

**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. 100/NB/DB/2025

1. Deepak Singh (Male) Adhaar No. 381828468156 Aged about 38 years S/o Sri Mohan Lal, Presently Posted in 1st IRB Ramnagar District Nainital.
2. Naveen Singh Dhek (Male) Adhaar No. 985281273027 Aged about 38 years S/o Shri Kedar Singh Dhek Presently Posted in 31 BN PAC, Rudrapur District Udham Singh Nagar.
3. Rajendra Giri (Male) Adhaar No. 902228094635 Aged about 40 Years S/o Sri Ramesh Giri Presently Posted in 46 BN PAC Rudrapur District Udham Singh Nagar.
4. Suresh Chandra (Male) Adhaar No. 689436265565 Aged about 42 years S/o Late Kailash Chandra Arya, Presently Posted in IRB 1st Ramnagar District Nainital.
5. Sanjay Kumar (Male) Adhaar No. 959834563632 Aged about 36 years S/o Sri Dani Ram Presently Posted in 1st IRB Ramnagar District Nainital.
6. Harish Chandra Singh (Male) Adhaar No. 330475410299 Aged about 40 years S/o Sri Gopal Singh Presently Posted in 1st IRB Ramnagar District Nainital.
7. Anand Ballabh (Male) Adhaar No. 584705417080 Aged about 37 years S/o Sri Tara Dutt Bhatt Presently Posted in 1st IRB Ramnagar District Nainital.
8. Dinesh Singh (Male) Adhaar No. 848228405665 Aged about 40 years S/o Sri Jai Singh Presently Posted in 46 BN PAC Rudrapur District Udham Singh Nagar.

9. Satish Chandra Deorari (Male) Adhaar No. 979247614858 Aged about 39 years S/o Sri Bhairaw Dutt Deorari Presently Posted in 2nd IRB Dehradun.

10. Mohan Singh (Male) Adhaar No. 306708189828 Aged about 39 years S/o Sri Chandan Singh Presently Posted in 31 BN PAC Rudrapur District Udham Singh Nagar.

.....**Petitioners**

Vs.

1. State of Uttarakhand, through Secretary, Home Department, Civil Secretariat, Dehradun.

2. Director General of Police, Uttarakhand, Headquarter, Dehradun

3. Inspector General of Police (Personnel), Headquarter Dehradun

4. Inspector General of Police, PAC, Uttarakhand, Dehradun

5. Head Constable 69 Ram Chandra S/o Sri Shivprasad Chaudhary Presently Posted in 31st Battalion P.A.C. Rudrapur District Udham Singh Nagar.

6. Head Constable 3116 Budhsen Mishra S/o Sri Rameshwar Dayal Mishra Presently Posted in IRB First Bailparaw Ramnagar District Nainital.

7. Head Constable 2064 Virendra Singh Kaithait S/o Sri Trilok Singh Kaithait Presently Posted in 46th Battalion P.A.C. Rudrapur District Udham Singh Nagar.

8. Head Constable 4128 Shiv Prasad S/o Sri Harshpati Kukshal Presently Posted in IRB Second Dehradun District Dehradun.

9. Head Constable 2047 Harish Ram S/o Sri Nathu Ram Presently Posted in 46th Battalion P.A.C. Rudrapur District Udham Singh Nagar.

10. Head Constable 35 Dinesh Chandra Upreti S/o Sri Pitamber Dutt Upreti Presently Posted in 31st Battalion P.A.C. Rudrapur District Udham Singh Nagar

11. Head Constable 1115 Hakim Singh S/o Sri Mahaveer Singh Presently Posted in 40th Battalion P.A.C. Haridwar District Haridwar.

12. Head Constable 2060 Anil Kumar Singh S/o Sri Ram Bachan Singh Presently Posted in 46th Battalion P.A.C. Rudrapur District Udham Singh Nagar

13. Head Constable 3120 Pramhans Yadav S/o Sri Ram Sagar Singh Yadav Presently Posted in IRB First Bailparaw Ramnagar District Nainital.

14. Head Constable 4011 Jai Singh Rawat S/o Sri Mura Singh Presently Posted in IRB Second Bailparaw Ramnagar District Nainital.

.....**Respondents**

Present: Sri Sachinvir Singh, Advocate for the petitioners
Sri Kishore Kumar, A.P.O. for the respondents no. 1 to 4

JUDGMENT

DATED: AUGUST 21, 2026

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

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

“(i) To issue order or direction appropriate in nature and set aside the final seniority list dated 06-08-2025 (Contained as Annexure No. 1 to the claim petition) and further direct the respondents to correct the seniority list as per rules by applying rota quota principle and by treating their selection for the year of 2020-21, after calling the entire records from the respondents or in alternate pass any appropriate orders keeping in view of the facts highlighted in the body of the petition or mould the relief appropriately.

(ii) To issue order or direction appropriate in nature and set aside the tentative seniority list dated 26-11-2025 (Contained as Annexure No. 2 to the claim petition) after calling the entire records.

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

2. The facts of the case in brief are as follows:

2.1 The petitioners were initially inducted as Constables in Uttarakhand PAC/IRB. The respondent No 4 invited applications for promotion to 237 posts of Head Constables (144 posts for 2015-17 and 93 posts (2018-20) in PAC/IRB, vide circular/notification dated 22.01.2021. Eligible candidates included Constables below 45 years of age as on 10.07.2020 with 5 years of service as on 01.07.2020.

2.3 The petitioners appeared in the written examination on 21.02.2021. The written test results were declared on 31.03.2021, and the skill test/physical examination was conducted from 20.04.2021 to 24.04.2021. Character roll verification was completed by May 2021. However, the Uttarakhand Subordinate Service Selection Commission/Police HQ declared the selection result on 15.09.2021, and following subsequent to objections, released the final selection result on 08.01.2022. The successful candidates, including the petitioners, underwent mandatory training starting on 17.02.2022 at IRB Bailparao/40 Bn. Haridwar, comprising 4 months of basic training and 3 months of practical training. Upon successful completion, they were formally promoted/appointed as Head Constables on 03.10.2022.

2.4 The respondents issued a tentative seniority list on 10.11.2022 but gave 3 days' time to file objections. The petitioners preferred Claim Petition No. 125/NB/DB/2023, Suresh Chandra and others Vs. State of Uttarakhand and others challenging a tentative seniority list dated 10.11.2022. This Tribunal, vide judgment and order dated 07.11.2024, directed the respondent authorities to provide the statutory period under Rule 9(2) of the Uttaranchal Govt. Servants Seniority Rules, 2002 for filing objections and directed that till the seniority list is finalized on the basis of the objections. The final seniority list issued vide letter dated 16.11.2022 shall be kept in abeyance.

2.5 The petitioners filed Execution Application No. 13/NB/DB/2025 to get the compliance of the order of the Tribunal

order dated 07.11.2024. Thereafter the respondent department filed compliance affidavit on 13-08-2025 and also filed the final seniority list dated 06.08.2025. The petitioners subsequently challenged the findings in the final order dated 06.08.2025, wherein Respondent No. 4 treated the selection year of the petitioners as 2022-23 (based on their appointment date of 03.10.2022 post-training) rather than 2020-21.

2.6 A tentative seniority list was published by the respondent department on 20.10.2022, which was suo-moto withdrawn in contravention of Rules of 2019 applicable at the relevant time and thereafter the tentative seniority list dated 10.11.2022 was published, wherein without applying the rota quota system, all the Head Constables appointed by way of seniority were placed above the petitioner, who was promoted to the post of Head Constable by way of Departmental Rankers examination in the same selection year of 2020-21.

2.7 The respondent department issued another tentative seniority list on 26.11.2025, altering the petitioners' positions and placing them below candidates promoted on a seniority basis for the selection year 2022-23.

2.8 As per the Government Order dated 28.11.2002, the selection year is defined as the 12-month period commencing on the 1st day of July of the calendar year in which recruitment is initiated. Since recruitment was initiated by an advertisement dated 22.01.2021 and examinations held in the selection year is 2020-21. Under Rule 34(2)(c) of the Uttarakhand Provincial Armed Constabulary Subordinate Officers Service Rules, 2019, seniority between Head Constables promoted by departmental examination and those promoted on seniority basis in the same selection year must be determined in rotation (Rota-Quota system). The respondents arbitrarily treated the petitioners' selection year as 2022-23 solely based on completion the date of training and appointment dated

03.10.2022, thereby denying them the benefit of the rota-quota rule against promotees of earlier selection years. Issuing a new tentative list dated 26.11.2025, after a final seniority list dated 06.08.2025 had already been finalized, violates the Rule-9 of the Uttarakhand Government Servant Seniority Rules, 2002. The respondents disturbed the seniority of the petitioners by comparing with new batch of promotees who are promoted after the promotional exercise of the petitioners. The aforesaid principle was upheld by this Hon'ble Tribunal in claim petition no. 52/NB/DB/2021 "Priyanka Rani Vs. State of Uttarakhand and others". The petitioners against the tentative seniority list have submitted their objections and stated that once the seniority is final then the department has no authority to review or recall the final seniority.

3. C.A./W.S. has been filed on behalf of the official respondents no. 1 to 4 mainly stating therein that under Rule 5(b) of the Uttarakhand PAC Subordinate Officers Service Rules, 2019 (amended 2020), 50% of the posts of Head Constable were to be filled by departmental examination and 50% by seniority. Pursuant to the examination process, final results were issued on 08.01.2022. As per Rule 7(e) & (f), candidates undergo 4 months of basic training and 3 months of practical training prior to formal promotion. The petitioners completed training and were promoted on 03.10.2022, making their effective selection/appointment year 2022-23.

3.1 Subsequently by Amended Rules 2021, Rule 5(b) was amended to prescribe 100% promotion to Head Constable based on seniority. Under Rule 34(2)(d), service/seniority for departmental examination candidates is counted from the date of successful completion of training and promotion to the post. The private respondents were promoted on a seniority basis on 23.09.2021 (Selection Year 2021-22), and the petitioners were appointed on 03.10.2022 (Selection Year 2022-23), cyclic rotation (rota-quota) under Rule 34(2)(c) across different selection years is impermissible.

3.2 Pursuant to the provisions of Rule 5(b) of the Uttarakhand Provincial Armed Constabulary (PAC) Subordinate Officers Service Rules, 2019 (as amended in 2021), which mandates that promotion to vacant Head Constable posts be granted entirely on the basis of seniority, subject to the exclusion of unsuitable candidates. Total of 858 PAC/IRB Constables were promoted to the rank of PAC/IRB Head. This promotion was done based on seniority (excluding unsuitable candidates) in accordance with the Police Headquarters order dated November 30, 2022, against the 858 available vacancies. Consequently, the selection year for these promoted PAC/IRB Head Constables is 2022-23.

3.3 The seniority of Head Constables (PAC/IRB) appointed on 03.10.2022 by examination cannot be determined based on the aforementioned rules of the rotational service regulations. The Head Constables (PAC/IRB) promoted on 23.09.2021 based on seniority are senior, reckoned from the date of recruitment to the post of Constable to those promoted/appointed on 03.10.2022 by the Departmental Promotion Examination; conversely, the latter are junior when reckoned from the date of recruitment to the post of Constable. Therefore, since the promotion and appointment orders were issued in distinct selection years, the petitioners cannot be granted seniority corresponding to the 2021-22 selection year.

4. Despite sufficient services upon private respondents no. 5 to 14, no one appeared, hence the Tribunal vide order dated 28.07.2026 decided to proceed *ex-parte* against them.

5. Rejoinder Affidavit has also been filed on behalf of the petitioners to the C.A/W.S. filed on behalf of respondents no. 1 to 4, denying the contents of the C.A./W.S. and have reiterated the averments made in the claim petition.

6. We have heard both the parties at length and perused the record carefully.

7. Learned Counsel for the petitioner filed written arguments and also argued before the Tribunal that the respondents started the promotional exercise for the post of Head Constable under the provisions of the *Uttarakhand Pradeshik Armed Constabulary Subordinate Officer Service Rules, 2019 as amended Rules 2020*. The Police Head Quarter invited applications vide letter dated 25-01-2021 for the 148 vacant posts under 50% quota for promotion (Seniority Subject to unfit) and vide notification dated 22.01.2021 for 237 vacant posts under 50% quota for promotion (through Competitive Examination). Rule 34(2) of the Rules of 2019 as amended 2020 lays down procedure to determine the seniority of the Head constables appointed through both the modes of recruitment. The seniority of the Constables promoted to the post of the Head constables based on seniority-cum-fitness will be determined based on the seniority at the level of constables and the seniority of the Head constables appointed through departmental examination will be determined on the basis of their merit in the departmental examination. The *inter-se* seniority of the Head Constables appointed in the same selection year through promotions and departmental exam will be determined in the cyclic order. The service of the Head Constable who has completed the Basic Training and the Practical Training shall count from the date of selection.

8. Above Rules were amended on 23.11.2021 and the promotion to the posts of Head Constables from Constables was made 100% promotion based. The department promoted 858 Head Constables from the post of Constables and appointed them w.e.f. 30.11.2022.

9. Learned counsel for the petitioner further argued that the private respondents were appointed as Head Constables on 22.01.2021 and the petitioners were appointed on 03.10.2022 after their selection through departmental examination and completion of 7 months Basic Training and Practical Training. The respondents issued

a final seniority list on 06.08.2025 in which the petitioners were placed en-bloc below the promotees, which is wrong. The petitioner were given seniority of the year 2022-23 whereas, the private respondents have been given seniority of the year 2021-22 clearly overlooking the fact that the promotion process for both the categories was started in the year 2021-22 and due to delay in the conducting departmental examination by the Uttarakhand Staff Selection Commission, duties of the petitioners in Char Dham, resulting in delay in the appointment of the petitioners to the post of the Head Constables due to which the petitioners became junior to the respondents. However, their selection year is shown as 2021-22 in the tentative seniority list issued on 20.10.2022 and they are entitled to get the seniority in cyclic order with the promotees of the year 2021-22 due to administrative delay on the part of the respondents. The selection year of the petitioners is 2020-21 and their seniority should be in cyclic order as fixed in the tentative seniority list dated 20-10-2022 and the tentative seniority list dated 20-10-2022 should be treated as final seniority list.

10. In support of his contention, learned counsel of the petitioner has cited the following decisions regarding administrative delay:

- i. *Judgment of Hon'ble Supreme Court dated 23.04.2025 passed in the case of Pawan Kumar and others vs. State of Chhattisgarh & others.*
- ii. *Nirmal Chandra Bhattacharjee and Ors. vs Union of India, 1991SUPP(2) SCC363.*
- iii. *Judgement passed by the Central Administrative Tribunal passed in O.A. No. 464/2020 and connected matters, Sunil Rana vs. M/o Defence decided on 29.07.2025.*
- iv. *Judgment of Hon'ble Supreme Court in matter of All India Judges Association and others vs. Union of India and others, in Writ Petition (Civil) No. 1022 of 1989.*

v. *Judgement of the Hon'ble Apex Court in the matter of Mohd. Ghazi Vs. State of MP 2000(4) SCC 342.*

11. It is further argued by learned Counsel for the petitioners that the respondents withdrew the seniority dated 20.10.2022 and again issued the tentative seniority list on 10.11.2022 and disturbed the final seniority of the petitioners against the judgement of the Tribunal as well as the Uttarakhand Govt. Servants Seniority Rules, 2002. The respondents issued final seniority list on 06.08.2025, in which, the petitioners have been placed en-bloc below the promotees. So, the impugned seniority list is liable to be quashed. In the promotion order dated 03.10.2022 also, the respondents have mentioned the selection year 2020-21.

12. Learned Counsel for the petitioner further argued that the respondents further issued a tentative seniority list dated 26.11.2025 in which seniority of the petitioners was further disturbed by putting them in the cyclic order with the Head Constables appointed on seniority-cum-fitness basis against 100% quota in the year 2022-23. The decision of the respondents is against the judgement passed by this Tribunal in the Claim petition No 52/NB/DB/2021, Priyanka Rani Vs State of Uttarakhand and others, in which the Hon'ble Tribunal relied on the Judgement of the Hon'ble High Court of Uttarakhand in the matter of Sunita Pandey Vs state of Uttarakhand passed in *Writ Petition No 326(SB) of 2017* in which Hon'ble High court held that the seniority once decided can be reopened only on judicial challenge.

13. In respect of the tentative seniority list dated 26.11.2025, Learned Counsel for the petitioners further argued that the respondents are relying on the Seniority Rules of 2002 which provides the fixation of the inter-se-seniority through direct recruitment and promotion. In the present case, the aforesaid rule is not applicable because there is an inbuilt rule in the Rules of 2019 for the fixation of inter se seniority between two sources of promotion under 50%-50% quota because it is not a fresh appointment rather it is a selection on

promoted post. While issuing the tentative seniority list dated 26.11.2025, the respondents by applying the Seniority Rules, 2002 fixed the inter-se-seniority of the petitioners with the promotes, who are promoted pursuant to the amended Rules of 2021 where there is no quota for competitive examination and the promotions were made 100% through seniority subject-to-unfit. Thus, the Seniority Rules of 2002 which provides seniority from the date of appointment is not applicable in the present case.

14. The respondents while issuing the tentative seniority on 26.11.2025 placed the petitioners in cyclic order with their counterparts, who are promoted under 100% promotion quota pursuant to the Rules of 2021. Thus, the respondents while issuing the impugned final seniority list dated 06.08.2025 did not follow Rota-Quota principle and while issuing the tentative seniority list dated 26.11.2025 the respondents have reopened the final seniority list dated 06.08.2025 by changing the position of the petitioners by placing them in cyclic order with the persons who were promoted as per new amended rules of 2021 but the petitioners were promoted pursuant to the Rules, 2019. Learned Counsel for the petitioners also argued that the judgment relied by the respondents passed in Sanjay Singh Bisht Vs. State of Uttarakhand and others is not applicable in the case of the petitioners because the Rules of the PAC & IRB are different from the Civil Police and the provisions of the rules are different. In view of the facts mentioned above and judgment of the Hon'ble Apex Court, Hon'ble High Court and the Tribunal the impugned final seniority list dated 06.08.2025 and the tentative seniority list dated 26.11.2025 are liable to be quashed.

15. Learned A.P.O. on behalf of the respondents argued that the petitioners were selected against the posts of the Head Constables, which were advertised vide letter date 22.01.2021. The respondent authorities conducted the examination and the petitioners were selected on 08.01.2022. The petitioners underwent training from

17.02.2022 and were appointed on the post of the Heads Constables on 03.10.2022. The private respondents were promoted on the basis of seniority-cum-fitness on 23.09.2021 against the 50% quota by promotion to the vacancies of the head constables as per the Rules of 2019 and as amended Rules of 2020. The petitioners were appointed in the year 2022-23, whereas the private respondents were appointed in the year 2021. So, the petitioners are junior to the private respondents and they have been rightly placed in the seniority list dated 06.08.2025 below the private respondents.

16. Learned A.P.O. further argued that the advertisement was issued for inviting application for the posts of the Head Constables at para 11 (*cha*) clearly mentioning that the appointment letter will be issued after the completion of the training of the constables. This is as per the Appendix-2 (*cha*) of Rules of 2019 and as amended Rules of 2020. The petitioner received the salary of the constables during the training period before their appointment on the posts of Head Constables. The Rule 34 (2) of Rules of 2019 as amended in 2020 provides that the services will be counted from the date of selection for the post of Head Constable but it does not mention counting the seniority from the date of selection. The petitioners were appointed to the post of the Head constable on 03.10.2022 and their selection year is 2022-23. Learned A.P.O. further argued that 858 Head Constables were further appointed in the year 2022 by the respondents, and a tentative seniority list was issued on 26.11.2025. The respondents have prepared the tentative seniority lists based on the judgement of this Tribunal in the Claim petition No. 94/DB/2023 in the matter of *Sanjay Singh Bist and others vs State of Uttarakhand and others* and applied rotation as per Seniority Rules of 2002. Hence based on the facts of the case the claim petition is liable to be dismissed.

17. Based on the arguments of the parties and the documents presented before the Tribunal, it is clear that the respondents invited

applications for the post of the Head Constables to be filled by the departmental examination vide letter dated 22.01.2021 and for the posts of the Head Constables from Constable by promotion on seniority-cum-fitness on 25.01.2021. The Rule 5(b) of Rules of 2019 as amended in 2020 provides to fill the vacancies of the Head Constables on 50%:50% basis, meaning thereby, 50% by departmental examination and 50% by the promotion. The Constables, who applied for promotion through seniority-cum-fitness were promoted on 23.09.2021 and their recruitment year is 2021-22. The petitioners were promoted to the post of the Head Constables on 03.10.2022 after completion of their training, and their selection year is 2022-23. The Rules of 2019 as amended in 2020 clearly provide that the appointment letter will be issued after completion of the Training. The seniority of the candidates in the service, counts from the date of appointment. So, the petitioners' selection year is 2022-23 and that of the private respondents is 2021-22 and they are junior to the private respondents. The seniority list dated 06.08.2025 need not to be interfered. This conclusion is based on the existing Rules and Uttarakhand Public Services Tribunal has no jurisdiction to decide the questions relating to vires of statutory provisions and Rules, as held by the Hon'ble High Court of Uttarakhand at Nainital in WPSB No. 39/2020, Shyam Lal and another vs. State of Uttarakhand and others.

18. However, we find that the department has created controversy by promoting candidates through departmental examination and seniority-cum-fitness in different selection years. They should have taken care of by this by completing the promotion from both the modes and departmental examination exercise simultaneously, so that this dispute of the seniority would have not arisen. The candidates who have been promoted through departmental examination should not suffer due to laxity on the part of the department in conducting the departmental examination which resulted in difference in the selection years.

19. The judgments of the Hon'ble Courts, as cited by the petitioners in support of their contentions, are not applicable in the present petition, as the facts and circumstances of the cases are entirely different from the present claim petition.

20. The petitioners have challenged the tentative seniority list issued on 26.11.2025 which's not maintainable as such challenge is premature. The Hon'ble Uttarakhand Public Service Tribunal in the Claim petition No 52/NB/DB/2021 in the matter of Priyanka Rani Vs State of Uttarakhand and others has also held the same by relying on the judgement of the Hon'ble High Court of Jharkhand in the matter of Shashi Bhushan Kumar vs State of Jharkhand and others, the relevant portion of which, reads as under:

"No error has been committed by the learned Single Judge while deciding the writ petition preferred by the appellant (original petitioner), where only provisional seniority list of the post in question is under challenged. Once the seniority list is finalized, provisional list is always tentative in nature and hence, it cannot be challenged by this appellant."

21. In view of the aforesaid observations, the claim petition is disposed of accordingly. No order as to costs.

(RAJENDRA SINGH)
ACTING CHAIRMAN

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

DATE: AUGUST 21, 2026
DEHRADUN.
KNP