

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
BENCH AT NAINITAL**

Present: Hon'ble Mr. Rajendra Singh

.....Acting Chairman

Hon'ble Mr. A.S. Rawat

.....Vice Chairman (A)

**CLAIM PETITION NO. 74/NB/DB/2023**

Arjun Chand, aged about 36 years, S/o Shri Dhani Chand, presently posted as Constable, Indian Reserve Battalion, Bailparao, Ramnagar, District Nainital.

..... **Petitioner**

**Vs.**

1. State of Uttarakhand through Principal Secretary, Home Department, Government of Uttarakhand, Dehradun.
2. Director General of Police, Uttarakhand, Dehradun.
3. Indian Reserve Battalion, Bailparao, Ramnagar, District Nainital.
4. Uttarakhand Subordinate Service Commission, Thano Road, Near Maharana Pratap Sports College, Rajpur Dehradun through its Secretary.
5. Mr. Rakesh Kumar S/o Shri Ramesh Ram, presently posted as Platoon Commander, 46 Battalion, PAC, Rudrapur, Udham Singh Nagar.

.....**Respondents**

Present: Sri Sanjay Bhatt, Advocate, for the petitioner

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

Dr. N.K. Pant, Advocate, for the respondent no. 4

**With**

**CLAIM PETITION NO. 73/NB/DB/2023**

Mohan Singh (male) aged about 36 years S/o Shri Bishan Singh, presently posted as Head Constable, Indian Reserve Battalion, Bailparao, Ramnagar, District-Nainital.

.....**Petitioner**

Vs.

- 1- State of Uttarakhand through Principal Secretary Home Department, Government of Uttarakhand, Dehradun.
- 2- Director General of Police, Uttarakhand, Dehradun.
- 3- Uttarakhand Subordinate Service Commission, Thano Road, Near Maharana Pratap Sports College, Rajpur Dehradun through its Secretary.
- 4- Mr. Rakesh Kumar S/o Shri Ramesh Ram, presently posted as Platoon Commander, 46 Battalion, PAC, Rudrapur, Udham Singh Nagar.

.....**Respondents.**

Present: Sri Sanjay Bhatt, Advocate for the petitioner  
Sri Kishore Kumar, A.P.O. for the respondents no. 1 & 2  
Dr. N.K.Pant, Advocate for the respondent no. 3

**With**

**CLAIM PETITION NO. 85/NB/DB/2023**

Awatar Singh (Male) aged about 40 years, S/o Late Rajinder Singh, R/o Presently posted as Head Constable, 31 Provisional Armed Constabulary (PAC) Rudrapur, Distt. Udham Singh Nagar.

.....**Petitioner**

Vs.

1. State of Uttarakhand through Secretary Home, Secretariat at Dehradun.
2. Director General of Police, Police Headquarters, Dehradun.
3. Uttarakhand Subordinate Service Selection Commission, Thano Road, Near Maharana Pratap Sports College, Raipur, Dehradun-248008, Uttarakhand, through its Secretary.
4. Rakesh Kumar, S/o Ramesh Ram, Service through the Director General of Police, Police Headquarters, Dehradun.

.....**Respondents**

Present: Sri D.N.Sharma, Advocate, for the petitioner  
Sri Kishore Kumar, A.P.O. for the respondents no.1 & 2  
Dr. N.K.Pant, Advocate for the respondent no.3

## JUDGMENT

**DATED: APRIL 08, 2026**

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

Since the common question of law and facts are same in the above noted claim petitions, therefore, these petitions are being decided by a common judgment.

2. In claim petition No. 74/NB/DB/2023, the petitioner seeks the following reliefs:

*“(i) To quash and set aside the impugned select list issued by Respondent No. 3 as well as appointment order dated 13-04-2023 issued by Respondent No. 2 so far as it relates to selection and appointment of Respondent No. 5 on the post of Platoon Commander without having regard to the seniority of Petitioner who is senior to Respondent No. 5.*

*(ii) To quash and set aside the impugned order dated 29-03-2023 passed by Respondent No. 2 whereby claim of Petitioner seeking additional 02 marks for black belt karate course undertaken by the petitioner between 27-03-2012 to 10-04-2012 has been rejected.*

*(iii) To issue appropriate order directing the official Respondents to give 02 additional marks to the Petitioner for assessment of service record including course undertaken by the Petitioner and accordingly finalize the final merit list.*

*(iv) To issue appropriate order directing the official Respondents, particularly to the Respondent No. 2 and 3 to select and appoint the Petitioner on the post of Platoon Commander on the basis of total marks obtained by him and seniority position strictly in accordance with law.*

*(v) Any other order or direction which this Learned Tribunal may deem fit and proper under the facts and circumstances of the case.*

*(vi) Award cost of the petition to the present petitioner.*

3. In claim petition no. 73/NB/DB/2023, the petitioner seeks the following reliefs:

*“A-To quash and set aside the impugned select list issued by Respondent No. 3 as well as appointment order dated 13-*

*04-2023 issued by Respondent No. 2 so far as it relates to selection and appointment of Respondent No. 4 on the post of Platoon Commander without having regard to the seniority of Petitioner who is senior to Respondent No. 4.*

*B-To Issue appropriate order directing the official Respondents, particularly to the Respondent No. 2 and 3 to select and appoint the Petitioner on the post of Platoon Commander on the basis of total marks obtained by him and seniority position strictly in accordance with law.*

*C-Any other order or direction which this Learned Tribunal may deem fit and proper under the facts and circumstances of the case.*

*D-Award cost of the Petition to the present Petitioner.”*

4. Similarly, in claim petition No. 85/NB/DB/2023, the petitioner seeks the following reliefs:

*“i) To quash and set aside the impugned result dated 12-04-2023 of Platoon Commander (Annexure no. 4 to the petition) insofar as the inclusion of respondent no. 4 is concerned and insofar as the non-inclusion of petitioner is concerned.*

*ii) To direct the respondents to forthwith include the name of the petitioner after striking off and excluding the name of the respondent no. 4 herein in the impugned result dated 12-04-2023 of Platoon Commander (Annexure no. 4 to the petition)*

*iii) To issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.”*

5. Brief facts, giving rise to present claim petitions, are as follows:

5.1 Petitioner in claim petition no. 74/NB/DB/2023, was initially appointed as Constable in Indian Reserve Battalion on 01.06.2009 and since then he is serving continuously.

5.2 The Petitioner in Claim Petition No. 73/NB/DB/2023 was initially recruited as Constable in Indian Reserve Battalion on 01-06-2009. He was promoted on the post of Head Constable in the year 2022 and presently is serving on the same post.

5.3 Similarly, the petitioner in claim petition No. 85/NB/DB/2023 was initially appointed as Constable on 10-04-2006 and presently posted as Head Constable in 31 PAC Rudrapur Distt. Udham Singh Nagar.

6. The service conditions of the petitioners are governed by the statutory rules framed under section 13 of the Uttarakhand Police Act, 2007. These Rules were notified on 10-03-2019 and are called as "*Uttarakhand Provincial Armed Police (P.A.C., A.P. and I.R.B.) Constable, Head Constable. Platoon Commander, Sub Inspector-Armed Police, Company Commander and Intelligence Inspector Subordinate Service Rules, 2019* (from hereinafter referred as Rules of 2019). These rules have been amended from time to time, the Part-IV of the Rules prescribe condition of eligibility, procedures and qualifications for selection for various posts of cadre including the post of Platoon Commander. The entire selection procedure has been set out under schedule-11 of the Rules.

6.1 On 22-01-2021, an advertisement was issued by the Police Headquarter, Dehradun whereby 77 posts of platoon commander (male) were notified for departmental competitive examination under the provisions of Rules of 2019 as amended in 2020. The main examination was to be conducted by the Uttarakhand Subordinate Service Selection Commission (UKSSSC). Clause 11 of the advertisement relates to selection process which clearly stipulated that the merit list of candidates would be prepared on the basis of their combined marks obtained in written examination and the marks given for assessment of service record.

6.2 Pursuant to aforesaid advertisement, petitioners applied for the post of Platoon Commander and were allowed to participate in the written examination. Petitioner (Arjun Chand) appeared in the written examination and secured 203 marks with general rank of 333 and was declared as qualified. The petitioner (Mohan Singh) appeared in the written examination and obtained 204 marks with general rank of 313

and was declared as qualified. Similarly, the petitioner (Avtar Singh) had secured 205 marks in the Written Examination. The service record of the petitioners was also assessed for the last 10 years character roll entries. The evaluation chart of service records was put in the official website of the department to invite objections of the candidates within 15 days and then finalized the same.

6.3 The petitioner (Arjun Chand) obtained 203 marks in written examination and allotted 33 marks for service record as such, he obtained 236 marks. He was entitled to get additional marks for assessment of service record because he has undergone black belt karate course but this was not done by the respondents. Last selected candidate namely Mr. Rakesh Kumar who has been arrayed as respondent No. 5 in the claim Petition no. 74/NB/DB/2023 is much junior to the petitioner inasmuch as he was initially appointed as constable on 04-04-2011 and his date of birth is 02-06-1990 whereas Petitioner was initially appointed on 01-06-2009 and his date of birth is 30-06-1987, therefore, on the basis of age and service, petitioner (Arjun Chand) is senior to private respondent.

6.4 The service record of petitioner (Mohan Singh) was assessed for the last 10 years character roll entries and was awarded 32 marks for the service records. As such, he obtained 236 marks in total. Similarly, private Respondent Mr. Rakesh Kumar as well as Mr. Papendra Singh, Mohd. Eklakh, Mr. Aashish Singh Rawat, Mr. Awatar Singh and Arjun Chand also obtained 236 marks each. The respondent No. 2 has issued an order on 13-04-2023 whereby 77 selected candidates, including private respondent have been appointed as Platoon Commander in different units of police department. The last selected candidate namely Mr. Rakesh Kumar, who has been arrayed as Respondent No. 4 in the claim Petition no. 73/NB/DB/2023 is much junior to the petitioner inasmuch as he was initially, appointed as constable on 04-04-2011 and his date of birth is 02-06-1990 whereas petitioner was initially appointed on 01-06-2009

and his date of birth is 06-06-1987 therefore on the basis of age and service, petitioner (Mohan Singh) is senior to private respondent.

6.5 Petitioner (Avtar Singh) got 31 marks in his service (CR) i.e. a total of 236 marks. He was initially inducted on 10-04-2006 in service. The respondent no. 4 (Rakesh Kumar) who is about 5 years junior to petitioner (having joined the Department on 04-04-2011) has been promoted while petitioner who is senior has secured equal marks as respondent no. 4 i.e. 236 marks, has not been selected.

6.6 On 13-04-2023, the Respondent No. 2 had issued an order whereby 77 selected candidates, including private Respondent, have been appointed as Platoon Commanders in different units of police department (declared result on 12/04/2023 by the UKSSSC).

6.7 There are identical provisions for promotion on the post of Head Constable. Respondents also initiated selection process for the post of Head Constable and prepared select list on the basis of total marks obtained by the candidates in the written examination and service record having regard to the seniority of candidates, but for the post of Platoon Commander a different yardstick is being adopted which is illegal, arbitrary and discriminatory. Rule 24 read with appendix-11 makes it clear that recruitment by promotion on the post of Platoon Commander is to be made on the basis of departmental eligibility examination and the merit list would be prepared on the basis of total marks obtained by the candidate in written examination and service record. Therefore, it is clear that selection is to be made on the basis of final merit list and not on the basis of written test only.

6.8 Petitioner (Arjun Chand) in the claim petition no. 74/NB/DB/2023 participated in the black belt karate course between 27-03-2012 to 10-04-2012 i.e. for 15 days conducted by SHITO RYO SEIKO KAI KARATE-DO INDIA. For participating in this course, petitioner sought permission from the employer which was duly given to him, a fact which is evident from movement order dated 10-04-2012 issued by Company Commander, IRB Bailparao, Ramnagar. On, 29-

03-2023 claim of petitioner seeking additional 02 marks for course, has been rejected on the ground that he moved application with a delay of 01 years and 10 months and that there is no entry for course in the HOB and the certificate produced by the petitioner does not indicate the term of course. So far as the delay of 01 year and 10 months is concerned, petitioner was never made aware about the fact that his 02 marks for second course has not been given because on two occasion he was awarded 10 marks for course but in the third round he was given only 08 marks. The moment petitioner received information from the official website of department he immediately moved application seeking additional marks. As far as the second ground of rejection is concerned, petitioner has an order of departure and arrival which clearly indicates the date and time of course but the administrative section did not bother to make entry in HOB and now for their fault petitioner cannot be penalized. So far as third ground is concerned, the certificate was issued by the course coordinator and the same was also placed in the file of petitioner but the responsible officer did not bother to get it verified or to make the entry in the service book i.e. HOB. Therefore, it is administrative department, who has committed mistake in not making entries in the service record of the petitioner and now for their fault, petitioner is being penalised.

6.9 The amended Rules of 2020 also provide that in case there is any difficulty in promotion on the basis of selection, the procedure in Rules of 2013 would be taken into consideration. The Rules of 2013 provide that after a candidate is found suitable, the promotion would be made on the basis of seniority. Since the suitability of petitioners is not in dispute and it is also not in dispute that the petitioners and private respondent obtained equal marks and that petitioners are much senior to the private respondent (Rakesh Kumar), therefore, the petitioners have preferential right to be selected and appointed on the post of Platoon Commander having regard to their seniority.

7. The claim petitions have been contested on behalf of the respondents no. 1 to 3 contending that-

7.1 उत्तराखण्ड प्रादेशिक आम्ड कान्सटेबुलेरी अधीनस्थ अधिकारी सेवा नियमावली 2019 में निहित प्राविधानों के अनुसार दिनांक: 22.01.2021 को गुल्मनायक पीएसी/आईआरबी के 77 रिक्त पदों पर विभागीय योग्यता परीक्षा आयोजित किये जाने हेतु विज्ञप्ति पुलिस मुख्यालय द्वारा निर्गत की गयी। दिनांक: 21.02.2021 को प्लाटून कमाण्डर की विभागीय उत्तराखण्ड अधीनस्थ सेवा चयन आयोग द्वारा आयोजित की गयी, जिसमें सभी अभ्यर्थियों द्वारा प्रतिभाग किया गया। दिनांक: 13.04.2023 को प्लाटून कमाण्डर का अन्तिम परीक्षण परिणाम घोषित किया गया है, जिसमें कुल 77 पदों पर कर्मियों का चयन किया गया। अवगत कराना है कि उक्त घोषित परिणाम में अन्तिम अभ्यर्थी का चयन 236 नम्बर पर हुआ है एवं अन्य अभ्यर्थियों के भी 236 नम्बर आये परन्तु उनका चयन प्लाटून कमाण्डर के पद पर नहीं हुआ है। अधीनस्थ सेवा चयन आयोग द्वारा मैरिट के आधार पर उक्त अभ्यर्थियों का चयन किया है, जिसमें आयोग द्वारा अपना प्रतिशपथ पत्र पूर्व में प्रेषित कर दिया है। वादियों के द्वारा परीक्षा परिणाम में 236 नम्बर लाने व चयनित अभ्यर्थी से सेवा में वरिष्ठ होने के कारण अपना चयन किये जाने हेतु मा0 लोक सेवा अधिकरण के समक्ष उक्त निर्देश याचिका दाखिल की है।

7.2 इसके अतिरिक्त वादी (अर्जुन चन्द) के सन्दर्भ में, अध्यक्ष चयन समिति, प्लाटून कमाण्डर विभागीय पदोन्नति परीक्षा चयन समिति द्वारा अपने पत्र संख्या: डीआईजी (फायर सर्विस) 2021, दिनांक: 29.03.2023 में अंकित किया है कि अध्यक्ष, चयन समिति की अपेक्षानुसार अभ्यर्थी आरक्षी 3255 अर्जुन चन्द द्वारा भारत तिब्बत सीमा पुलिस अकादमी मसूरी द्वारा दिनांक: 11.04.2011 से 01.10.2011 तक आयोजित बेसिक कराटे कोर्स के परिप्रेक्ष्य में अपनी आपत्ति प्रस्तुत की गयी थी तथा तत्कालीन चयन समिति द्वारा प्राप्त आपत्ति का नियमानुसार निस्तारण करते हुये गुल्मनायक विभागीय पदोन्नति परीक्षा हेतु निर्गत विज्ञप्ति में निहित प्राविधानों के अनुसार उक्त अभ्यर्थी को नियमानुसार अधिकतम 08 अंक प्रदान किये गये तत्समय उक्त कार्मिक द्वारा ब्लैक बेल्ट कराटे कोर्स के अंक प्रदान किये जाने हेतु किसी भी प्रकार का प्रत्यावेदन/आपत्ति प्रस्तुत नहीं की गयी थी।

8. C.A. has also been filed by the Dr. N.K. Pant, learned Counsel for the Uttarakhand Subordinate Service Selection Commission (UKSSSC) in all the claim petitions mainly stating therein that-

8.1 An advertisement was issued by the Police Headquarters whereby 77 posts of Platoon Commander were notified for Departmental Competitive Examination. The main examination was to be conducted by the UKSSSC. The Clause 11 of the Police Headquarters, Dehradun communication dated 22.01.2021 pertains to the selection procedure, which clearly provides that the merit list shall be prepared on the basis of combined marks obtained in written examination and evaluation of service record and as per the existing reservation rules and as mentioned in the Appendix of this communication and shall be published in the website of the Police Department.

8.2 The petitioners in their claim petitions mentioned that the petitioners obtained combined marks 236 (in written examination and service records). Similarly Private Respondent Mr. Rakesh Kumar as well as other candidates as Mr. Papendra Singh, Mohd. Ekhlaq, Mr. Ashish Singh Rawat also obtained 236 marks each. The petitioners have made Rakesh Kumar as Private Respondent but similarly situated other persons have not been made Private Respondents. Hence the petitioners' petitions are liable to be dismissed or they should implead the above mentioned persons as parties. Respondent no. 2, Director General of Police, Uttarakhand, Dehradun has issued an order dated 13.04.2023 whereby the respondent no. 2 appointed Platoon Commander in different units of Police Department. Whereas, the matter of the present Claim Petition pertains to respondent no. 2 and UKSSSC doesn't have any concern in the matter. He has further submitted that the final merit list has been prepared on the basis of Govt. letter dated 18.02.2022, DG Police (Personnel) letter dated 21.09.2022 which clearly provide to decide the merit as per Rule 5(5) of the Uttarakhand Out Side the purview of Public Service

Commission (Procedure for direct recruitment for Group C post) Rules, 2008. Relevant portion of Rule 5(5) says that.....*if two or more candidates obtained equal marks to aggregate, the candidates securing higher marks in the written examination will be placed higher in the selection list. If two or more candidates obtained equal marks in the written examination also, the candidate senior in the age will be placed higher in the selectin list.*

9. The petitioners have also filed Rejoinder Affidavit to the Counter Affidavit filed on behalf of the respondents.

10. Supplementary Affidavits have also been filed on behalf of the Uttarakhand Subordinate Service Selection Commission (UKSSSC), clarify their position in the issue raised in the claim petitions.

11. The private respondent neither filed any Counter Affidavit nor appeared. Therefore, the Tribunal vide order dated 25.11.2024 decided to proceed ex parte against him.

12. Heard the learned Counsel for the parties and perused the record carefully.

13. The arguments of learned Counsels for the petitioner in all the claim petitions are that petitioners were appointed on as Constables and promoted as Head Constables. They appeared in the departmental examination conducted by the respondents as per the advertisement of Police Department for the Post of Platoon Commander and they secured total 236 marks each in the written examination and evaluation of their service records, but the private respondent, Sri Rakesh Kumar, who is junior in terms of age and date of appointment to the petitioners as constable was declared qualified in the examination ahead of the petitioners and was appointed also. The respondents, instead of considering the seniority, considered the marks obtained in the written examination in case of tie in the total marks. Where in case of examination for the post of the Head Constable the respondents considered seniority.

14. The petitioners are governed by Uttarakhand Provincial Armed Police (P.A.C., A.P. and I.R.B.) Constable, Head Constable. Platoon Commander, Sub Inspector-Armed Police, Company Commander and Intelligence Inspector Subordinate Service Rules, 2019 as amended in 2020, Appendix-11 of these Rules clearly lays down that the merit list will be prepared on the basis of the combined marks obtained in the written examination and the marks scored in the service records, which has been overlooked by the respondents.

15. The learned Counsel for the petitioner (in claim petition no. 74/NB/DB/2023) has further argued that the petitioner has participated in the black belt karate course between 27/03/2012 to 10/04/2012 for 15 days conducted by SHITO RYO SEIKO KAI KARATE DO INDIA and he obtained permission to participate in the course which is evident from the movement order given by the Company Commander IRB Bailparao, Ramanagar. The petitioner submitted the certificate to claim additional 2 marks but it was rejected by the respondents vide order dated 29/03/2023 on the ground that application was submitted 1 year and 10 months late and there is no entry of the course in HOB and the certificate produced did not indicate the term of the course. The petitioner (Arjun Chand) was not made aware of the fact that he has not been given 2 marks although he submitted application as soon as he came to know about it from the official website of the department. The certificate was submitted to the respondents in time, but it was not entered in the service book. It was not the mistake of the petitioner but of the department as they did not enter the information in his service book.

16. Learned Counsel for the petitioners further argued that the Rules of 2019 as amended Rules 2020 also provide that the final eligibility list will be prepared on the basis of the combined marks obtained in written examination and assessment of the service records. In case there is any difficulty in promotion based on the Rules of 2019 as amended in 2020, Rules of 2013 should be taken into consideration. Rules of 2013 clearly say that the promotion would be

made based on the seniority. The petitioners deserve to be promoted ahead of the private respondent.

17. The Director General of Police vide letter dated 22/01/2021 invited applications for the post of the Platoon Commander and mentioned that the candidates who qualify the physical test the evaluation of their service records will be done by the police department and will be submitted to the Selection Commission. A combined marks list of the selected candidates will be published in the web site of the Selection commission as well sent to the Police department for publishing in the web site of the Police department. The Uttarakhand Subordinate Service Selection Commission (UKSSSC) based on the communication received from the DG Police determined the seniority which says that the Rule 5(5) of Rules of 2008 needs to be followed in case the candidates obtain equal marks in the written examination and the service record. But the rules of 2008 which the Police Department as well as the Govt. Communication mention are not applicable in case the personnel of the police department along with some other departments.

18. Learned Counsel for the petitioners submitted that a similar matter has been decided by the Hon'ble High Court vide order dated 05/01/2015 in Writ Petition (S/S) No. 349 of 2014, Jyoti Prasad Bhatt Vs Distt Judge Tehri Garhwal and Ors, in which the Hon'ble High Court directed that in case of the tie in the marks, seniority should be decided based on either seniority in the service or date of birth. Hence, the promotion order dated 13.04.2023 and merit list dated 12.04.2023 are liable to be quashed.

19. Learned Counsel for the Uttarakhand Subordinate Service Selection Commission (UKSSSC) submitted that the petitioners scored 236 marks. Same marks were obtained by 5 other candidates. As there were no provisions in the rules of 2019 and amended Rules of 2020 in case the total marks obtained by the candidates in the written and the service records are same, the Commission followed

the instructions received from the Police Department to prepare the final merit list and considered the marks obtained in the written examination to finalized the merit list.

20. Learned APO argued that the respondent department has issued the appointment letters based on the merit list received from the Uttarakhand Subordinate Service Selection Commission (UKSSSC). Further, the claim of the petitioner (Arjun Chand) for additional two marks of Black Belt Karate Course he attended between 27-03-2012 to 10-04-2012 i.e. for 15 days conducted by SHITO RYO SEIKO KAI KARATE-DO INDIA cannot be considered as it appears that the course has been attended in his personal capacity. The term of the course is not clear. After obtaining the certificate, there is no document requesting for entry in the service record through proper channel. The petitioner (Arjun Chand) submitted representation for inclusion of his certificate in the service record after lapse of one year and 10 months so, there is a proper justification for not considering this certificate for evaluation in service record. The Claim petitions are liable to be dismissed.

21. Based on the arguments of the parties and the documents presented to the Tribunal, it is clear that the petitioners were appointed as Constables and promoted as Head Constables subsequently in due course of time. They appeared in the departmental examination for which the DG Police invited applications vide letter dated 22/01/2021. The written examination was conducted by the Uttarakhand Subordinate Service Selection Commission (UKSSSC). The marks for service records were provided by the Police department to Uttarakhand Subordinate Service Selection Commission (UKSSSC). The UKSSSC added the marks of the written examination and the marks of service records and submitted merit list based on the combined marks to the Police department and also published in their web site. The police department, before finalizing the marks of the service records also put the same in the web site and invited objections, if any, from the candidates.

22. The petitioner (Arjun Chand) in Claim Petition No. 74/NB/DB/2023 did not inform respondents immediately that his Black Belt Karate certificate has not been considered for giving marks in the marks of service record. He made a representation to the department after more than a year and the department rejected the representation with the reasons. The petitioner submitted the certificate to claim additional 2 marks but it was rejected by the respondents vide order dated 29/03/2023 on the ground that application was submitted 1 year and 10 months late and there is no entry of the course in HOB and the certificate produced did not indicate the term of the course. The Tribunal also perused the service record submitted by the learned APO, and found that the concerned certificate does not have the term of the training, request letter of the petitioner to include the certificate in the Service book and the copy of the movement order is also not clear. The respondents have mentioned that the petitioners should have included the same in his ACR also. So along with the above reasons and the delay in representation has led to the rejection of the claim for two marks by the respondents is justified.

23. Tribunal has also considered the seniority aspect as claimed by petitioners that the private respondent (Rakesh Kumar) is junior and in case of equal marks, the seniority of the petitioners should have been considered. Learned counsel for the UKSSSC argued that in case, the candidates have equal marks, the candidates who have higher marks in written examination have been considered as senior. The private respondent (Rakesh Kumar) has highest marks in the written examination among all the candidates who secured total 236 marks. He has submitted the copy of the letter of the Government clarifying that in case the marks obtained by the candidates are same then marks in the written examination will be given preference. The Government has cited the- Uttarakhand Out Side the Purview of Public Service Commission (Procedure for direct recruitment for Group C post) Rules, 2008 as the basis for providing such suggestion. But these rules are not applicable to the police department along few

other departments (such as Uttarakhand Public Service Commission, High Court, Subordinate Court under the High Court, *Pradeshic Sashatra* Police and Fire Services under the Police Department) and moreover, these rules are related to the direct recruitment and these rules cannot be made applicable in the present case.

24. The judgment of the Hon'ble High Court of Uttarakhand at Nainital dated 05/01/2015 in Writ Petition (S/S) No. 349 of 2014 in the matter of Jyoti Prasad Bhatt Vs Distt Judge Tehri Garhwal and Ors, as relied upon by the learned Counsel for the petitioners, in which it has been ordered that in case of tie of marks of two candidates are equal the candidate who is senior in age or senior in service should be selected. The relevant portion of the judgement is as under:

*“4. At this juncture, it would be necessary to note that second paper is of English language and out of five candidates, who appeared in the examination, three had obtained 0 (zero) marks in the said paper. In fact the one who has got the highest marks i.e. 43.7 marks also obtained 0 (zero) marks in the English language (second paper) and yet he has been selected, which is not under dispute. It is also necessary to note at this juncture that the entire work in the District Judgeship is in Hindi language, in fact the language of the district court is also Hindi. Hindi is also the declared official language of the State of Uttarakhand under Article 345 in the Constitution of India.*

*5. The learned counsel for the petitioner has challenged the said selection/appointment on various grounds. Firstly, that the reason assigned for not selecting the petitioner is totally arbitrary and illegal, inasmuch as, he has been rejected on the ground that he has obtained 0 (zero) marks in second paper, whereas another person, who has been selected i.e. Mr. Karan Singh has also obtained 0 (zero) marks in the second paper. Therefore, considering the same analogy, even Mr. Karan Singh, was not liable to be selected since he had secured 0 (zero) marks in the said examination, yet he has been selected. The second challenge of the petitioner is that as per the Rule 20(2) of the Uttarakhand Subordinate Civil Courts Ministerial Establishment Rules, 2007, which deals with promotion reads as under:-*

*“20. Promotion (1) ..... (2) Except in cases of Amins, promotion shall be made according to seniority subject to efficiency.”*

2. *The petitioner contends that in case of a tie in marks of two candidates, the candidate who is senior in age or who is senior in service should be selected. Based on both these yardsticks, it was the petitioner who was liable to be selected as he was not only senior to respondent No. 2 in service but also senior in age as well. The petitioner joined his service on the Class – IV post on 01.03.1982 whereas respondent No. 2 has joined on 01.03.1995. 7. Although the Rules of 2007 are silent to this aspect on promotion but yet Rule 14 which gives criteria for direct appointment reads as under:-”*  
**“14. (1) Registrar General shall prepare a select list of candidates in order of merit, on the basis of the aggregate of marks obtained by them in the written examination Part-1 and Part-2;**  
**Provided that if two or more candidates obtain equal marks, the name of the candidate senior in age, shall be placed higher in the select list. Provided further that if two or more candidates of equal age obtain equal marks, the name of the candidate who has obtained higher marks in the written examination, shall be placed higher in select list.”**

*(emphasis supplied)*

8. *Admittedly, the above provision applies in case of direct recruitments only. Yet it is a fair and equitable provision and therefore liable to be applied in the present case as well, though we are concerned with appointment on the basis of promotion.*

9. *Consequently, since there was a tie between the petitioner and respondent No. 2, the petitioner should have been given priority as not only he was senior in service but also senior in age. The selection of respondent No. 2 is totally arbitrary and illegal, and therefore the same is quashed.*

10. *Accordingly, the writ petition is allowed. A mandamus is issued to respondent No. 1 to forthwith give appointment to the petitioner on the Class III post from the date on which appointment was initially given to respondent No. 2.”*

Above judgement of the Hon’ble Single judge of the High Court of Uttarakhand at Nainital has been upheld by the division bench of the Hon’ble High Court of Uttarakhand at Nainital.

25. It is clear that the petitioners as well as the private respondent have secured equal marks but the petitioner, Arjun Chand in claim petition No. 74/NB/DB/2023 (Date of Birth 30.06.1987 and date of joining 01.06.2009); Petitioner, Mohan Singh in claim petition No. 73/NB/DB/2023 (Date of Birth 06.06.1987 and date of joining

01.06.2009); petitioner, Awatar Singh in claim petition No. 85/NB/DB/2023 (date of birth 10.02.1983 and date of joining 10.04.2006) are senior in terms of the date of birth as well as date of joining to the private respondent, Rakesh Kumar (Date of birth 02.06.1990 and date of joining 04.04.2011).

26. In view of the above, the petitioners, who are senior to the private respondent deserve to be given promotion prior to the private respondent. Hence, the claim petition No. 74/NB/DB/2023, Arjun Chand is liable to be partly allowed, but his claim for two additional marks for Black Belt Karate course is liable to be rejected. The claim petitions no. 73/NB/DB/2023 and 85/NB/DB/2023 are also liable to be allowed. The petitioners are liable to be given promotion to the post of Platoon Commander from the date of promotion of the private respondent Sri Rakesh Kumar.

### **ORDER**

The claim petition No. 74/NB/DB/2023, Arjun Chand is partly allowed, but his claim for two additional marks for Black Belt Karate course is hereby rejected. The Claim Petitions no. 73/NB/DB/2023 and 85/NB/DB/2023 are also allowed. The respondent no. 2 is directed to promote the petitioners to the post of Platoon Commander from the date of promotion of the private respondent Sri Rakesh Kumar, within three months from the date of presentation of certified copy of the judgment. No order as to costs.

Let copies of this judgment is placed on the files of Claim Petitions no. 73/NB/DB/2023 and 85/NB/DB/2023.

**RAJENDRA SINGH**  
ACTING CHARMAN

**A.S. RAWAT**  
VICE CHARMAN (A)

*DATED: APRIL 08, 2026*  
*DEHRADUN*  
*KNP*