

**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. 167/DB/2023

Virendra Narayan Singh, aged about 59 Years (Male), S/o Late Sri S.S. Singh, presently posted as Assistant Director Conservation and Administration, State Archive Uttarakhand, Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Culture, Government of Uttarakhand, Civil Secretariat, Dehradun.
2. Director General, Directorate, Department of Culture, Chander Road, Dalanwala, Dehradun.
3. Shri Ajay Kumar, S/o Shri Siv Lal, presently posted as Regional Archives Officer, Nainital, Mallital, Nainital-263001.

..... Respondents

Present: Sri Virendra Narayan Singh, Petitioner
 Sri V.P. Devrani, A.P.O., for the Official Respondents

Judgement

Dated: 17th September, 2026

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

“(i) To quash the order dated 28.08.2023 of the secretary culture, Government of Uttarakhand i.e. respondent no. 1 whereby the

respondent has rejected the claim of the petitioner to be promoted to the post of Deputy Director State Archive, Culture Department..

(ii) To issue order or direction commanding the respondent to promote the petitioner to the post of Deputy Director State Archive, Culture Department from the date when the petitioner became eligible i.e. from 01.07.2023.

(iii) Any other suitable order or direction which this Hon'ble court may deem fit and proper in the circumstances of the case.”

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

2.1. The petitioner was initially appointed as Junior Assistant on 03.04.1999 by way of direct recruitment on the pay scale of Rs. 4500/-125-7000. The respondent vide its order dated 20.03.2008 promoted the petitioner to the post of Publication Assistant.

2.2. The petitioner submitted the representations to the respondents to promote him to the post of the Assistant Director which only after the intervention of Hon'ble High Court in Writ Petition No. 743 of 2014 (S/S) the respondents vide order dated 11.01.2018 considered the petitioner for promotion and promoted him to the post of Assistant Director (Conservation and Administration) and since then the petitioner is continuously serving on the said post.

2.3. The petitioner has completed his 5 years of satisfactory service on the post of Assistant Director (Conservation and Administration) and he is eligible for the next promotional post of Deputy Director State Archives, Uttarakhand in Department of Culture. It is further submitted that since the date of his appointment as Assistant Director, the petitioner is also performing the duty of Director as In-charge along with the duty of Assistant Director as there is no Director appointed in the department yet.

2.4. As per the seniority list dated 16.08.2017, respondent no. 3 is the senior employee and the petitioner is the second senior most candidate to be considered for the promotion. There were

multiple complaints against respondent No. 3, which were also pointed out in the report of the audit conducted by the department as well as by Accountant General of Uttarakhand.

2.5. The petitioner being second senior most and eligible candidate for the promotion for the post of Deputy Director State Archives, made representations dated 24.01.2023, 02.03.2023 and 16.05.2023 before the respondent no. 1 to consider the petitioner for the promotion against the vacant post of Deputy Director, State Archives, Uttarakhand, in Culture Department. Since the petitioner was getting retired on 30.09.2023 and no action was taken on the representations of the petitioner, he approached Hon'ble High Court through Writ Petition No. 370 of 2023, Virendra Narayan Singh vs. State of Uttarakhand and others, wherein Hon'ble High court vide its order dated 10.08.2023 disposed the petition with a direction that the representation of the petitioner may be decided and Hon'ble High Court further ordered that if petitioner is not satisfied with the decision taken on representation then the petitioner may approach this Tribunal.

2.6. In compliance of the order of the Hon'ble High Court, respondent No. 1 vide order dated 28.08.2023 decided the representation and rejected the claim of the petitioner in an arbitrary manner merely on two baseless grounds that at the time of making representation i.e. on 16.05.2023 the petitioner was not eligible for the said post as per the Uttarakhand State Archive Group (A) & (B) Service Rules 2017 and secondly, respondent No. 3, Shri Ajay Kumar is senior to the petitioner and is still serving the department and hence the promotion of the petitioner cannot be considered. The respondent while deciding the representation failed to consider the fact that even if the representation was made on 16.05.2023 but at the time when the representation was getting decided, the petitioner had completed the required service i.e. on 01.07.2023. The second ground taken by the respondent while rejecting the claim is that the respondent no. 3 is senior to the petitioner and still serving the department is totally wrong. Though the respondent no.

3 is senior to the petitioner even then he cannot be considered for promotion as many allegations have been leveled against the respondent No. 3 which have been mentioned in the report of the Auditor of the department as well as Accountant General. Till the enquiry gets completed against respondent no. 3 he cannot be considered for promotion as per rules.

2.7. The act of respondent no. 1 is arbitrary, malafide and hence not sustainable in law and the order dated 28.08.2023 may be quashed and further the petitioner may be considered for promotion.

3. The claim petition has been contested on behalf of the respondents. C.A. has been filed by the Director General, Directorate of Culture, Uttarakhand, Dehradun, 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

3.1. The petitioner was appointed as a Junior Assistant in the pay scale of Rs. 4500/-125-7000 on 03.04.1999 in State Archive, Culture Department. The petitioner is presently working as Assistant Director (Protection & Administration) from 11.01.2018 in the State Archive Department, Uttarakhand, Dehradun. The services of the petitioner are governed by the rules known as "Uttarakhand State Archive Group A & B Officers services rules, 2017." As per relevant provision of the said rules, the petitioner on 16.05.2023 was not eligible for promotion on the post of Deputy Director in the pay scale Rs. 67700-208700/-, moreover, at present Sri Ajay Kumar, Regional Record Officer is senior to the petitioner.

3.2. Petitioner was placed under suspension on the imputation of taking bribery from Ajay Kumar after being found prima facie guilty of the said allegation. Petitioner has filed a writ petition No. 307(S/B) of 2023, Virendra Narayan Singh vs. Uttarakhand State & others, and the Hon'ble High Court was pleased to pass an order

that the petitioner's representation be decided by the respondent within six weeks. In compliance of the said order, the representation of the petitioner was decided vide office order dated 28.08.2023 of the Secretary, Culture, which is under challenge in this claim petition

3.3. Vide Office Order dated 10.10.2017 of the Directorate of Culture, Uttarakhand, the seniority list of the personnel working in the pay scale Rs. 35400-112400 in the Archives Technical Cadre has been issued, in which Mr. Ajay Kumar, Regional Records Officer, Nainital is senior than Mr. Virendra Narayan Singh, Assistant Director (Conservation and Administration), who is currently working. In such a situation, Shri Virendra Narayan Singh is not eligible for promotion to the post of Deputy Director. Vide order dated 25.09.2023 of Secretary, Culture Department, Government of Uttarakhand, Shri Virendra Narayan Singh, Assistant Director (Conservation and Administration) State Archives, Uttarakhand, Dehradun has been suspended as a result of confirmation of taking the amount of Rs. 30,000/- in the name of promotion from Shri Ajay Kumar, Regional Records Officer, Nainital, under the provisions contained in the Employee Conduct Rules, 2002. Subsequently, by the office order dated 30.09.2023 of the Directorate of Culture, Uttarakhand, Dehradun, Shri Virendra Narayan Singh, Assistant Director, Conservation and Administration, (Suspended), State Archives, Uttarakhand, Dehradun, retired from service as a result of completing the age of superannuation on 30.09.2023 and has been relieved from his post.

3.4. The claim petition is not legally entitled to get the benefit of relief as sought by him through the captioned claim petition in view of the facts, and circumstances narrated herein before in this counter affidavit. Hence, the claim petition has no legal force and being devoid of any legal merit same is liable to be dismissed with an exemplary cost.

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.

5. On 01.08.2025, the Tribunal directed the respondents to file response affidavit on a limited point, "whether order dated 15.04.2025 has any bearing on the merits of the present claim petition? If so, how will it affect the merit of the case? To what extent the same will have bearing on merits of the case? If not, why not, reasons may be cited either way." In the compliance of the order dated 01.08.2025, learned A.P.O. has filed supplementary affidavit mainly stating that:

5.1. The petitioner was promoted as Assistant Director on 11.01.2018. Therefore, as per service rules, he became eligible for promotion only from 01.07.2023 after completing five years of satisfactory service provided that no departmental inquiry was pending against him. At the time the selection process was being considered (on or before 16.05.2023), the petitioner had neither completed the required service period nor had the pending departmental inquiry against him been concluded, as it remained pending until 16.05.2024. Consequently, the petitioner was ineligible for promotion at that stage. The petitioner cannot claim any right to promotion, whether retrospective (notional) or otherwise, nor can he assert entitlement ahead of his senior colleagues. The order dated 15.04.2025, which pertains solely to the cancellation of the pension stoppage, has no bearing on the eligibility for promotion or the merits of the claim petition.

5.2. The petitioner challenged the suspension order by filing Writ Petition No. 453/2023 before the Hon'ble High Court at Nainital. The Hon'ble Court, by order dated 06.11.2023, directed the setting aside of the suspension, subject to further inquiry. Pursuant to this, the Government got the enquiry conducted. The inquiry report was submitted on 23.09.2024. Upon consideration of the inquiry report, and in accordance with Rule 351 of the CSR and

Government Order dated 08.02.1978 regarding pension forfeiture, the Office Memorandum dated 14.10.2024 was issued directing stoppage of 10% of the petitioner's pension. The petitioner, thereafter, filed an appeal dated 10.12.2024 under the Uttaranchal Government Servant (Discipline and Appeal) Rules, 2003, as amended in 2010 seeking cancellation of the stoppage of pension. After reviewing the inquiry report and the petitioner's submissions, the office memorandum dated 14.10.2024 was found to lack justification and legal sustainability, and was therefore cancelled by Office Order dated 15.04.2025. That the petitioner is seeking promotion from 16.05.2023, which cannot be allowed as he did not complete the required five years of service by that date, had a pending departmental inquiry, and retired on 30.09.2023, all of which disqualified him from promotion under the applicable service rules.

5.3. In view of the above, the petitioner's claim is without merit, contrary to the provisions of the applicable service rules, and barred by law. The relief sought by the petitioner is therefore liable to be dismissed.

6. We have heard the learned Counsel for the petitioner, learned Counsel for respondent Pey Jal and perused the documents placed before the Tribunal.

7. Learned counsel for the petitioner argued that the petitioner was promoted to the post of the Assistant Director on 11/01/2011. As per seniority list of the personnel working in the pay scale of Rs. 35400-112400 issued by the respondent department on 10/10 2017, the petitioner is placed at sl. no 2 after Mr. Ajay Kumar, Regional Record Officer, Nainital. But there are allegations against him and unless he is exonerated, he cannot be promoted. So, the petitioner fulfilled the requisite criteria for the promotion to the post of Deputy director as he has been working as Assistant Director for more than five years. The petitioner made representations to the respondents, but the respondents did not

reply and finally on the order of the Hon'ble High Court of Uttarakhand at Nainital his representation was decided by rejecting vide letter dated 28/08/2023, which has been challenged by the petitioner in the Hon'ble Tribunal. Since the petitioner was no 2 in the seniority list and the person senior to him has allegations of various nature against him and cannot be promoted, in such situation he should be promoted and the impugned order dated 28/08/2023 is liable to be quashed. The petitioner has relied upon the judgement rendered by Hon'ble High Court of Kerala in WP(C) No. 27987 of 2005, N. Chandran Pillai vs. Union of India and others, to grant him promotion from the date of his eligibility to the post of Deputy Director.

8. Learned APO argued that the petitioner is working on substantive basis on the post of Assistant Director (Protection & Administration) and services of petitioner are governed by the Uttarakhand State Archive Group A&B Officers Service Rules 2017. The petitioner was promoted as Assistant Director on 11/01/2018. As per the rules 5(kh) of the aforesaid rules five years satisfactory service is required for the promotion to the post of the Deputy director on the first day of the recruitment year. The petitioner was eligible for the promotion to the post of the deputy director on 01/07/2023, but he could not be promoted as there was a person named Mr. Ajay Kumar, Regional Record officer, Nainital senior to him and there was an enquiry also pending against the petitioner for which he was put under suspension vide order dated 25/09/2023. The petitioner retired on 30.09.2023. The disciplinary authority ordered the punishment of withholding of 10% of the pension of the petitioner vide order dated 14.10.2024. The said order was set aside in the appeal vide order dated 15.04.2025. This order does not make the petitioner eligible for the promotion as there was a person senior to him available in the department and unless he is disqualified from the promotion and none of his juniors was promoted at that time. So, the petitioner cannot be considered

for the promotion. In view of the above the claim petition is liable to be set aside.

9. Based on the arguments of the parties and the documents placed before the Tribunal, we find that the petitioner was promoted as Assistant Director (Conservation & Administration) on 11/01/2018. He became eligible for the promotion to the post of the Deputy Director after completing five years of the service on 01/07/2023 as per Rules. The petitioner could not be promoted on the post of the Deputy director as there was a person senior to him holding the Assistant Director level post in the department and there was also an enquiry pending against the petitioner and he was even put under suspension for the same charges against him before his superannuation. He was awarded penalty which was set aside in appeal after superannuation. The petitioner cannot claim the promotion from the date of his eligibility as there was a person senior to him available when he was in the service and none of his juniors was also promoted before his retirement. The judgement rendered by Hon'ble High Court of Kerala in WP(C) No. 27987 of 2005, N. Chandran Pillai vs. Union of India and others, is also not applicable in this case as the circumstances of the writ petition are different from the present claim petition. Hence, he cannot claim promotion from the date he became eligible and 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: 17TH SEPTEMBER, 2026
DEHRADUN