

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

Present: Hon'ble Mr. Rajendra Singh

.....Acting Chairman

Hon'ble Mr. A.S. Rawat

.....Vice Chairman (A)

CLAIM PETITION NO. 75/DB/2021

Navneet Chauhan, S/o Sri M.S. Chauhan, aged about 36 years,
presently posted as Junior Engineer (IT) V.C.V.G.S.U. Bhawan,
Kanwali Road, Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Principal Secretary, Energy, Civil Secretariat, Dehradun.
2. Managing Director, Uttarakhand Power Corporation Limited, VCVGSU Bhawan, Kanwali Road, Dehradun.
3. Director (H.R.), Uttarakhand Power Corporation Limited, VCVGSU Bhawan, Kanwali Road, Dehradun.
4. General Manager (H.R.), Uttarakhand Power Corporation Limited, VCVGSU Bhawan, Kanwali Road, Dehradun.
5. Rajendra Singh Bisht, S/o Sri Pan Singh Bisht aged about 40 years presently working as Assistant Engineer, UPCL, C/o Managing Director, Uttarakhand Power Corporation Limited, VCVGSU Bhawan, Kanwali Road, Dehradun.
6. Smt. Komal, W/o Sri Vivek Narang, aged about 35 years presently working as Assistant Engineer, UPCL, C/o Managing Director, Uttarakhand Power Corporation Limited, VCVGSU Bhawan, Kanwali Road, Dehradun.

..... Respondents

Present: Sri Shashank Pandey, Advocate, for the Petitioner
 Sri V.P. Devrani, A.P.O., for the Respondent No. 1
 Sri S.C. Virmani & Sri S.K. Jain, Advocates,
 for Respondents No. 2, 3 & 4

Judgement

Dated: 31ST AUGUST, 2026

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

“(i) Issue order or direction directing the respondents to issue a revised tentative seniority list including the name of the petitioner after taking into consideration the representation of the petitioner dated 09.07.2020 (Annexure No. 17).

(ii) Issue order or direction directing the respondents to promote the petitioner from the same date the junior has been promoted and to give consequential benefits to the petitioner.

OR

In alternative, quash the promotion order of the respondents no. 5 & 6 by declaring them to be non-est in the eyes of law, promotion having been made on the basis of seniority list that has been quashed for the private respondents.

(iii) Give any other relief that this Hon’ble Court feels just and proper in the circumstances of the case.

(iv) give cost to the petitioner.”

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

2.1. Petitioner is a Junior Engineer employed in UPCL, having been appointed pursuant to the advertisement issued on 23.08.2006 and written examination conducted on 19.11.2006. Petitioner secured a total of 110 marks in the written examination conducted by the selection committee of UPCL. The first selection list was issued by UPCL in May 2008 shortlisting 63 candidates from Electrical & Mechanical branch (E&M Branch) whereas 10 candidates were selected from computer branch as Junior

Engineer trainee. Out of 63 candidates selected from the E&M branch, only 44 candidates joined as JE Trainee (E&M) and out of 10 candidates from the computer branch, only 6 candidates joined as JE Trainee (Computer).

2.2. Thereafter, first waiting list was issued by UPCL in the month of November 2008, in which 7 candidates from E&M Branch were shortlisted; 1 candidate was shortlisted from Computer Branch, as Junior Engineer trainee. Out of the 7 (seven) candidates only 5 candidates joined as JE trainee (E&M) and 1 candidate joined as the JE trainee (Computer) in December 2008. After the candidates who joined the service in the month of December 2008, a seniority list was prepared comprising the names of all the newly joined JE (Trainees), as per the marks obtained by the candidates in the entrance examination, as required under the provisions of Rule 5 of the Uttarakhand Government Servants Seniority Rules, 2002 (*pari materia* with 1998 rules). Thereafter, a second waiting list was issued by UPCL in the month of March 2009, wherein the name of the petitioner was also shortlisted. In the second waiting list 7 (seven) candidates from E&M Branch were selected and 2 (two) candidates, including the petitioner were selected from Computer Branch as Junior Engineer (trainee). Since the seniority list was already issued before issuance of the second waiting list, pursuant to which the petitioner was appointed, the name of the petitioner did not find place in the seniority list issued in December 2008.

2.3. The aforesaid seniority list issued in the month of December 2008 was challenged before Hon'ble High Court of Uttarakhand and also before Public Services Tribunal, Uttarakhand by various persons. This seniority list was set aside by the Hon'ble Courts, hence, no seniority list was issued till the year 2012. A final seniority list was issued on 21.08.2012, which was merely a rearrangement of the seniority of the persons included in the December 2008 list, excluding the name of persons appointed

pursuant to the second waiting list. Candidates were recruited as apprentice supervisors in the erstwhile U.P State Electricity Board under Regulations 13, 14 and 15 of the Uttar Pradesh State Electricity Board Subordinate Electrical & Mechanical Engineering Services Regulations, 1972. Thereafter, pursuant to a notification dated 28.11.1973 the word 'supervisors' was substituted by the word 'Junior Engineer'. In fact, the said Regulations of 1972 by the notification dated 29.11.1977 and the order of the UPSEB dated 19.10.1976, it was decided that, instead of initially appointing diploma holders to the post of 'apprentice supervisors' and thereafter, designating them as 'junior engineers on completion of one year training, the selected candidates after the examination and interview may be appointed as 'Junior Engineer trainee' in the pay scale of junior engineers and may be given regular charge of Junior Engineer on completion of one year satisfactory training. After 1978, all the recruitments in the erstwhile U. P. State Electricity Board were being made by the Electricity, Service Commission, which was constituted under the U.P. State Electricity Board (Procedure & Conduct of Business) Regulations, 1978. Petitioner has been working diligently with UPCL, however, no new seniority list was issued, because of which the Petitioner did not have an opportunity to get promoted.

2.4. In fact a DPC was conducted on 10.9.2016 in which the respondents no. 5 & 6 were promoted to the post of Assistant Engineer, who secured 109 marks each in examination for selection. This promotion could happen only because they found place in the seniority list, whereas the petitioner had secured 110 marks in the same examination for selection was not promoted only because his name did not appear in the seniority list. Petitioner submitted a number of representations to UPCL by way its letters dated 30.08.2016, 12.09.2016, 20.10.2016 and 05.11.2016. However, no action has been taken till date on the said representations.

2.5. Aggrieved by the aforesaid acts of the Respondents, the Petitioner filed a Claim Petition No. 57/DB/2016 before the Hon'ble Public Services Tribunal, Uttarakhand in the matter of Navneet Chauhan & Ors. v. State of Uttarakhand & Ors. with the following prayers:

- a) To issue order or direction to direct the respondents to issue a seniority list including the name of the petitioners as per the directions of this Hon'ble Tribunal vide judgment dated 27.06.2018 passed in Claim Petition No. 57/DB/2016 (Navneet Chauhan & Ors.v. State of Uttarakhand & Ors.).
- b) Issue any other order or direction which the Hon'ble Court deems fit and proper.
- c) Award the cost of claim petition to the Petitioner

2.6. The Tribunal in its judgment and order dated 02.05.2018 directed the respondents to consider the name of the Petitioner in the next seniority list to be prepared by the department. Petitioner filed a Review Application No. 01/DB/2018 against the order of the Tribunal dated 02.05.2018 praying that the Hon'ble Tribunal should specify the seniority rule as per which the new seniority list needs to be prepared. The Tribunal allowed the review application in its order dated 27.06.2018 and directed the respondents that the name of the Petitioner be appropriately placed as per Rule 5 of the Seniority Rules 2002 and other relevant rules. In the said order the Hon'ble Tribunal also noted that the Seniority Rules 2002 are pari materia to U.P. State Electricity Board Employees Seniority Rules, 1998.

2.7. When no action was taken by the respondents on the aforementioned orders of the Hon'ble Tribunal, the Petitioner filed another Claim Petition No. 50/DB/2019 (Navneet Chauhan v. State & Ors.) for including the name of the Petitioner in the seniority list

to be prepared. The Hon'ble Tribunal vide its order dated 24.05.2019 disposed of the petition at the admission stage itself by directing the Respondent No. 3 to determine the seniority of J.E. (E&M) within a period of 12 weeks from the date of production of certified copy of the order. The Hon'ble Tribunal further give liberty to the petitioners therein, to challenge the seniority list, if the petitioners were aggrieved by the determination of the seniority of the petitioner and other J.E. appointed along with the petitioner. Petitioner vide its letter dated 26.06.2019 served the copy of the judgment and order dated 24.05.2019 to the Respondent No 3. Petitioner had previously also written to the Respondents a number of letters for inclusion of his name in the seniority list, however, the Respondents instead of being sympathetic to the grievance of the Petitioner, in its letters dated 09.10.2019 and 28.11.2019 directed the Petitioner not to make any further representation and waste the stationery of the office. In spite of said directions, the Respondents have issued a tentative seniority list dated 11.06.2020. In this seniority list also the name of the petitioner did not find place.

2.8. Petitioner immediately objected to tentative seniority list by way of its representation letter dated 09.07.2020. In the objections the Petitioner clearly mentioned all the orders of the Tribunal passed in favour of the Petitioner, which directed the Respondents to include the name of the Petitioner in the seniority list. Another surprising aspect of the matter is that the seniority list dated 21.08.2012 was challenged by one Shri Ashok Kumar by filing writ petition no. 875 of 2017 (S/S) (Ashok Kumar & Ors. Vs. State of Uttarakhand & ors.). The Hon'ble High Court vide judgment and order dated 24.04.2019 held: *"So far as the relief No. (ii) is concerned, it speaks about the inaction on the part of the respondent, which has been contended by the learned counsel for the petitioners that the determination of seniority of the petitioners has been deliberately delayed in order to provide undue benefits to the private respondents. In that eventuality, so far as the relief Nos. (ii) and (iii) are concerned, the respondent No. 3 is directed to*

determine the seniority of the petitioners vis-à-vis seniority of respondent Nos. 4 to 59, within a period of six weeks from the date of production of certified copy of this order". Pursuant to the order of Hon'ble High Court the respondent no. 2 vide order dated 11.06.2020 has quashed the seniority of the persons arrayed from serial no 227 to 282 in seniority list of 21.08.2012. A new tentative seniority list has been prepared by the same order and objections invited.

2.9. On one hand the Respondents are not cancelling the promotions given to Respondent no. 5 & 6 and on the other the respondents are not including the name of the petitioner in the same seniority list as private respondents in spite of a clear cut direction dated 27.06.2018 of this Hon'ble Court to the respondents that the name of the Petitioner be appropriately placed as per Rule 5 of the Seniority Rules 2002 and other relevant rules. Now the Respondents are about to issue a final seniority list and are still not including the name of the Petitioner in the seniority list, inspite of the fact that the Petitioner was been appointed in substantive capacity and having been serving on the post of J.E. for past 12 years along with the persons, whose names have been included in the seniority list.

2.10. It is a well settled principal of law that if the basic order goes, all the subsequent orders become null and void. In the present case the basis of DPC of 10.09.2016 was seniority list of 21.08.2012. Thus the promotion order cannot sustain in the eyes of law by continuing with the promotion order of the private respondents, undue benefit is being given to the private respondents which is in contravention with Article 14 & 16 of the Constitution of India.

3. The claim petition has been contested on behalf of the respondents. Counter affidavit has been filed by Sri K.B. Chaubey, G.M. (H.R & Admin.), Uttarakhand Power Corporation Limited on

behalf of respondents no. 2 to 4. C.A. has been filed mainly stating that:

3.1. उत्तर याचिका पर हुई बहस व उसकी सुनवाई के बाद माननीय अधिकरण ने अपना निर्णय दिनांक 02 मई 2018 को सुनाया।

3.2. निर्णय में उत्तराखण्ड सरकारी सेवक वरिष्ठता नियमावली 2002 का उल्लेख न पाकर, माननीय अधिकरण के समक्ष गलत तथ्यों को दर्शाते हुए दिनांक 2 मई 2018 के निर्णय के पुनर्विलोकन हेतु Review Petition संख्या 01/D.B/2018 दिनांक 01.06.2018 दाखिल की उस पुनर्विलोकन याचिका की चारण संख्या (5) आपके समक्ष भी प्रस्तुत है:-

“That somehow this submission of the respondents mistakenly remained omitted from the Judgment order of this Hon'ble Court.

Para-(6). That the omission of mentioning of Rule will adversely affect the petitioner as the respondent will be free to apply any rule to determination of seniority of the petitioner & that will potentially be reason for further round of litigation.”

3.3. “उत्तर प्रदेश स्टेट अलैक्टिसिटी बोर्ड इम्प्लोईज सिनियोरिटी रूल्स 1998” है तथा उसी के अनुसार अब तक वरिष्ठता सूची का निर्माण किया जाता रहा है और भविष्य में भी किया जाता रहेगा जब तक कि निगम स्वयं अपनी खुद की वरिष्ठता सूची का प्रारूप तैयार कर वरिष्ठता नियमावली का प्रारूप बना बोर्ड से स्वीकृत करा लागू नहीं कर लेता।

3.4. अपर अभियन्ता प्रशिक्षु की भर्ती के लिए विज्ञापन जरूर 28.08.2006 को विज्ञापित हुआ। इस विज्ञापन के अनुसार लिखित परीक्षा 31.12.2006 तथा साक्षात्कार उसके भी बाद में 17/18.03.2008 को तथा कम्प्यूटर के प्रत्याशियों का Key Depression Test 14-16 मार्च 2008 को सम्पन्न होने के बाद पूर्ण हुई तथा चयन सूचियां सहायक अभियन्ता (प्रशिक्षु) अवर अभियन्ता (प्रशिक्षु) वैद्युत, कम्प्यूटर व सिविल इन्जीनियर के लिए चयन समिति के द्वारा प्राप्तकों के आधार पर बनाई गई तथा साथ ही प्रतीक्षा सूची नं० (1) व नं० (2) भी बनाकर जारी करते हुए तदनुसार आगामी कार्यवाही सम्पन्न की गई। वास्तविक रूप में चुने गये 63 प्रत्याशियों (ई एण्ड एम) संवर्ग से 47 प्रत्याशियों ने अपनी ज्वाइनिंग दी न कि 44 ने जैसा याचिका में वर्णित है।

3.5. उत्तराखण्ड पावर कारपोरेशन में यू0पी0एस0ई0बी की वरिष्ठता नियमावली 1998 (उत्तर प्रदेश राज्य विद्युत परिषद सेवक ज्येष्ठता विनियमावली, 1998) के अनुसार ही ज्येष्ठता

का निर्धारण किया जाता है न कि "उत्तराखण्ड सरकारी सेवक ज्येष्ठता नियमावली-2000" के अनुसार, उक्त चयन प्रक्रिया के बाद एक वरिष्ठता सूची दिनांक 21.08.2012 को जारी की गई इस सूची में वे सभी सम्मिलित थे जो दिसम्बर 2008 तक निगम की सेवा में लिए गये थे / भर्ती किए गए थे और यह सब उत्तराखण्ड उच्च न्यायालय नैनीताल के निर्णय दिनांक 09.05.2012 के निर्णय/आदेश के अनुपालन में उक्त वरिष्ठता सूची में वे सब अवर अभियन्ता सम्मिलित थे जो चयन वर्ष 2008-09 तक भर्ती किए गए थे। उक्त निर्णय स्पेशल अपील संख्या 20/2009 से संदर्भित है में दोनो प्रकार से अर्थात् सीधी भर्ती एवं पदोन्नत अवर अभियन्ताओं के नाम सम्मिलित थे। एक वर्ष की प्रशिक्षु रूप में व्यतीत की गयी अवधि को छोड़ते हुये निर्मित की गयी थी।

3.6. वरिष्ठता सूची निर्मित कर दिनांक 21.08.2012 को जारी की गई जिसमें उन सभी अवर अभियन्ताओं के नाम सम्मिलित थे जो दिसम्बर 2008 तक निगम की सेवा में लिए गए/भर्ती किए गए थे और यह सब उच्च न्यायालय नैनीताल, उत्तराखण्ड के निर्णय दिनांक 09.05.2012 के अनुपालन में थी जिसे उच्च न्यायालय में दाखिल विशेष अपील संख्या-20/2009 के संदर्भ में पारित किया गया था। इस सूची में सीधी भर्ती और पदोन्नत अवर अभियन्ताओं के नाम सम्मिलित थे। क्योंकि याचिका कर्ता उत्तराखण्ड ऊर्जा निगम में 16.03.2009 को अवर अभियन्ता (प्रशिक्षु) के रूप में द्वितीय प्रतीक्षा सूची के आधार पर चयनित हैं अतः उसका नाम आगामी जारी की जाने वाली अवर अभियन्ता की वरिष्ठता सूची में अपेक्षित हैं। अतः याचिका कर्ता का नाम निगम द्वारा OM Number 1643 दिनांक 16.06.2021 द्वारा जारी अनन्तिम वरिष्ठता सूची में उन सभी अवर अभियन्ताओं (प्रशिक्षुओं) के नाम सम्मिलित हैं जो चयन वर्ष 2008-09 तक चयनित हैं। हॉ उक्त अंतिम सूची (एक वर्ष की प्रशिक्षण अवधि को छोड़ते हुए निर्मित है। सीओडी0 कमेटी द्वारा अनुमोदित निर्णय के अनुसार)।

3.7. उच्च न्यायालय उत्तराखण्ड नैनीताल ने विशिष्ट अपील संख्या 20/2009 के संबंध में दिए गए आदेश दिनांक 09.05.2012 के तथा यूपीएसईबी की "सेवक ज्येष्ठता नियमावली 1998" के अनुसार प्रत्यावेदनों का निस्तारण करते हुए अंतिम ज्येष्ठता सूची आदेश संख्या 5857 द्वारा दिनांक 21.08.2012 द्वारा जारी की गई। क्योंकि मुख्य चयन सूची तथा प्रतीक्षा सूची के अनुसार बुलाए गए प्रत्यर्थियों में लम्बा समयान्तराल आ जाता है जिसके आधार पर प्रतीक्षा सूची से बुलाए गए और उस प्रथम सूची के अनुसार वरिष्ठता सूची में उनका नाम नहीं आ पाता है इसमें कुछ भी नियम विरुद्ध नहीं हैं।

3.8. व्यक्तिगत (Private) प्रतिवादी संख्या 5 (राजन्द्र सिंह बिष्ट) एवं प्रतिवादी संख्या-6 (श्रीमती कोमल) अवर अभियन्ता की सहायक अभियन्ता के पद पर पदोन्नति 8.33 प्रतिशत कोटे के अन्तर्गत की गई है जो (AMIE/Degree Holder) के लिए नियम है। साथ ही उक्त दोनों प्रतिवादियों का चयन वर्ष 2007-08 है तथा विभाग में उनकी (ज्वाइनिंग) संयोजन की तिथियां क्रमशः 28.05.2008 तथा 05.06.2008 है जबकि याचिका कर्ता चयन वर्ष 2008-09 में चयनित है तथा विभाग में उसके संयोजन की तिथि 16.03.2009 है। याचिका कर्ता की विभाग में संयोजन तिथि दिनांक 16.03.2009 होने के कारण चयन वर्ष 2008-09 है न कि 2007-08 बिल्कुल नियमानुसार है। क्योंकि विभाग द्वारा कार्यालय आदेश संख्या-1643 दिनांक 16.06.2021 द्वारा जारी अन्तिम ज्येष्ठता सूची में याचिकाकर्ता का नाम भी सम्मिलित है। अतः याचिका **Infractionous** हो गई है। अतः याचिकाकर्ता द्वार मांगे गये अनुतोष पाने का अधिकारी नहीं है।

4. Rejoinder affidavit has been filed by learned Counsel for the petitioner reiterating the facts contained in the claim petition and denying the material averments contained in the counter affidavit. R.A. has been filed mainly stating that in the Seniority Rules of 1998, there is no concept of making seniority as per the recruitment year for persons appointed as a result of any one selection. In the present case, the Petitioner and Respondents No. 5 and 6 have been appointed pursuant to a written examination which was held in furtherance of advertisement dated 23.08.2006. They have been arrayed in a common select list where the Petitioner had secured more marks than the private Respondent Nos. 5 and 6, thus, as per the Rule 8(2)(ka) of the Seniority Rules of 1998, the Petitioner should have been arrayed as senior to the Respondent Nos. 5 and 6, which was not done. Thus, the Petitioner was forced to file the present claim petition.

4.1. The promotion exercise was conducted on 10.09.2016 in which Respondent Nos. 5 and 6 were promoted to the post of Assistant Engineer. If, the Respondent No. 5 and 6 were promoted in the 8.33 % quota for degree holders, the Petitioner could not have been left out as the Petitioner is also a degree holder having completed his B.Tech degree in the year 2009.

5. We have heard the learned Counsel for the parties and perused the record.

6. Learned Counsel for the petitioner argued that the petitioner was appointed on 16.03.2009 on the basis of the written examination conducted on 19.11.2006 and interview conducted subsequently. He joined the post of J.E. trainee as per his name released in the second waiting list in 2009. A seniority list of the newly appointed J.E. was issued in December, 2008 in which the name of the petitioner was not included as he joined in the year 2009. This seniority list was challenged in the Hon'ble High Court of Uttarakhand at Nainital and the Uttarakhand Public Service Tribunal also and in compliance of the order of the Hon'ble High Court, the seniority list issued in 2008 was cancelled and seniority list was finalized on 21.08.2012 after inviting objections. It contained the names of the candidates whose names were there in the list issued in 2008. The petitioner submitted representations to include his name in this seniority list but none were considered. All the candidates were selected through the examination conducted on 13.12.2006 as per the rules of 1972, as amended in 1973 and subsequent amendments and newly recruited J.E.s are known as JE trainees. Initially, the diploma holders were appointed as apprentice and then were appointed as J.E. after completion of one year of service. The respondents no. 5 & 6 were promoted on 10.09.2016 to the post of A.E. but both of them secured 109 marks in the examination for the selection of J.E. whereas the petitioner secured 110 marks. The petitioner submitted his representation against this anomaly and after intervention of the Tribunal in multiple round of litigations, Tribunal vide order dated 24.05.2019 directed the respondents to prepare the seniority list and in compliance of the order of the Tribunal, the respondent prepared a tentative seniority list but the petitioner's name was not included in the list. The seniority list dated 21/08/2012 was further revised on 11.06.2020, in compliance with the judgement dated 24.04.2019 of Hon'ble High Court in Writ Petition No. 875/2017, Ashok Kumar vs. State of Uttarakhand and others, in which the directly recruited J.E.s

were clubbed with the promoted J.E.s of the year 2008 and 2009. The promoted J.E.s of the year 2008-09 are there in the seniority list but the petitioner though selected in the same year does not find a place in the list. This seniority list has also not been finalized as per available records. But a separate tentative seniority list of the candidates appointed in 2009 was issued by the respondents on 16.06.2021 and that is also yet to be finalized.

7. Learned counsel for the petitioner further argued that the petitioner has been appointed along with the other candidates whose names have been included in the seniority list of 2008. He has secured more marks than many of them, so the seniority list dated 21.08.2012 should be cancelled. He has further argued that in the promotion order based on the meeting of the DPC dated 10.09.2016 some of his juniors arrayed as respondent No. 5 & 6 have been promoted to the post of Assistant Engineers, whereas they have secured 109 marks each which are lesser than him. So the promotion order dated 10/09/2016 should also be cancelled and the petitioner should be placed at appropriate place by issuing fresh seniority list and giving consequential benefits. Based on the above facts, the claim petition is liable to be allowed.

8. Learned A.P.O. argued that the **Uttar Pradesh State Electricity Board Employee Seniority Regulation, 1998**, is applicable to the petitioner and the seniority list which is under challenge, in which the petitioner is requesting to include his name is being finalized based on these rules. The petitioner has requested to include his name in the seniority list dated 11.06.2012 but has not mentioned his own selection year as well as the selection year of the private respondents and their place in the seniority list. The fact is that the written examination for selection of J.E. Trainees were conducted on 31.12.2006. Interview was held on 17/18.03.2008 and merit list of A.E. (Apprentice), J.E. (Apprentice), J.E. (Mechanical) was prepared and two waiting lists were also prepared. Till December, 2008, some of the candidates from the main list and first

waiting list joined and a seniority list of the new entrants were prepared. The petitioner joined against the second waiting list which was issued on 16.03.2009, so his name was not included in the seniority list issued in December, 2009. This seniority list was challenged in Hon'ble High Court and the Uttarakhand Public Service Tribunal and the Hon'ble High Court set aside said seniority list. In compliance of the order of the Hon'ble High Court seniority list was finalized on 21.08.2012. This seniority list was further challenged in writ petition no. 875/2017, Ashok Kumar vs. State of Uttarakhand and others before the Hon'ble High Court, which was decided by the Hon'ble Court on 24.04.2019 with the direction to include the names the Junior Engineers promoted in the year 2008-09 also. Finally, the respondents issued a tentative seniority list by including the candidates who were appointed in the selection year 2008-09 vide O.M. dated 16.06.2021 in compliance of the order of the Tribunal.

Learned APO further argued that the private respondents no. 5 & 6 were appointed in the year 2007-08 and they were promoted to the post of A.E. against 8.33 quota. Their selection year is 2007-08 and dates of joining are 28.05.2008 and 05.06.2008 respectively, whereas the date of joining of the petitioner is 16.03.2009. Regarding the comparison of the marks obtained by other candidates whose names are in the seniority list already finalized, this is to submit that those candidates are of SC/ST category and their marks are lesser than the petitioner, but the marks of the general category candidates are more than the petitioner and they are above in the seniority. The petitioner is not aware of this factual position. The contention of the candidates is unfounded and there are no facts to support his claim. So the claim petition is liable to be dismissed.

9. Based on the arguments of the parties and the documents placed before the Tribunal, we find that Uttar Pradesh State Electricity Board Subordinate Electrical & Mechanical Engineering

Services Regulations, 1972, and amendment Regulations, 1973 are applicable to the petitioner. As per Rule 5A, the recruitment to the cadre of service shall be made by (a) by promotion from among the members of the ordinary grade in accordance with the provisions of Regulation 16; (b) Ordinary grade (i) by direct recruitment from apprentice supervisors selected in accordance with the procedures laid down in Part V of the Regulations.

ii.”

10. Petitioner was selected as J.E. Trainee based on the examination conducted on 31.12.2006. He secured 110 marks. The respondents issued merit list in the form of main list and two waiting lists. First offer of appointment was issued to the candidates from the main list in May, 2008 and subsequently from the 1st waiting list. A seniority list of those newly appointed before December, 2008, J.E.s as per the marks obtained by them in the examination was prepared as per Uttarakhand Government Seniority Rules, 2002, (pari materia with 1998 rules). Second waiting list was issued in March, 2009, and the petitioner's name was in this second waiting list, so he did not find his name in the tentative seniority list issued in December, 2008. This seniority list was finalized on 21.08.2012 in compliance of the order of the Hon'ble High Court. This list was further challenged in the Hon'ble High Court as it did not have the names of J.E.s promoted in the year 2008-09. A tentative seniority list was prepared on 11.06.2020 but this list though has the names of promoted J.E.s of 2008-09 but the name of the petitioner, who was appointed in March, 2009 have not been included although his selection year is 2008-09. The name of the petitioner has been included in a separate tentative seniority list issued on 16.06.2021 in compliance of the order of Tribunal in claim petition 01/DB/2018. The list is also yet to be finalized.

11. The contention of the petitioner that he is senior to the respondent no. 5 & 6 is not accepted as these private respondents

were appointed in the year 2007-08. They were appointed as Assistant Engineer against the 8.33 % quota on 10.09.2016 as they have B.Tech/ AIMIE qualification.

12. The contention of petitioner that some of the candidates in the main and waiting list-1 have scored lesser marks than him but they have been shown above in the seniority to the petitioner is also not accepted as these are the candidates of SC and ST categories, who have scored marks lesser than him but they have found the place due to reservation of the vacancy as per the existing rules.

13. Rule 5 of The Uttar Pradesh State Electricity Board seniority Rules 1998 deals with the seniority of the candidates appointed through direct recruitment and lays down that their names will be the same order as shown in the merit list prepared by the Commission or a committee and the recruitment year is also defined therein. In case of the appointment made through direct recruitment and by promotions their seniority will be determined as per the procedure laid down in rule 8(1), which is as follows :

“8.1 Where according to the service regulations appointments, promotion and direct recruitment are to be done in both the ways, at that place the seniority of the persons appointed in this way will be determined under the provisions of the following sub Rule from the date of order of their basic appointment and if two or more persons are appointed together, then in that sequence it will be determined, in which their names have been kept in the order of appointment.

8.2(a) The inter se seniority of persons appointed directly will be the same as it has been shown in the merit list prepared by the commission of committee as it is.

8.3 Where due to any selection the appointments are made in both the ways by promotion and by direct recruitment, at that place seniority of the promoted persons vis-à-vis a seniority of the persons recruited directly, so far it is possible according to the prescribed quota for both the sources in sequence of turns. Place will be of the promoted persons will be determined.”

The petitioner has been appointed against the carried forward vacancies which could not be filled in the previous year and his name has been released from the waiting list. His seniority with respect to the directly recruited will be as per merit list, but with candidates

appointed through promotion will be on cyclic basis and their selection year will be the year in which the date of their substantive appointment falls. In case of the petitioner, his selection year is 2008-09 and his name should have been included in the seniority list finalized on 21.08.2012. So the seniority list of 2008-09 needs to be redrawn by including all the names of the directly recruited candidates along with the petitioner and promoted candidates in cyclic order. The tentative seniority list issued vide order dated 16.06.2021 is not complete as well as the tentative seniority issued on 11.06.2020 is also incomplete (in case this has not been finalized).

The claim petition is disposed of accordingly. No order as to costs.

(RAJENDRA SINGH)
ACTING CHAIRMAN

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

DATE: 31ST AUGUST, 2026
DEHRADUN
RS