.O., for the Respondents.

JUDGMENT

DATED: FEBRUARY 05, 2026

Justice U.C.Dhyani (Oral)

By means of present claim petition, the petitioners seek the following reliefs:

- a) To modify the Government Order dated 03.10.2019 vide which Petitioners have been merged in secretariat and directions be issued to consider the Petitioners Merger w.e.f 22.12.2012, 22.12.2012, 26.05.2014, 22.12.2012, 02.11.2012, 22.12.2012, 06.06.2013 and 25.08.2012, the date of Petitioners regularization instead of date of Merger order dated 03.10.2019.
- b) To quash the order dated 05.01.2022.
- c) Issue any other, order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the present case.
- d) Award the costs to the petitioner.

[Emphasis supplied]

2. Ld. Counsel for the petitioners submitted that Claim Petition No. 27/DB/2022, Bhagwan Sing Kaintura and others vs. State of Uttarakhand and others was decided by the Tribunal *vide* decision dated 29.11.2022. He further submitted that basic facts along with law governing the field of Claim Petition No. 27/DB/2022 and present claim petition are the same, therefore, present claim petition is covered by the decision rendered by the Tribunal on 29.11.2022 in Bhagwan Sing Kaintura and others and can be decided in terms of the same judgment. Ld. A.P.O. fairly conceded that the matter in hand is squarely covered by the decision rendered on 29.11.2022 in Bhagwan Singh Kaintura's case (*supra*) and can be decided in terms of the said decision.

3. Ld. Counsel for the parties submitted that petitioners of Claim petition No.27/DB/2022 were Group 'C' employees, whereas petitioners of present claim petition are Group 'D' employees. There is no material change in the facts of these cases, except for the above. Law remains the same.

4. Relevant paragraphs of the decision dated 29.11.2022 are reproduced herein below for convenience:

“By means of present claim petition, the petitioners seek the following reliefs:

- a) To modify the Government Order dated 18.09.2019 *vide* which petitioners have been merged in Secretariat and directions be issued to consider the petitioners' merger w.e.f. 30.10.2013, 01.02.2010, 01.02.2010, 08.05.2012, 02.11.2012, 17.04.2012 and 20.03.2012, the dates of petitioners' regularization instead of date of merger order dated 18.09.2019.
- b) To quash the order dated 05.01.2022.
- c) Issue any other, order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the present case.
- d) Award the costs to the petitioner.

[Emphasis supplied]

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

2.1. Petitioners were employees of different departments in the erstwhile State of Uttar Pradesh. When the State of Uttarakhand came into existence on 09.11.2000, there was acute shortage of staff in the Secretariat. Employees of different departments and Corporations were attached to the Secretariat to perform various duties. The Uttarakhand Secretariat Merger Rules for the posts of Personal Assistant, Junior Group Assistant, Assistant Accountant, Typist, Assistant Helper, 2002 (for short, Merger Rules) were framed. Rule 4(2) of the Merger Rules clearly states that all such employees *i.e.* Personal Assistant, Junior Group Assistant, Assistant Accountant, Typist, Assistant Helper, who have been transferred in Secretariat from their respective departments, will be eligible for merger in Secretariat and similarly all such employees who have

not been transferred, but are working in Secretariat, will also be eligible for merger, but from the date of their substantive/ regular appointment in their respective departments.

2.2 In the years 2002-2006, in order to meet out the shortage of staff, in addition to the above mentioned employees, the Govt. of Uttarakhand also appointed various persons on the posts of Personal Assistant, Junior Group Assistant, Assistant Accountant, Typist, Assistant Helper, on *ad-hoc* basis. These employees, appointed on *ad-hoc* basis, were regularized in 2014 under the Regularization Rules, 2013, and such employees pursuant to regularization, are availing seniority from the date of regularization order. A list of such employees has been given in Para 5 of the claim petition.

.....

2.4 The Govt., in the years 2002, 2003 and 2008, in compliance of Merger Rules, 2002 (as amended in 2003 and 2008) and specifically under Rule 4(2) of the Merger Rules, merged such regular employees of various departments who were brought on attachment from their respective Departments or Corporations. Such employees, who were *ad-hoc*, daily wager, contractual and were attached to Secretariat, were not merged with the Secretariat on the ground that they were not regular employees of their respective department. Hence, they cannot be merged with the Secretariat.

2.5 On 10.03.2008, there was service-transfer of 67 Group-C employees in the Secretariat, who were attached to the Secretariat just like the petitioners, but the services of the petitioners were not transferred to the Secretariat. All those employees, who were service-transferred, became eligible for merger from the date of service-transfer *i.e.* 10.03.2008 and all those 67 employees got their seniority from the date of their service-transfer. All these 67 employees were regular employees in their respective departments, but there was no bar in the service-transfer. ***Had services of the petitioners been transferred to the Secretariat, they would also have become eligible for merger from the date of service-transfer or from the date of regularization in their respective department.*** The respondents had assured that as and when the petitioners will become regular employees in their respective department, they will be merged with the Secretariat immediately.

.....

2.7 **Finally, the petitioners were regularized in their respective departments on 30.10.2013, 01.02.2010, 08.05.2012, 02.11.2012, 17.04.2012 and 20.03.2012 under Regularization Rules, 2011** (Copy enclosed as Annexure: 8). Immediately after their regularization, the petitioners filed various representations. The then Hon'ble Chief Minister gave certain directions to the Secretary, Secretariat Administration Department (SAD) on 24.01.2014, details of which have been given by the petitioners in Para 13 of the claim petition. In the year 2014 itself, the Hon'ble Ministers recommended the case of the petitioners for their merger to the then Hon'ble Chief Minister. The then Hon'ble Finance Minister also recommended their case for merger. Opinion of the Law Department was sought. Law Department gave its opinion, which has been referred to in Para 17 of the claim petition and copy of such opinion has been enclosed as Annexure: 13 of the claim petition. The then Chief Secretary sought approval for service-transfer of all such employees who were attached to the Secretariat before December, 2005. Extract of the notings has been given by the petitioner in Para 18 of the claim petition and copy is

enclosed as Annexure-14. Despite the approval of Hon'ble Chief Minister, no transfer of petitioners was done by the respondents. In December, 2016, the Secretary, SAD, initiated the process for merger/ service-transfer of the petitioners. He passed an order on 03.01.2017. Extract of his noting has been given by the petitioners in Para 20 of the claim petition and copy of the same is enclosed as Annexure-16.

.....

2.9 Being aggrieved with the date of merger (18.09.2019), the petitioners filed various representations to Hon'ble Chief Minister and the respondents to change the date of their merger from 18.09.2019 to the date of their regularization, but representations of the petitioners were rejected for the reasons given in Para 26 of the claim petition. Feeling aggrieved, petitioners have filed present claim petition, grounds of which have been given in Paras 27 to 30 of the claim petition also.

3.1 It has been pleaded in Para 8 of the W.S. that petitioners cannot claim parity with other employees, as has been mentioned in the claim petition. Reliance has been placed upon Notification dated 10.03.2008 (Annexure: CA-4).

....

5. Hon'ble Apex Court and Hon'ble High Courts, in catena of decisions, have observed that State is largest employer in our Country. Discontentment and dissatisfaction in employees arising from intentional omissions and inactions of the State is bound to generate multifold litigation between the two. In discharge of its normal duties and proper functioning, the State is expected to act fairly in such matters. To prevent litigation, particularly unnecessary litigation, is bounden duty of the State. Various facets of this duty cast an obligation upon the State and its various departments and unlike a private employer it must grant relief to its employees, which they are entitled to get in law or under rules. Default on the part of the State results in waste of public money, public time and unnecessarily burdens the functioning of the court. State cannot be allowed to take immutable stands and its instructions or directions always should tilt in favour of reason and fairness.

8. Hon'ble Supreme Court has held, in number of decisions that *per se* discrimination should be avoided. Undesirable situation emerging in the same cadre particularly where large number of employees are working in big establishments should also be avoided.

9. Settled principle is that the State should avoid discrimination in grant of service benefits to the member of the same cadre identically situated. The State must show its grace and in fact carry out its implicit duty to grant benefit to the other members of the cadre.

10. Mechanical functioning must be substituted by reasonable and purposeful approach. State is expected to grant the same relief to the petitioners at its level in all fairness. Such an approach would not only further the object of healthy employer-employee relationship but would also take away unnecessary burden of the Court arising from such frivolous litigation. It will be legitimate expectancy on the part of the employee that he would be given the same relief which his co-employee similarly situated has been granted. Denial of justice is violation of basic rule of law on the part of respondent department.

....

14. The stand taken by the petitioners has although been contested by the respondent-department by filing W.S./C.A., but it has no legs to stand, in view of various decisions of the Hon'ble Constitutional Courts that similarly situated persons should get the same relief.

....

16. Ld. Counsel for the petitioners replied that the petitioners have clearly been regularized under the Regularization Rules of 2011. Petitioners were eligible for merger from the date of their regularization in their respective departments, which was in the years 2010, 2011, 2012, 2013. Petitioners filed representations for the same and there were directions to start the process by several Hon'ble Ministers and this aspect has not been denied by the respondents in their W.S.

17. Petitioners have been running from pillar to post for getting similar treatment which was given to similarly situated employees of the SAD. Creating a distinction between the petitioners and those (similarly situated) employees, on the ground that those ad-hoc employees were of SAD, they were regularized earlier and, therefore, they were merged in Secretariat service on an early date, amounts to artificial distinction and hence, discrimination between the petitioners and those employees. The fact that the petitioners were regularized subsequently by their parent departments, whereas the other persons were regularized earlier by SAD, creates no substantial difference. The petitioners as well as the other employees were working together in the Secretariat and no discrimination can be meted out to the petitioners if their services were regularized by their parent departments subsequently. It is not a natural classification. It amounts to artificial distinction, which is not permissible under Articles 14 and 16 of the Constitution of India.

19. The employees, who were attached to the Secretariat, after the creation of State of Uttarakhand, between the years 2002-2006, were merged in the Secretariat. Those employees, who were regular or permanent employees in the year 2002, were merged in the Secretariat by virtue of Rule 4(1) of Merger Rules, 2002. Those temporary employees, who could not be merged in the Secretariat, continued to serve there (in Secretariat). Since petitioners were not regular/ permanent employees in their parent departments, they did not fulfill the conditions under rule 4(1) of the Merger Rules, 2002, therefore, petitioners were not merged in the Secretariat. Petitioners continued to work in Secretariat under the expectation that they will be regularized and made permanent. Petitioners' services were regularized, in their parent departments in the years 2012 and 2013 under the Regularization Rules, 2011. When the petitioners were regularized under the Regularization Rules, 2011, they became eligible for merger in the Secretariat under Rule 4(1) of the Merger Rules, 2002. Several representations were given by the petitioners for their merger in the Secretariat. Advisory Departments also gave opinion for merger of the petitioners. Petitioners were finally merged in the Secretariat on 18.09.2019, but in the process, seven years were consumed by SAD, as a consequence of which, seniority and promotion of the petitioners are adversely affected. Hon'ble Cabinet took a decision on 18.07.2019 (Copy: Annexure- CA 1) for the merger of the petitioners. Hon'ble Cabinet, in its meeting dated 02.08.2019 (Copy: Annexure- CA 6) nowhere decided that the merger will be effective from the said date. In spite of that, SAD issued Office Order No. 1818, dated 18.09.2019 for merger of the petitioners in the Secretariat from the said date. Contrary to it, those employees, who were working in the Secretariat on *ad-hoc/ temporary*

basis, since 2006 and were regularized under the Regularization Rules 2013, on which there is stay from Hon'ble High Court, were merged in the Secretariat with immediate effect. These employees have been given two promotions, whereas the petitioners, who are attached to Secretariat and are working there since 2000 and were regularized under the Regularization Rules of 2011, have been denied seniority/ promotion because of lackadaisical approach of the respondents. Prayer of the petitioners for modification of Office Order No. 1818 dated 18.09.2019, for modifying the date of regularization as the date of merger is justified. The respondents should be directed to consider the prayer of the petitioner. Order accordingly.

20. The claim petition is allowed. Respondents are directed to modify the Govt. Order dated 18.09.2019 and to consider the merger of the petitioners *w.e.f.* the dates of their regularization instead of 18.09.2019. Order dated 05.01.2022, *vide* which the representations of the petitioners were rejected, is hereby set aside *qua* the petitioners. No order as to costs."

5. In view of the submissions made by Ld. Counsel for the parties and considering the peculiar facts of the case, the Tribunal is of the view that present claim petition is squarely covered by the decision rendered by the Tribunal on 29.11.2022 in Claim Petition No. 27/DB/2022, Bhagwan Singh Kaintura and others vs. State of Uttarakhand and others, as the foundational facts and law governing the field are the same, therefore, matter in hand should be decided in terms of the said decision, Bhagwan Singh Kaintura and others vs. State of Uttarakhand and others (*supra*).

6. The claim petition is, accordingly, decided in terms of the decision rendered by the Tribunal on 29.11.2022 in Claim Petition No. 27/DB/2022 Bhagwan Sing Kaintura and others vs. State of Uttarakhand and others.

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: FEBRUARY 05, 2026
DEHRADUN

VM