

**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. 135/NB/DB/2023

Dhani Ram Chanyal, aged about 63 years, S/o Sri Harsh Ram, R/o Malli Jakhni, Near Vivekanand Mandir School, P.O. Bin, Tehsil and District Pithoragarh, Pin-262501.

.....Petitioner

Vs.

1. State of Uttarakhand through Secretary, Finance, Government of Uttarakhand, Dehradun.
2. Director, Treasury and Financial Services, Uttarakhand, 23, Laxmi Road, Dalanwala, Dehradun.
3. District Magistrate, Pithoragarh.

..... Respondents

Present: Sri R.C. Tamta, Advocate, for the Petitioner
Sri Kishore Kumar, A.P.O. for the Respondents

JUDGEMENT

DATED: JULY 27, 2026

PER: HON'BLE SRI A.S.RAWAT, VICE CHAIRMAN(A)

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

“(i) To quash the impugned order dated 16.08.2022, passed by the respondent no. 2 i.e. passed by Director, Treasury and Financial Services, Uttarakhand, 23, Laxmi Road, Dalanwala, Dehradun (Annexure No.1).

(ii) To pass an order or direction directing the respondents to promote the applicant on the post of Finance Officer with effect from the 26.02.2010 and pay monetary benefits in consequence of his promotion w.e.f. 26.02.2010.

(iii) To pass an order or direction directing the respondents to grant the benefit of annual increment for the year, 2018.

(iv) To Grant any other relief, order or direction, which this Hon'ble Tribunal deem fit and proper in the facts and circumstances of the case.

(v) Award the cost of the petition to the petitioner."

2. This is the second round of litigation. In first round of litigation, petitioner filed claim petition no. 07/NB/DB/2021, Dhani Ram Chaniyal vs. State of Uttarakhand and others, which was disposed of by the Tribunal vide order dated 26.02.2021 with the direction to respondent no. 2 to decide pending representation of the petitioner by speaking order within a period of three months from the date of order.

3. Brief facts, giving rise to present claim petition, are as follows:

3.1 The petitioner was initially appointed on the post of Assistant Accountant/Treasury Clerk vide order dated 19.03.1977 on a fixed honorarium of Rs. 200-320/-. The appointment of the petitioner was temporary. Petitioner was promoted on the post of Accountant vide order dated 31.01.1995 and he was posted as Accountant in Sub-Treasury Didihat, District- Pithoragarh on a fixed honorarium of Rs. 1400-2600/- vide order dated- 31.01.1995.

3.2 In the year 2000, a Government Order No. S-3-1228/10-2000 dated 26.05.2000 was issued regarding applicability of ratio of 80:20 to determine the seniority of accountants appointed through direct recruitment. Thereafter, in the year 2002, a seniority list for the post of Accountant was issued vide office order dated

10.04.2002 in which the name of the petitioner was at serial no. 86. The petitioner was promoted further by the office order dated 21.02.2004 on the post of Sub-Treasury Officer wherein the petitioner was placed at serial no. 8 in the promotion list.

3.3 After creation of State of Uttarakhand, a writ petition no. 529(S/B) of 2002, Bhawan Singh Baldiya vs. State of Uttarakhand and others, was decided on 22.07.2008 and on the basis of order passed in writ petition, a fresh seniority list of Accountant was issued on the basis of Government Order of 2000 (80:20). In this seniority list, the petitioner was placed at serial no. 32 and three other persons namely Sri Hari Prasad Semwal, Sri Madan Singh Negi and Sri Maghan Singh Negi were placed at serial no. 57, 61 and 65 respectively in the same list. These three persons were promoted on the post of Sub Treasury officer on 06.08.2002 and the petitioner, who was senior to these three persons was promoted on the post of Sub Treasury Officer on 21.02.2004.

3.4 Thereafter, on 26.02.2010, 20 persons were promoted on the post of Treasury Officer/ Finance Officer in which the above-noted persons, who were junior to the petitioner were again promoted and the petitioner was not given the benefit of his seniority and was promoted on the same post of Finance Officer/ Treasury Officer in September, 2014. The final seniority list was issued vide office order dated 29.11.2011 and the petitioner was placed at serial no. 32 in the final seniority list issued on 29.11.2011. After issuance of the fresh corrected seniority list in pursuance of the Hon'ble High Court's order dated 22.07.2008, the petitioner should have been given the benefit of that seniority list and he should have been promoted on the post of Treasury Officer/Finance Officer before promotion of these persons who were junior in the corrected list of 2008 but the petitioner was not given benefit of that corrected seniority list. Then, the petitioner moved a representation dated 02.11.2011 stating the entire facts and prayed for his promotion on

the post of Treasury Officer/Finance Officer with effect from 26.02.2010.

3.5 When no heed was given towards the representation of the petitioner, he submitted another representation on 15.01.2013 by mentioning his entire grievance as mentioned by him in his earlier representation. Even after submitting above noted representations, the grievance of the petitioner was not heard by the authorities, who were sitting over the matter. On being aggrieved with inaction on the part of respondents, the petitioner again submitted a representation dated 01.10.2018 to the respondent no. 2 but again his representation was not considered by the respondents. Petitioner retired on 31.12.2018 but he was never given the benefit he was seeking even after lot of efforts. Petitioner was also not given the benefit of annual increment for the year 2018.

3.6 After lapse of more than 3 years of retirement of the petitioner and since the representation pending before the respondents authorities, in the month of February, 2021, the petitioner approached the Tribunal by way of filing a claim Petition No. 07/NB/DB/2021 "Dhani Ram Chaniyal vs. State of Uttarakhand & others" which was disposed by the Tribunal vide order dated 26.02.2021 with the direction to respondent no. 2 to decide the pending representation of the petitioner, by speaking order, within a period of three months from the date of order. The respondent no. 2 did not decide the representation within the stipulated time granted by the Tribunal, then the petitioner again sent a reminder on 22.08.2021 to comply with the order of the Tribunal.

3.7 When the respondent no. 2 did not comply with the order of the Tribunal, the petitioner moved an execution application no. 01/NB/DB/2022. The respondent no. 2, after filing of the execution application decided the representations of the petitioner and submitted his reply in execution application enclosing office

memorandum dated 16.08.2022 whereby the representation of the petitioner has been rejected. The petitioner made two prayers in his representation, first prayer of the petitioner was that to promote the petitioner on the post of Finance Officer with effect from 26.02.2010 and pay the monetary benefit accordingly, the respondent no. 2 rejected the said prayer of the petitioner on the ground that Sri Hari Prasad Semwal & Sri Madan Singh Negi were promoted on the post of Sub-Treasury Officer before the petitioner, therefore, they were promoted on the post of Finance Officer accordingly before the petitioner and also they were promoted by the Departmental Promotion Committee constituted by Public Service Commission.

3.8 Respondent No. 2 rejected the second prayer of the petitioner which is to grant the benefit of annual increment for the year 2018 to the petitioner. The respondents rejected this prayer of the petitioner on the ground that instant controversy is sub judice before the Hon'ble High Court of Uttarakhand in writ petition no. 226 (SB) /2019 "Shri Umesh Babu Mishra vs. State of Uttarakhand & others". The said writ petition was disposed of by the Hon'ble High Court vide order dated 29.09.2022 whereby the Hon'ble Court transferred the writ petition to the Tribunal, which was registered as claim petition no. 143/DB/2022. This claim petition was decided on 06.01.2023 by directing respondent no. 1 to take a reasoned decision on the reference of Director, *Ayurvedic evam Unani Sewayein* without unreasonable delay.

4. The claim petition has been contested on behalf of the respondents. C.A. has been filed on behalf of respondent no. 2, Director, Treasuries, Pension and Entitlements, denying the material averments contained in the claim petition. Relevant documents have been filed by the respondents. Counter affidavit has been filed mainly stating that:

4.1 निदेशालय, कोषागार एवं वित्त सेवायें, उत्तरांचल, देहरादून के कार्यालय-आदेश संख्या-711/नि०को०वि०से०/16 (2)/स्था/2002, दिनांक 11

अप्रैल 2002 द्वारा कोषागार लेखाकारों की प्रदेश स्तरीय अंतिम कोटिकम सूची निर्गत की गयी, जिसमें श्री हरि प्रसाद सेमवाल का नाम कंम संख्या-27, श्री मदन सिंह नेगी का नाम कंम संख्या-28, श्री मदन सिंह नेगी का नाम कंम संख्या-81 एवं याची श्री धनी राम का नाम कंम संख्या-86 पर अंकित है। कोषागार एवं वित्त सेवायें निदेशालय, उत्तरांचल, देहरादून के कार्यालय ज्ञाप/पदोन्नति आदेश संख्या-1716 (1)/नि०को०वि०से०/2002-03, दिनांक 06 अगस्त 2002 द्वारा श्री हरीप्रसाद सेमवाल, लेखाकार, कोषागार पौड़ी की पदोन्नति सहायक लेखाधिकारी पद के सापेक्ष कोषागार निदेशालय एवं श्री मदन सिंह नेगी, लेखाकार, कोषागार पौड़ी की पदोन्नति उप-कोषाधिकारी सितारगंज पद पर हुयी। निदेशालय, कोषागार एवं वित्त सेवायें, उत्तरांचल, देहरादून के कार्यालय ज्ञाप/पदोन्नति आदेश संख्या-2241/17(1)/अधि०/ नि०को०वि०से०/2003, दिनांक 21 फरवरी 2004 द्वारा श्री धनी राम, लेखाकार, कोषागार पिथौरागढ़ की पदोन्नति उपकोषाधिकारी धारचुला पद पर हुयी।

4.2 उत्तराखण्ड शासन, वित्त अनुभाग-6, देहरादून की विज्ञापित/प्रान्ति आदेश दिनांक 26 फरवरी 2010 द्वारा तात्कालिक प्रभाव से उत्तराखण्ड लोक सेवा आयोग हरिद्वार चयनोपरान्त संस्तुत सहायक/उपकोषाधिकारी/सहायक कोषाधिकारी (रोकड़) को नवीन पद का कार्यभार ग्रहण करने की तिथि से वित्त एवं लेखा सेवा संवर्ग के अन्तर्गत साधारण वेतनमान रु० 8000-125-13500 (पुनरीक्षित वेतनमान - रु० 15600-39100 ग्रेड पे रु० 5400) में पदोन्नति प्रदान की गयी, जिसमें श्री हरी प्रसाद सेमवाल का नाम कंम संख्या-14 एवं श्री मदन सिंह नेगी का नाम कंम संख्या-17 पर है। निदेशालय कोषागार एवं वित्त सेवायें, उत्तराखण्ड, देहरादून के कार्यालय ज्ञाप दिनांक 17 अक्टूबर 2013 द्वारा प्रदेश के उपकोषाधिकारियों की पारस्परिक अनन्तिम कोटिकम सूची, 2013 निर्गत की गयी, जिसमे याची श्री धनी राम चन्याल का नाम कंम संख्या-10 पर अंकित है।

4.3 याची श्री धनी राम चन्याल, उपकोषाधिकारी, उपकोषागार देवथल ने ज्येष्ठता सूची के सम्बन्ध में प्रत्यावेदन दिनांक 29 अक्टूबर 2013 प्रस्तुत किया। निदेशालय कोषागार एवं वित्त सेवायें, उत्तराखण्ड, देहरादून के कार्यालय ज्ञाप संख्या-1539/16 (3) टीसी/एस० टी० ओ० /ज्येष्ठता/ नि०को०वि०से०/2011, दिनांक 28 दिसम्बर 2013 प्राप्त प्रत्यावेदनों का गुण-दोष के आधार पर, याची श्री धनी राम चन्याल के प्रत्यावेदन को निस्तारित किया गया। उत्तराखण्ड शासन, वित्त अनुभाग-6, देहरादून की विज्ञापित / प्रोन्नति आदेश दिनांक 01 सितम्बर 2014 द्वारा तात्कालिक प्रभाव से उत्तराखण्ड लोक सेवा आयोग हरिद्वार चयनोपरान्त संस्तुत सहायक /उपकोषाधिकारी /सहायक कोषाधिकारी (रोकड़) को नवीन पद का कार्यभार ग्रहण करने की तिथि से वित्त

एवं लेखा सेवा संवर्ग के अन्तर्गत साधारण वेतनमान रू० 8000—125—13500 (पुनरीक्षित वेतनमान रू० 15600—39100 ग्रेड पे रू० 5400) में पदोन्नति प्रदान की गयी, जिसमें याची श्री धनी राम चन्याल का नाम क्रम संख्या-09 पर है।

4.4 कोषाधिकारी/लेखाधिकारी का पद लोक सेवा आयोग की परिधि में आते हैं एवं इस पद पर प्रोन्नति का निर्णय लोक सेवा आयोग की अध्यक्षता में गठित प्रोन्नति समिति द्वारा ही लिया जाता है। कोषाधिकारी/वित्त अधिकारी के साधारण वेतनमान के पद पर चयन वरिष्ठता के साथ-साथ योग्यता के अनुसार किया जाता है। याची श्री धनीराम चन्याल, सेवानिवृत्त द्वारा प्रस्तुत प्रत्यावेदन में दिनांक 26 फरवरी 2010 से वित्त अधिकारी के पद पर पदोन्नति देने के उपरान्त पदोन्नति के फलस्वरूप होने वाल वित्तीय लाभ को प्रदान करने एवं वर्ष 2018 की सेवा के परिपेक्ष्य में वार्षिक वेतनवृद्धि का लाभ देते हुये सेवानैवृत्तिक लाभ प्रदान करने हेतु आवेदन किया है। उत्तराखण्ड शासन, वित्त (वे०आ०-सा०नि०) अनुभाग-1, देहरादून के कार्यालय ज्ञाप दिनांक 07 जून 2011 में स्पष्ट है कि “20 वर्ष या इससे अधिक की सेवा पर अंतिम आहरित वेतन या 10 माह की औसत परिलब्धियाँ जो भी कर्मचारी को लाभकारी हो, के 50 प्रतिशत के बराबर पेंशन अनुमन्य होगी”।

4.5 उत्तराखण्ड सेवानिवृत्ति लाभ विधेयक, 2018 के पेंशन की धनराशि के नियम संख्या- 5 के अनुसार “पेंशन की धनराशि सेवा के अन्तिम दिवस को आहरित मूल वेतन अथवा सेवानिवृत्ति तिथि से पूर्व के 10 माह की औसत वेतन, जो भी कार्मिक हेतु लाभकारी हो, के 50 प्रतिशत के समतुल्य होगी। परन्तु उक्त राशि किसी भी दशा में राज्य सरकार द्वारा विहित न्यूनतम पेंशन की धनराशि से कम नहीं होगी और विहित अधिकतम पेंशन की धनराशि से अधिक नहीं होगी”। याची की कोषाधिकारी/लेखाधिकारी का पद लोक सेवा आयोग की परिधि में आते हैं एवं इस पद पर प्रोन्नति का निर्णय लोक सेवा आयोग की अध्यक्षता में गठित प्रोन्नति समिति द्वारा ही लिया जाता है। कोषाधिकारी/वित्त अधिकारी के साधारण वेतनमान के पद पर चयन वरिष्ठता के साथ-साथ योग्यता के अनुसार किया जाता है।

4.6 याची के प्रकरण में निदेशालय, कोषागार, पेंशन एवं हकदारी, उत्तराखण्ड, देहरादून स्तर पर कोई कार्यवाही लम्बित नहीं है। याची श्री धनी राम चन्याल, वित्त अधिकारी पद से सेवानिवृत्त हुये हैं, उन्हें वेतनवृद्धि एवं पदोन्नति के सम्बन्ध में वित्तीय नियमों/वित्त विभाग एवं कार्मिक विभाग के शासनादेशों का ज्ञान है। फिर भी माननीय अधिकरण, खण्डपीठ नैनीताल के समक्ष याची श्री धनी राम चन्याल निर्देश याचिका / निष्पादन याचिका दायर कर रहे हैं। प्रस्तुत याचिका

बलहीन, आधारहीन, सारहीन, असत्य एव भ्रामक होने, पोषणीय नहीं होने के कारण स्वयं निरस्त होने योग्य है।

5. R.A. has been filed by learned Counsel for the petitioner reiterating the facts contained in the claim petition and mainly stating that the name of the petitioner figures at serial no. 86 vide office order no. 711/D.T.F.S./16(2)/T.2002 Dated-11.04.2002 but the respondents have concealed the fact regarding a fresh seniority list dated- 20.10.2009 (Annexure no. 8 to the claim petition) pursuant to the order dated 22.07.2008 passed in Writ Petition No. 529(S/B) of 2002, Bhawan Singh Baldiya vs. State of Uttarakhand and Others wherein the name of the petitioner figured at serial no. 32 and such three persons namely Hari Prasad Semwal, Madan Singh Negi and Maghan Singh Negi were placed at serial no. 57, 61 and 65 respectively who were wrongly placed at serial no. 27, 28, 81 pursuant to alleged final seniority list dated 11.04.2002. The respondent no. 2 did not mention the order dated-22.07.2008 passed by Hon'ble High Court of Uttarakhand in the light of which, a fresh seniority list dated 20.10.2009 was issued, which makes it clear that the petitioner was senior to the other three persons.

5.1 The petitioner possessed all the qualifications to get promotion to the post of Treasury Officer/Finance Officer and Public Service Commission would have recommended the promotion of the petitioner for the post of Treasury Officer/Finance Officer had the respondents submitted seniority list dated 20.10.2009 issued in pursuance of the order dated 22.07.2008. The respondents should promote the petitioner on the post of treasury officer/finance officer before promotion of Hari Prasad Semwal and Madan Singh Negi based on the revised seniority list.

6. We have heard the Learned Counsel for the parties and perused the record.

7. Learned counsel for the petitioner was promoted on the post of Accountant on 31.01.1995 and the respondents issued

seniority list on 10.04.2002 in which the petitioner was placed at Sno. 86. The petitioner was promoted on the post of Sub -Treasury Officer on 21.02.2004. This seniority list dated 10.04.2002 of the Accountants was challenged in the Hon'ble High Court and the Hon'ble High Court vide order dated 22.07.2008 quashed the seniority list and directed the respondents revise the seniority list.

8. The Respondents revised the seniority list on 20.10.2009. The petitioner was placed at Sl. No. 32 whereas, other persons Sri Hari Prasad Semwal, Sri Madan Singh Negi and Maghan Singh Negi were placed at Sl No 57, 61 and 65. But these persons were promoted on the post of the Sub Treasury Officer on 06.06.2002 before the petitioner, who was promoted on 21.02.2004. As per revised seniority list the petitioner was senior to these three persons, the petitioner should be promoted on the post of the Sub Treasury Officer on the same date as these three persons. Again, the respondents promoted these persons on the post of Treasury officer on 26.02.2010 and petitioner being senior to these persons was not promoted to the post of Treasury Officer. The respondents did not follow the revised seniority list while promoting him on the post of the Treasury Officer. Based on the facts of the case the impugned order is liable to quashed, and the petitioner is liable to promoted to the post of the treasury officer from the date his juniors have been promoted.

9. Learned A.P.O. argued that Shri Hari Prasad Semwal, Madan Singh Negi, Maghan Singh Negi were senior to the petitioner as per the senior list issued by the respondents vide letter dated 10.04.2002. They were promoted to the post of the Sub-Treasury Officer prior to the petitioner as per seniority list dated 10.04.2002. The promotion on the post of the Treasury Officer were made as per the revised seniority list dated 20.10.2009. The post of the Treasury Officer is a selection post and the promotions to the post are made by the Departmental Promotion Committee (DPC) constituted by the Uttarakhand Public Service Commission

(UKPSC) on the basis of the seniority-cum-merit. The UKPSC recommended Shri Hari Prasad Semwal, Madan Singh Negi, ahead of the petitioner as per the criteria and the petitioner was promoted by the Departmental Promotion Committee (DPC) constituted by the Uttarakhand Public Service Commission in September 2014. As far as the matter related to grant of increment to the petitioner on 01.01.2019, a day after his retirement is concerned, there are no rules for granting of increment on the day next to the date of superannuation. Hence, the claim petition is liable to be dismissed.

10. Based on the arguments of learned Counsel for the parties and perusal of the documents, the Tribunal finds that the petitioner was at Sl. 86 in the seniority list of the Accountants dated 10.04.2002. The petitioner was promoted on the post of Sub-Treasury Officer in 2004, which is in order, as per the seniority list prevailing at that time.

11. The respondents issued the revised seniority list of Accountants on 20.10.2009 as per the order dated 22/07/2008 of the Hon'ble High Court of Uttarakhand in WP No. 529(S/B) of 2002. As per the revised seniority list the petitioner was placed at Sl. No 32 and three other persons were placed below him. The Respondents should have promoted the petitioner on the post of the Sub-Treasury Officer from the date these persons, who were juniors to him were promoted.

12. The post of the Finance Officer is the selection post, the promotion on which is made by the Departmental Promotion Committee (DPC) constituted by the Uttarakhand Public Service Commission (UKPSC) based on seniority-cum-merit. Sri Hari Prasad Semwal and Sri Madan Singh Negi junior to petitioner were promoted on the post of Treasury Officer prior to him and he was promoted in 2014 only. It is not clear from the records whether the respondents have followed the seniority list of Sub Treasury Officer prepared based on the revised seniority list dated 20.10.2009 of

Accountants at the time of promoting the juniors of the petitioner to the post of Finance Officer on 26.02.2010. In case, it has not been followed, then, the respondents are expected to follow seniority list of Sub Treasury Officer prepared on the basis of the revised seniority list dated 20.10.2009 of Accountants for promotion to the post of Finance Officer and to hold review DPC to consider promotion of the petitioner, on the date his juniors were promoted.

13. The matter related to granting increment to the petitioner from 1st January, 2019 as the petitioner retired on 31st December 2008, cannot be considered as such admissibility is not covered by the Rules. Accordingly, the claim petition is disposed of, in view of the observations made in paragraphs no. 11 and 12 of this judgment. No order as to costs.

(RAJENDRA SINGH)
ACTING CHAIRMAN

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

DATE: JULY 27, 2026.
DEHRADUN
RS/KNP