

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

Present: Hon'ble Mr. Rajendra Singh

----- Acting Chairman

Hon'ble Mr. Arun Singh Rawat

-----Vice Chairman (A)

CLAIM PETITION NO. 87/DB/2020

1. Sri Pankaj Kumar Dabral aged about 40 years S/o Sh. Jagdish Prasad Dabral, presently working and posted on the post of Head Assistant in the office of Joint Commissioner (Karyapalak), State Tax, Dehradun, Division.
2. Km. Satvinder Kaur aged about 39 years D/o Mehar Singh, presently working and posted on the post of Head Assistant in the office of Joint Commissioner (Karyapalak), Dehradun, Division. State Tax, Dehradun, Division.
3. Smt. Archana Hemdan aged about 38 years W/o Sh. Manoj Hemdan, presently working and posted on the post of Head Assistant in the office of Joint Commissioner (Karyapalak), State Tax, Dehradun, Division.
4. Sri Rakesh Prasad Maithani aged about 47 years S/o Sh. Sunder Lal Maithani, presently working and posted on the post of Head Assistant in the office of Joint Commissioner (Karyapalak), State Tax, Dehradun, Division.
5. Km. Parul Mittal aged about 37 years D/o Sh. Rakesh Mittal, presently working and posted on the post of Head Assistant in the office of Additional Commissioner, State Tax, Dehradun, Zone.
6. Sri Anurag Kamal Chanchal aged about 45 years S/o Sh. Anand Kumar Chanchal, presently working and posted on the post of Head Assistant in the office of Joint Commissioner (Karyapalak), State Tax, Dehradun, Division.
7. Sri Ravindra Kumar aged about 41 years S/o Sh. Bhoop Singh, presently working and posted on the post of Head Assistant in the office of Joint Commissioner (Karyapalak), Dehradun, Division. State Tax, Dehradun Division.

.....Petitioners

vs.

1. State of Uttarakhand through Secretary, Finance, Government of Uttarakhand, Secretariat Subhash Road, Dehradun.
2. Commissioner, Tax, Uttarakhand, Dehradun.

3. Additional Commissioner, Tax, Uttarakhand, Dehradun.
4. Sri Aarendra Pal Chauhan.
5. Sri Shekhar Singh.
6. Sangeeta Shah.
7. Sri Jeevan Singh Bisht.
8. Sri Rakesh Chandra Jakhmola.
9. Sri Vishal Aggarwal.
10. Sri Arvind Joshi.
11. Sri Umesh Singh Bisht.
12. Sri Mayank Joshi.
13. Sri Sachin Joshi.
14. Sri Sachin Chauhan.
15. Sri Pramod Singh Bhandari.
16. Sri Rajendra Singh Bisht.
17. Sri Sanjay Upadhyay.
18. Atul Saxena.
19. Sri Jafar.
20. Km. Archana.
21. Km. Sabarani.
22. Mohd. Aarif.
23. Smt. Kehkashan Kureshi.
24. Sri Ramesh Chandra.
25. Sri Virendra Kumar.
26. Sri Surendra Kumar.
27. Sri Neeraj Kumar.
28. Km. Pushpa Aarya.
29. Sri Atul Kumar Sagar.
30. Sri Jagmohan Singh Negi.
31. Sri Kailash Bisht.
32. Sri Ajay Yadav.
33. Sri Rajeev Kumar.
34. Km. Monika Joshi.
35. Sri Sunil Kumar.
36. Smt. Anita Singh.
37. Sri Arun Kumar Kapil.
38. Sri Pravesh Kumar.
39. Sri Rajendra Singh Bagarwal.
40. Sri Shailendra.

- 41. Sri Ramesh Kumar.
- 42. Sri Indrajeet Singh.
- 43. Sri Deepak Kumar.
- 44. Sri Vikas Panwar.

.....Respondents

Present: Sri L.K.Maithani, Advocate, for the petitioners.

Sri V.P. Devrani, A.P.O. for Respondents No. 1, 2 & 3.

Ms. Tulika Sharma, Advocate, holding brief of
Sri M.C.Pant, Advocate, for Respondents No. 4 to 12,
14 to 18, 20 to 24 & 27 to 31

JUDGMENT

DATED: AUGUST 19, 2026.

Sri Arun Singh Rawat, Vice Chairman (A)

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

“a) To quash the impugned order dated 28.08.2019 (Annexure A-1) with its effects and operation.

b) To declare that the selection of the petitioners and private respondents is one selection.

c) To declare that the determination of inter-se seniority of petitioners and private respondents in the impugned seniority list (Annexure A-2)

is in violation of rule 5 of seniority Rules 2002, thus perse illegal.

d) To issue an order or direction to the concerned respondents/departments to issue the fresh seniority list of the petitioners and private respondents after determining their inter-se seniority under the rule 5 of Seniority Rules 2002 treating their selection as one selection.

e) To issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

f) To award the cost of the petition to the petitioner.”

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

2.1 The petitioners are presently working as Head Assistants in different offices of the respondent department. They were initially appointed as Junior Assistants through a common recruitment process conducted in 2006. For this recruitment, written examination was conducted by the Pt. Govind Ballabh Pant University for Group 'C' posts, including Junior Assistant posts in the Commercial Tax Department. After the written examination, the concerned District Magistrates conducted typing tests and forwarded the list of eligible candidates along with their marks to the department concerned. It is submitted that after obtaining the list of the eligible candidates from the District Magistrate of concerned districts, the respondent No. 2 or 3 did not prepare any common merit list of selected candidates and made the appointments of selected candidates separately as the list was received from different districts. Due to delay in the typing test and in forwarding the Dehradun list dated 18.11.2008, the petitioners were appointed later than candidates from other districts, although all had participated in the same selection process. The petitioners have relied upon the order dated 18.11.2008 (Annexure A-3) in support of this contention.

2.2 The dispute arose after the department issued a seniority list dated 02.12.2016 (Annexure A-2). It is asserted by the petitioners that the seniority list was prepared on the basis of the date of joining instead of the combined merit of the recruitment. They also stated that certain employees appointed under different categories, such as Rajya Andolankari quota and compassionate appointment, were placed above them. According to the petitioners, this is contrary to Rule 5 of the Uttaranchal Government Servant Seniority Rules, 2002 (Annexure A-4), which provides that where appointments are made through a single direct recruitment process, *inter se* seniority should follow the merit list prepared in that selection. The petitioners further submitted that the recruitment procedure for selection under the Uttaranchal Procedure for Direct Recruitment for Group 'C' Posts Rules, 2003 (Annexure A-6) was one common selection and a state-level merit list ought to have been prepared

instead forwarding the lists of candidates by different District Magistrates (Annexure A-5).

2.3 After realizing the alleged error in 2017, the petitioners submitted several representations challenging their seniority (Annexure A-7). The department called for the select lists from different regional offices by letter dated 25.09.2017 (Annexure A-8), but the petitioners' representations were rejected vide orders dated 23.08.2018, 05.10.2018, and finally 28.08.2019 (Annexure A-1). The department took the stand that candidates appointed in different years constituted different selections, that the written examination alone could not determine seniority, and that the settled seniority could not be disturbed. The petitioners dispute these findings, stating that there was only one selection process, that seniority must be based on merit rather than joining date, and that candidates with lower aggregate marks have been placed above them in the seniority list. They therefore seek quashing of the impugned orders and a direction to prepare a fresh seniority list in accordance with Rule 5 of the Seniority Rules, 2002, alleging that the existing seniority list is arbitrary, discriminatory, and violative of Articles 14 and 16 of the Constitution.

3. The claim petition has been contested on behalf of respondents and separate C.As. have also been filed on behalf of State Respondents and private Respondents. Respondents, in the C.A. have stated that-

3.1 राज्य सरकार द्वारा कनिष्ठ सहायक के पदों पर सीधी भर्ती द्वारा भरे जाने के लिए संयुक्त परीक्षा का आयोजन किया गया। जिसके लिए जिलावार विज्ञप्ति जारी की गई। लिखित परीक्षा का आयोजन एक ही तिथि को विभिन्न जिलों द्वारा निर्धारित केन्द्रों में ही हुआ। लिखित परीक्षा गोबिन्द बल्लभ पन्त कृषि एवं प्रौद्योगिकी विश्वविद्यालय, पन्तनगर द्वारा आयोजित की गई तथा लिखित परीक्षा के परिणाम सम्बन्धित जिलाधिकारियों को सूचित किये गये।

3.2 लिखित परीक्षा में प्राप्त अंकों के प्रतिशत का पचास (50%) प्रतिशत प्रत्येक अभ्यर्थी को दिया जायेगा, सिवाय ऐसे अभ्यर्थियों के जिनका चयन किसी ऐसे पद पर किया जना हो, जिसके लिए टंकण या आशुलिपिक और टंकण अनिवार्य अर्हता के रूप में विहित हो। चयन किये जाने वाले अभ्यर्थियों की दशा में लिखित परीक्षा में प्राप्त अंको के प्रतिशत का पच्चीस

(25%) प्रतिशत ऐसे अभ्यर्थियों को दिया जायेगा। पद के लिए विहित न्यूनतम अर्हता परीक्षा में प्राप्ताकों के प्रतिशत का 20 प्रतिशत प्रत्येक अभ्यर्थी को दिया जायेगा। इस बिन्दु में छटनीशुदा कर्मचारियों को अंक दिये जाने की रीति एवं अधिकतम 15 प्रतिशत अंक दिये जाने का प्राविधान था। इस बिन्दु में अन्तर्राष्ट्रीय/राष्ट्रीय/राज्य/कॉलेज/स्कूल स्तर के खिलाड़ी को अंक दिये जाने की रीति एवं अधिकतम 05 प्रतिशत अंक दिये जाने का प्राविधान किया गया था।

3.3 किसी पद पर जिसके लिए टंकण या अशुलिपिक और टंकण अनिवार्य अर्हता के रूप में विहित हो, चयन किये जाने वाले अभ्यर्थियों की दशा में यथास्थिति टंकण या आशुलिपि और टंकण की परीक्षा होगी। उक्त परीक्षा में प्राप्ताकों के प्रतिशत का पच्चीस (25%) प्रतिशत केवल ऐसे अभ्यर्थियों को दिया जायेगा, जिन्होंने यथास्थिति टंकण के लिए विहित न्यूनतम गति प्राप्त कर ली हो)

3.4 चयन के लिए परीक्षा में 100 अंकों का निर्धारण किया गया। लिखित परीक्षा के प्राप्ताकों का पचास (50%) प्रतिशत अंक ही प्रवीणता के लिए निर्धारित किये गये। जिन पदों के लिए टंकण या आशुलिपि अनिवार्य था यदि लिखित परीक्षा के पच्चीस (25%) प्रतिशत अंक दिये जाने का प्रावधान था। बीस (20%) प्रतिशत अंक पद के लिए विहित न्यूनतम अर्हता परीक्षा व प्राप्ताकों पन्द्रह (15%) प्रतिशत छटनीशुदा कर्मचारियों एवं पांच (5%) प्रतिशत अन्तर्राष्ट्रीय/राष्ट्रीय/राज्य/कॉलेज/स्कूल स्तर के खिलाड़ी को अंक दिये जाने का प्रावधान था।

3.5 जिलाधिकारियों द्वारा चयनित अभ्यर्थियों की सूचियां पृथक-पृथक उपलब्ध कराई गईं, कुछ जिले से यह सूची वर्ष 2007-08 एवं 2008-09 में प्राप्त हुई। पूरे प्रदेश में कर्मचारियों के लिए लिखित परीक्षा की तिथि एक थी। टंकण परीक्षा करायी जाने की तिथि के लिए जिलाधिकारियों को कोई निर्देश प्राप्त नहीं हुए थे। जिसके कारण टंकण परीक्षा जिले से अलग-अलग तिथियों को कराई गई। अतः इस परीक्षा को एक परीक्षा नहीं माना जा सकता है। परिणाम स्वरूप संभागीय आयुक्त कार्यपालक द्वारा संभागीय संयुक्त आयुक्त से प्राप्त निर्णित नियुक्ति पत्र में अंकित तिथि के आधार पर वरीयता सूची तैयार की गई जो कि ज्येष्ठता नियमावली-2002 के नियम-8(1) सपठित उत्तराखण्ड अधीनस्थ कार्यालय लिपिक वर्गीय कर्मचारी वर्ग (सीधी भर्ती) नियमावली-2004 तथा संशोधित नियमावली-2013 के नियम-6(एक),(दो) के आधार पर नियुक्ति तिथि को मौलिक नियुक्ति का आधार मान कर ज्येष्ठता नियमावली, 2002 नियम 9(1 व 2) से आच्छादित है। अनन्तिम ज्येष्ठता सूची दिनांक 23.11.2009 को निर्गत की गई एवं सम्बन्धित कर्मचारियों द्वारा आपत्तियां दाखिल करने के उपरान्त अंतिम ज्येष्ठता सूची निर्गत की गई।

3.6 याचीगण द्वारा अनन्तिम ज्येष्ठा सूची के विरुद्ध कोई आपत्ति दर्ज नहीं करायी गई। उक्त ज्येष्ठता सूची के आधार पर कनिष्ठ सहायक संवर्ग में 16.04.2012 को पदोन्नति की गई है। कालान्तर में कुछ आवश्यक संशोधनों के बाद वर्ष 2016 के दिनांक 02.12.2016 में निर्गत सूची के आधार पर याचीगणों को प्रधान सहायक के पद पर 01.07.2019 को पदोन्नति दी जा चुकी है। याचीगण की वरिष्ठता का निर्धारण वर्ष 2009 में किया जा चुका है तथा उसके आधार पर वे दो पदोन्नति का लाभ ले चुके हैं। बारह (12) वर्ष बाद वरिष्ठता के निर्विवाद को प्रारम्भ करने का कोई औचित्य प्रतीत नहीं होता है। अतः याचिका अस्वीकृत करने योग्य है।

3.7 माननीय सर्वोच्च न्यायाल द्वारा अपने विभिन्न निर्णयों में Estoppel का सिद्धान्त लागू करते हुए पुरानी ज्येष्ठता सूची के संदर्भ में निम्नलिखित अभिमत दिए गए हैं :-

(i) राजन्द्र सिंह बनाम मधुकर द्विवेदी एवं अन्य में पारित निर्णय दिनांक 05.07.2011 में मा0 सर्वोच्च न्यायालय द्वारा यह अभिनिर्धारित किया गया है कि अन्तिम ज्येष्ठता सूची एक बार प्रकाशित होने के लम्बे समय उपरान्त चुनौती दिए जाने के कारण परिवर्द्धित नहीं की जानी चाहिए।

(ii) Shiba Shankar Mohapatra & Ors Vs State of Orissa & Ors. में पारित निर्णय दिनांक 12.11.2009 में मा0 सर्वोच्च न्यायालय द्वारा यह अभिनिर्धारित किया गया है कि यदि ज्येष्ठता निर्धारित होने के उपरान्त लम्बे समय तक बनी रहती है तो ज्येष्ठता के विरुद्ध किसी भी प्रकार की चुनौती पर विचार नहीं किया जाना चाहिए।

(iii) Md. Raisul Islam & Ors Vs Gokul Mohan Hazarika & Ors. में पारित निर्णय दिनांक 06.07.2010 में मा0 सर्वोच्च न्यायालय द्वारा यह अभिनिर्धारित किया गया है कि यदि अन्तिम ज्येष्ठता सूची को लम्बे समय तक चुनौती नहीं दी जाती है तो वह अन्तिमता प्राप्त कर लेती है।

(iv) के0आर0 मुद्गल एवं अन्य बनाम आर0पी0सिंह एवं अन्य, AIR 1986 SC 2086 में मा0 सर्वोच्च न्यायालय द्वारा यह अभिनिर्धारित किया गया है कि सेवा प्रकरणों में ज्येष्ठता के प्रश्न को लम्बे समय के पश्चात् पुनः नहीं खोला जाना चाहिए।

(v) बी0एस0 बाजवा बनाम पंजाब राज्य, AIR 1999 SC 1510 में मा0 सर्वोच्च न्यायालय द्वारा यह अभिनिर्धारित किया गया है कि अन्तिम ज्येष्ठता सूची पर लम्बे समय बाद विचार नहीं करना चाहिए जब तक कि कोई विशेष विधि का प्रश्न न हो।

मा0 सर्वोच्च न्यायालय द्वारा पारित उपरोक्त निर्णयों में स्पष्ट उल्लिखित है कि यदि ज्येष्ठता सूची जारी होने के यथोचित समय के भीतर इसे चुनौती नहीं दी गई है तो उसके पश्चात् सामान्यतः विचार नहीं किया जाना चाहिए। याचीगणों द्वारा दिनांक 23.11.2009 को जारी अनन्तिम ज्येष्ठता सूची, तत्पश्चात् दिनांक 03.06.2010 को जारी अन्तिम ज्येष्ठता सूची पर तत्समय कोई आपत्ति प्रकट न कर ज्येष्ठता सूची के अनुसार पदोन्नतियां भी प्राप्त की गई। याचीगणों द्वारा अपनी ज्येष्ठता संशोधन हेतु प्रत्यावेदन 13 जुलाई, 2017 को प्रथम बार प्रस्तुत किए गए हैं जबकि अन्तिम ज्येष्ठता सूची का निर्धारण हुए 07 वर्ष का लम्बा समय व्यतीत हो चुका था।

3.8 अतः उपरोक्तानुसार वर्णित तथ्यों, निष्कर्षों, उत्तरांचल सरकारी सेवक ज्येष्ठता नियमावली, 2002 तथा मा0 सर्वोच्च न्यायालय द्वारा पारित संदर्भित निर्णयों के आलोक में याचीगणों द्वारा प्रस्तुत ज्येष्ठता पुनर्निर्धारण सम्बन्धी प्रत्यावेदनों को राज्य कर मुख्यालय के कार्यालय ज्ञाप संख्या-4153, दिनांक 23.08.2018, कार्यालय ज्ञाप संख्या-5080, दिनांक 05.10.2018 एवं कार्यालय ज्ञाप संख्या-2725, दिनांक 28.08.2019 के द्वारा बलहीन होने के कारण सम्यक् विचारोपरान्त खारिज करते हुए प्रकरण निस्तारित किया गया।

3.9 यह कि याचिका के प्रस्तर संख्या-03 में वर्णित याची के कथन समय-परिसीमा सं संबंधित असत्य होने के कारण अस्वीकार है। इस सम्बन्ध में स्पष्ट किया जाना है कि याची द्वारा अप्रत्यक्ष रूप से लिपिक संवर्ग में निर्गत अंतिम ज्येष्ठता सूची वर्ष 2010 व तदोपरान्त अंतिम ज्येष्ठता सूची वर्ष 2016 को 10 व 04 वर्ष के विलम्ब से वर्ष 2020 में चालाकीवश मात्र प्रत्यावेदन जो कि विधिक रूप से संधारण योग्य नहीं है, चुनौती दी जा रही है। लगभग 11 वर्ष बाद उक्त ज्येष्ठता सूची के विरुद्ध जिसके अनुसार वादीगण 02-02 पदों पर पदोन्नतियां प्राप्त कर चुके हैं, को प्रतिकार करने के लिए Estoppel का सिद्धान्त लागू कर वाद खारिज किये जाने योग्य है। जबकि उत्तर प्रदेश लोक सेवा अधिकरण अधिनियम-1976 की धारा 5(1)(b)(i) मियाद अवधि मात्र 01 वर्ष निर्धारित है। अतः याचिका कालबाधित होने से मात्र इसी आधार पर खारिज किये जाने योग्य है।

4 We have heard the arguments of the Learned Counsel for the petitioner, Learned APO and perused the documents carefully, placed before the Tribunal.

5. Ld. Counsel for the petitioner argued that the seniority list dated 02.12.2016 has been issued by the department and the Senior Assistants,

who were initially selected for post of Junior Assistant, were placed at Sl. No. 213 to 272, on the basis of their date of joining. Whereas the seniority of the persons who were appointed through one selection, should be determined as per Rule 5 of the Rules of 2002 irrespective of their date of joining. Petitioners and private respondents No. 4 to 44 were appointed on the basis of same selection.

6. Ld. Counsel for the petitioner further argued that the respondents No. 2 and 3 did not prepare combined final seniority list based on the marks obtained from the respective District Magistrates. The Joint Commissioner of the different regions finalized the seniority list based on their date of joining. The petitioners submitted representations against this seniority list in 2017 and 2019, which were finally rejected by the respondents on the ground that the District Magistrate of the respective districts conducted the typing test, prepared the list in the Headquarter. The persons were appointed on different dates. Some of the persons were appointed in 2007 and rest in 2008 and 2009. Written examination is not sufficient for determination of seniority. Now the seniority cannot be changed. Although the selection process was started by the common examination conducted by the Pt. Govind Ballabh Pant University. The District Magistrates conducted the typing test on different dates, added marks related to different requirements and submitted the list to the Regional Joint Director on different dates. So, merely, on the basis of the delay in appointment, the correct seniority cannot be denied to the petitioners. The seniority list dated 03.06.2010 was not communicated to the petitioners. They came to know about this anomaly in 2017 only, when they compared the seniority list of other departments like RTO.

7. Ld. Counsel for the petitioner has relied upon the judgment dated 18.11.2016 of this Tribunal in Claim Petition No. 12/DB/2014, in which similarly a written exam through common advertisement was conducted by Pt. Govind Ballabh Pant University in 2006. The Tribunal held the examination a single selection and directed to prepare a seniority list

based on merit. Relevant paragraphs of the judgment dated 18.11.2016 passed in Claim Petition No. 12/DB/2014, Vinod Kumar Nirala and others vs. State of Uttarakhand and others, read as under:

“21. After hearing both the parties, we find that the question which is to be decided is whether there is “one selection” or different selections and whether appointment orders issued at different points of time can be termed as previous selection/ subsequent selection. It is not in dispute that a single advertisement was published for all the districts of the State to fill up vacancies of various departments. All the petitioners as well as private respondents applied in response to this single advertisement only. A common written test was also held on a single date (17.12.2006) and all the petitioners as well as private respondents appeared in this written examination. Since all the candidates applied in respect of a single advertisement and all the candidates appeared on the same date in the written examination, the selection is through one examination only and therefore, we are of the opinion that there is only one selection for direct recruitment of Junior Assistants in various regions in the Department of Transport. After the common written examination, the district wise selection committees completed the selection process and prepared the region wise merit list and on the basis of the merit list, the candidates have been appointed in the regional offices of the department. The selection committees at district level met at different points of time and completed the process of selection on different dates and therefore, after completion of the process of the selection, appointment orders in different regions were issued on different dates. While the appointment orders in respect of Pauri Garhwal Region were issued in July, 2008, the appointment orders in other regions were issued later in December, 2008. Merely by issuance of appointment orders on different dates, it cannot be said that there were previous/ subsequent selections when all the candidates have been appointed on the basis of a single advertisement and a single written examination on the same date. Under these circumstances, we reach the conclusion that the direct recruitment of Junior Assistants is on the result of one selection and their seniority list for whole of the State has been rightly prepared on the basis of the merit list. Therefore, first Para of Rule 5 of the Rules of 2002, which provides that when appointments are made by the direct recruitment, the seniority inter se of the persons appointed on the result of one selection shall be the same it is shown in the merit list prepared by the selection committee, would be applicable in the present case. As there is only one selection, the second proviso to Rule 5 of the Rules of 2002 which provides that persons appointed on the result of a subsequent selection shall be junior to the persons appointed on the result of a previous selection is not applicable in the present case.

22. For the reasons stated above, we do not find any force in the claim petition, the same is devoid of merit and is liable to be dismissed.”

8. So, the examination conducted by the respondents, should be considered as a single selection and the combined merit list should be prepared based on the marks obtained by the candidates. So the impugned seniority list is liable to be set aside and the claim petition is liable to be allowed.

9. Ld. Counsel for the private Respondents No. 4 to 12, 14 to 16, 20 to 24, 27 to 31 argued that the claim petition is time barred. The seniority has been decided in 2010. The petitioners did not challenge the earlier seniority decided in 2010. They have already availed promotions based on the seniority decided in 2010 on the post of Senior Assistant and in 2019 on the post of Head Assistant. Now, they cannot challenge the seniority list finalized in 2016.

10. Ld. A.P.O., on behalf of Respondents No. 1, 2 & 3 argued that the Government issued the single advertisement in respect of vacancies in different departments on 24.12.2005. Written examination was conducted by the Pt. Govind Ballabh Pant University of Agriculture and Technology through concerned District Magistrates. The interview of the successful candidates in written examination was conducted by Committee constituted by the concerned D.M., on different dates, who awarded marks in other categories also, as per rule. Merit list of the selected candidates was prepared by the D.Ms. and submitted to the Joint Commissioner of regional office at different times. This has resulted in appointment of the candidates at different times. So, the above examination cannot be said to a single selection. The concerned Regional Joint Commissioners issued appointment letters on different times and the candidates joined the duties accordingly.

11. Ld. A.P.O. has further argued that the tentative seniority list of the Junior Assistants at State level was issued on 23.11.2009, based on the date of joining and candidates were asked to submit their objections, if any, within one month. Petitioners did not submit any objection. However, objections raised by some of the Junior Assistants, were resolved and final seniority list was issued on 08.06.2010. The names of the petitioners are at Sl. No. 229, 307, 310, 317, 320, 321 & 323 in the seniority list. The petitioners were promoted to the level of Senior Assistant on 16.04.2012 based on this final seniority list. However, tentative /final seniority list was also issued in 2012, 2015 and 2016 also to incorporate the new entrants

and remove the names of the personnel who were retired. The seniority list issued in 2016, which has been challenged by the petitioners, includes the names of Junior Assistants and names of the petitioners in this seniority list are at Sl. No. 253, 254, 259, 262, 263, 265 and 269. Still, they did not object about their position in the seniority list. The petitioners were promoted to the post of Head Assistant on 01.07.2019, so the petitioners have already availed two promotions based on the seniority list finalized in 2010 and they are challenging the seniority list which has been finalized more than 10 years ago. As per the doctrine of estoppel laid down by the Hon'ble Supreme Court from time to time, it has been held that a seniority list may ordinarily be challenged before the competent court within a maximum period of three years from the date of its issuance, provided that no promotion has been made on the basis of such seniority list. So, the claim petition is liable to be dismissed.

12. Respondents have relied upon the following judgments of the Hon'ble Apex Court:

- i. *Rajendra Singh vs. Madhuker Diwedi and others decided on 05.07.2011.* In para 52, of the judgment, Hon'ble Supreme Court in 52 has observed that-

"52. We deem it appropriate to reiterate that in service jurisprudence there is immense sanctity of a final seniority list. The seniority list once published cannot be disturbed at the behest of person who chose not to challenge it for four years. The sanctity of the seniority list must be maintained unless there are very compelling reasons to do so in order to do substantial justice. This is imperative to avoid avoidable litigation and unrest and chaos in the services."

- ii. In Para 29 of the decision rendered in *Shiba Shankar Mohapatra & others vs. State of Orissa & others, 2010 (12) SCC 471 (decided on 12.11.2009)*, Hon'ble Apex Court has held as under:

"29. Thus, in view of the above, the settled legal proposition that emerges is that once the seniority had been fixed and it remains in existence for a reasonable period, any challenge to the same should not be entertained....."

- iii. *Md. Raisul Islam & others vs. Gokul Mohan Hazarika & others, 2010 (7) SCC 560, decided on 06.07.2010.*
- iv. *K.R. Mudgal and others vs. R.P. Singh and others, AIR 1986 SC 2086.*
- v. In the decision rendered by Hon'ble Supreme Court in *B.S. Bajwa vs. State of Punjab, AIR, 1999 SC 1510*, Hon'ble Court has observed that- *It is well settled that in service matters the question of seniority should not be re-opened in such situations after the lapse of a reasonable period because that results in disturbing the settled position which is not justifiable.*

13. Based on the arguments of the parties and the documents placed before the Tribunal, the Tribunal finds that there was an order dated 24.12.2005 of the Government for appointment to the post of Junior Assistants in the different departments of the State. There were directions from the department to conduct the single examination. The D.Ms. of different districts published advertisement to invite applications. The written examination was conducted by the Pt. Govind Ballabh Pant University of Agriculture and Technology on 17.12.2006 in different districts. The GB Pant University prepared the merit list of written examination and submitted to the concerned D.Ms. to hold interview and allot marks for other parameters, for which a committee at district level was constituted. The concerned D.Ms. prepared a final merit list and submitted to the Regional offices. The typing tests at district level were conducted on different dates by the respective D.Ms. and moreover, there was no mention to hold the typing test on a single date from the State Govt. The appointment letters were issued on the different dates by the regional office. Based on the merit list received from the districts, the candidates joined the posts accordingly.

14. The respondents prepared a combined tentative seniority list of the Junior Assistants in 2009 and final seniority list was issued in 2010, after considering the objections from some of the candidates. But the petitioners did not object to the tentative seniority list before it was finalized. The list was updated in subsequent years in 2011, 2015, 2016 also

to include newly appointed Junior Assistant and exclude the retired personnel. The petitioners challenged the final seniority list of 2016 in 2017 and 2019, but they did not challenge the tentative seniority prepared. Their representations were rejected in 2018 and 2019. In the meantime they availed two promotions against the seniority list finalized in 2010 on the post of Senior Assistant in 2012 and on the post Head Assistant in 2019. The petitioners have cited the judgment of this Tribunal dated 18.11.2016 passed in *Claim Petition No. 12/DB/2014, Vinod Kumar Nirala and others vs. State of Uttarakhand and others*, related to RTO in support of the claim petition, stating that the exam conducted by the respondents was a single selection and the seniority list should be based on that judgment. The aforesaid judgment of the Tribunal related to RTO, is based on the merit, in which the Tribunal has considered the selection as single selection. But, in the present case, the petitioners did not challenge the seniority list in time. So seniority list determined in 2010 and subsequently in 2016 attained finality, as has been observed by the Hon'ble Supreme Court in catena of decisions and cannot be challenged now. Keeping in view the facts mentioned above, the claim petition is liable to be dismissed.

ORDER

The claim petition is dismissed. No order as to costs.

(RAJENDRA SINGH)
ACTING CHAIRMAN

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

DATE: AUGUST 19, 2026.
DEHRADUN

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