

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
DEHRADUN**

Present: Hon'ble Mr. Justice U.C.Dhyani  
----- Chairman  
Hon'ble Mr. Arun Singh Rawat  
-----Vice Chairman (A)

**CLAIM PETITION NO. 110/DB/2020**

Sri Arvind Kumar Satvaria, s/o Sri Pal Singh, aged about 41 years, presently posted as Officiating Assistant Engineer, P.W.D., Rudraprayag.

.....**Petitioner.**

**Versus**

1. State of Uttarakhand through Principal Secretary, Public Works Department, Secretariat, Dehradun.
2. Engineer-in-Chief, Public Works Department, Uttarakhand, Dehradun.

.....**Respondents.**

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

**JUDGMENT**

**DATED: FEBRUARY 10, 2026.**

**Justice U.C.Dhyani (Oral)**

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

*“a. To issue order or direction directing the respondents to give notional promotion to the petitioner to the post of AE (Civil). With effect from 09-12-2011 as has been directed by the*

*Hon'ble High Court in WPSS no. 1544 of 2013 (Neeraj Kumar Agarwal Vs. State of Uttarakhand).*

- b. To issue order or direction to the respondents to act on the recommendation of the DPC dated 09-12-2011 for the promotion to the post of AE(Civil).*
- c. To give any other relief fit and proper in the circumstances of the case;*
- d. To give cost to the petitioner.”*

2. Claim petition is supported by the affidavit of the petitioner. Relevant documents have been filed along with the petition.

3. Claim petition has been contested on behalf of respondents. C.A. has been filed by Sri Atar Singh, Additional Secretary, Public Works Department, Govt. of Uttarakhand, Dehradun on behalf of the Respondents. Relevant documents have been filed in support of Counter Affidavit.

4. The Tribunal has been taken through the W.S./C.A. thus filed on behalf of Respondent Department by Ld. Ld. A.P.O., who submitted that the petitioner is not entitled to claim parity with Sri Neeraj Agarwal.

5. In reply, Ld. Counsel for the petitioner submitted that the petitioner is officiating as A.E. since 2009. The name of the petitioner was recommended by the Public Service Commission for promotion to the post of A.E. in the DPC held on 23.11.2011. The said recommendation was cancelled by the respondent department because of the judgment and order dated 20.07.2012, passed in Writ Petition No. 331/2008, Lalit Mohan Goyal vs. Public Services Tribunal and others. The said order has finally been set aside by the Hon'ble Supreme Court. The Hon'ble High Court has ordered a similarly situated person (Sri Neeraj Agarwal), whose name was recommended for promotion in the same DPC, to be given notional promotion from 09.12.2011. The petitioner on being similar footing, seeks parity.

6. Ld. Counsel for the petitioner has placed a copy of judgment dated 03.11.2020 passed by the Hon'ble High Court in WPSS No. 1544/2013, Neeraj Agarwal vs. State of Uttarakhand and others

(Annexure: 1). Such decision of the Hon'ble Court is of utmost importance in the context of present claim petition. It will be appropriate to reproduce the text of the entire judgment herein below for convenience:

“The instant petition has been filed by the petitioner seeking promotion to the post of Assistant Engineer (Civil) in the Uttarakhand Public Works Department on the basis of recommendation dated 09.12.2011 made by the Public Service Commission (for short “the PSC”) and related reliefs.

2. According to the petitioner, he holds a Bachelor's degree in engineering. He was appointed as a Junior Engineer (Civil), PWD through the PSC in the year 2004. The service conditions of the petitioner are governed by the Uttarakhand Public Works Department, Assistant Engineer (Civil) Service Rules 2003 (for short “the Rules”). The Rules were amended in the year 2005 and a quota of 8.33% was earmarked for promotion to the post of Assistant Engineer (Civil) from the posts of substantively appointed Junior Engineer (Civil), who have completed five years of regular service and who have Degree in Engineering. For the year 2010-2011, the State sent a requisition on 17.09.2010 to the PSC for undertaking promotion to the post of Assistant Engineer (Civil) from substantively appointed Junior Engineer. The Departmental Promotion Committee (for short “the DPC”) was constituted, which met on 11.11.2010. The PSC recommended the names of 12 persons against 14 vacancies. In the quota of 8.33%, two names at serial nos. 12 and 13 were recommended. They were Rakesh Prakash Naithani and Naveen Dhyani respectively.

3. The PSC forwarded its recommendation on 18.11.2010. One of the recommended candidates, namely Naveen Dhyani (at serial no. 13) was having degree from Rajasthan Vidhya Peeth, Sardar Shahar Rajasthan through distant learning. The State vide its communication dated 19.11.2010 informed the PSC that such degree is neither recognized nor valid. Therefore, the recommendation dated 18.11.2010 made by the PSC did not move forward. Meanwhile, the State again on 13.06.2011, sent a fresh requisition against 8.33 % quota and two left out vacancies to the PSC. This time name of the petitioner was also forwarded for consideration. The PSC again constituted DPC, which held its meeting on 23.11.2011. On 09.12.2011, the recommendations were made. The petitioner and Rakesh Prakash Naithani were recommended for promotion.

4. In the meanwhile, the High Court in Writ Petition No. 331 of 2008, Lalit Mohan Goyal Vs. Public Service Tribunal and others (for short “the writ petition) on 20.07.2012, quashed the quota of 8.33% earmarked to the degree holders. The judgment dated 20.07.2012 also categorically specified that such declaration is prospective in nature. Subsequently, on a communication received from the State, on 19.03.2013, the PSC cancelled its recommendation dated 09.12.2011. But, the case of Rakesh Prakash Naithani was processed on the basis of earlier recommendation dated 18.11.2010, which was based on DPC dated 11.11.2010 and Rakesh Prakash Naithani was given promotion.

5. The State in its counter affidavit stated that the recommendation of the petitioner was cancelled by the PSC on 19.03.2013. It is also stated that Rakesh Prakash Naithani was provided promotion made on the basis of recommendation of DPC, which had met in the year 2010.

6. The PSC has also filed its counter affidavit. According to the PSC, the name of Rakesh Prakash Naithani was forwarded on 18.11.2010. The

State, subsequently conveyed it to the PSC that the degree obtained by Rakesh Prakash Naithani is valid and recognized. Thereafter, fresh recommendation was sent on 17.07.2013 by the PSC for the promotion of Rakesh Prakash Naithani.

7. Heard learned counsel for the parties and perused the record. 8. At the very outset, it may be stated that the judgment and order dated 20.07.2012 of this Court, passed in the writ petition was challenged before the Hon'ble Supreme Court in SLP (Civil) No. 14927 of 2013, in which on 15.04.2013, interim stay was granted and finally, SLP was allowed on 14.10.2019. The judgment and order of the writ petition dated 20.07.2012 has been set aside. Now, after judgment of the Hon'ble Supreme Court passed in the SLP the position is restored and quota of 8.33%, which was earmarked for Graduate Engineers, posted as Junior Engineer has been upheld.

9. Learned counsel for the petitioner would argue that the petitioner has been denied promotion arbitrarily and without any basis. He has been discriminated. The recommendation dated 18.11.2010 of the PSC was never acted upon and in fact, name of Rakesh Prakash Naithani, which was recommended by the PSC on 18.11.2010, was again sent for consideration by the State Government vide its requisition dated 13.06.2011. Therefore, the earlier recommendation dated 18.11.2010 had no sanctity in the eyes of law. Despite that, the PSC renewed those recommendations dated 18.11.2010 and forwarded the name of Rakesh Prakash Naithani for promotion, but the petitioner was not recommended for promotion, though he was also recommended by the PSC on 09.12.2011.

10. It is also argued that the recommendation dated 09.12.2011 was cancelled on the basis of the judgment dated 20.07.2012, passed in the writ petition, but that judgment itself has been set aside by the Hon'ble Supreme Court on 14.10.2019, in SLP No. 14927 of 2013. Therefore, now, the petitioner deserves to be given notional promotion from the date of recommendation.

11. Learned counsel for the State would fairly concede that the recommendation dated 09.12.2011, by which, the petitioner was recommended for promotion to the post of Assistant Engineer (Civil) was cancelled by the PSC, on the basis of judgment dated 20.07.2012 passed in the writ petition, which has now been set aside, therefore, the situation has to be restored.

12. Learned counsel for the PSC also admits that after decision of the Hon'ble Supreme Court in SLP (Civil) No. 14927 of 2013, the petitioner's case requires consideration.

13. On the requisition dated 17.09.2010, the PSC constituted the DPC, which met on 11.11.2010. The PSC made its recommendation on 18.11.2010 for promotion of Rakesh Prakash Naithani and one Naveen Dhyani. There was some dispute with regard to the degree obtained by Naveen Dhyani. Therefore, the matter was not processed thereafter. The State again forwarded a fresh requisition for promotion on 13.06.2011 and in this requisition, the name of Rakesh Prakash Naithani was again forwarded for consideration. It may be noted that in the subsequent requisition dated 13.06.2011, the name of the petitioner was also forwarded for consideration. It is on this requisition, the PSC again convened DPC on 23.11.2010 and made its recommendation on 09.12.2010.

14. In the light of this development, there is no doubt that, in fact, the earlier recommendation of the PSC dated 18.11.2010 had lost its significance with regard to the candidates falling under 8.33% quota. The Court does not intend to proceed in this controversy any further

because Rakesh Prakash Naithani is not before the Court and his case is not pending scrutiny.

15. The name of the petitioner was recommended by the PSC for his promotion to the post of Assistant Engineers (Civil) on 09.12.2011. It was cancelled by the PSC on 19.03.2013, because in the writ petition, 8.33% quota reserved for graduate Engineers was quashed. But, now situation has changed. The decision of this Court dated 0.07.2012 passed in the writ petition has been set aside by the Hon'ble Supreme Court. Therefore, we are of the considered view that the petitioner is also entitled to the benefits, based on the recommendation dated 09.12.2012. It is informed that the petitioner has now been promoted. In view of it, the petitioner is entitled to notional promotion from the date of the recommendation dated 09.12.2011. Accordingly, the writ petition deserves to be allowed.

16. The writ petition is allowed. The petitioner is entitled to notional promotion to the post of Assistant Engineer (Civil) with effect from 09.12.2011.

7. Ld. Counsel for the petitioner has placed a copy of Office Memorandum dated 22.02.2021, passed by the Secretary, P.W.D., to submit that the order of the Hon'ble High Court in WPSS No. 1544/2013 Neeraj Agarwal vs. State of Uttarakhand and others has been complied with by the respondent department. He prayed that the same relief, which has been given to the petitioner of WPSS No. 1544/2013 and acted upon by the State Government, be given to the petitioner of present claim petition also.

8. Since the Hon'ble Court has decided the case of similarly placed Sri Neeraj Agarwal in WPSS No. 1544/2013 on the same set of facts and law, therefore, present claim petition should be decided in terms of judgment date 03.11.2020 of the Hon'ble High Court.

9. The claim petition is, accordingly, decided in terms of the decision rendered by Hon'ble High Court in WPSS No. 1544/2013 Neeraj Agarwal vs. State of Uttarakhand and others, on 03.11.2020.

**(ARUN SINGH RAWAT)**  
VICE CHAIRMAN (A)

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: FEBRUARY 10, 2026*  
*DEHRADUN*