**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.84/DB/2020

Sri Yashbir Mall.

**…….Petitioner**

**vs.**

1. The State of Uttarakhand through Secretary, Peyjal Department, Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Chief General Manager, Uttarakhand Jal Sansthan, Dehradun
3. Secretary, Uttrakhand Public Service Commission, Haridwar..
4. Sri Suresh Thakur, In-charge Executive Engineer, Jal Sansthan, Ranikhet, Uttarakhand.
5. Sri Ashish Bhatt, In-charge Executive Engineer, Jal Sansthan, Central Store Dehradun, Uttarakhand.
6. Sri Abhishek Kumar Verma, In-charge Executive Engineer, Jal Sansthan, Ghansali, Uttarakhand.
7. Sri Naresh Pal Singh, In-charge Executive Engineer, Jal Sansthan, Devprayag, Uttarakhand.
8. Sri Mukesh Kumar, In-charge Executive Engineer, Jal Sansthan, Karnprayag, Uttarakhand.
9. Sri Satish Chandra Nautiyal, In-charge Executive Engineer, Jal Sansthan, Tehri, Uttarakhand
10. Sri Laxmi Chandra Ramola, In-charge Executive Engineer, Jal Sansthan, Kotdwar, Uttarakhand

**…….Respondents**

Present: Dr.N.K.Pant, Advocate, for the petitioner.
Sri V.P.Devrani, A.P.O., for Respondent No.1.
Sri Deepak Singh, Advocate, for Respondent No.2.
Col. H.S.Sharma, Advocate, for Respondent No.3.
Sri Abhishek Chamoli, Advocate, for Respondent No.5.

**JUDGMENT**

**DATED: OCTOBER 16, 2026**

**Sri Arun Singh Rawat, Vice Chairman (A)**

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

> " a. Declare the act of respondent no. 1 of determining the inter se seniority of Assistant Engineers (Civil) and Assistant Engineers (Electrical/Mechanical) in Uttarakhand Jai Sansthan on the basis of their performance in the written examination in the concerned discipline/subject as arbitrary and illegal.
>
> b. Issue an order or direction for quashing the seniority list issued by respondent no. 1 on 28th April, 2020.
>
> c. Issue an order or direction to the respondent no. 1 to prepare the seniority list of Assistant Engineers a fresh by giving due regard to the relevant statutory provisions particularly Rule 22 (1) of the U.P. Palika & Jal Sansthan Water Works (Centralized Service) Rules, 1996 Rule 24 (4) (b) of the Uttarakhand Jal Sansthan Engineer Service Rules, 2011 and The Uttarakhand Government Servant Rules, 2002. As well as the petitioner placed above of the respondent no. 4 to 10 in the seniority list because the petitioner's selection is earlier than respondents No. 4 to 10.
>
> d. Issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.
>
> e. Award the cost of the writ petition in favour of the petitioners."

2. Facts necessary for disposal of the present claim petition are as follows:

2.1 The petitioner participated in the Combined State Engineering Services Examination conducted by the Uttarakhand Public Service Commission pursuant to the advertisement issued in the year 2007 for recruitment to the post of Assistant Engineer in different branches. The petitioner was selected for the post of Assistant Engineer (Civil) in the Uttarakhand Jal Sansthan and was appointed on 03.06.2011 after medical examination. The relevant selection/appointment notification dated 03.06.2011 has been filed as Annexure No. 4 to the claim petition.

2.2 After the petitioner's selection, certain candidates approached the Hon'ble High Court by filing Writ Petition Nos. 363/2011, 297/2010 and 115/2012. Pursuant to the directions issued by the Hon'ble High Court, the Uttarakhand Public Service Commission revised the select list vide letter dated 29.08.2012. Respondent Nos. 4 to 10 were included in the revised select list and were thereafter appointed as Assistant Engineers under the women quota. Thus, according to the petitioner, Respondent Nos. 4 to 10 were appointed pursuant to a subsequent selection, whereas the petitioner had already been selected and appointed pursuant to the earlier selection. The relevant orders and revised select list have been filed as Annexures Nos. 5 to 8.

2.3 Thereafter, the respondents prepared an interim seniority list of working Engineers and invited objections, after which the final seniority list was issued vide Office Memorandum No. 461 dated 23.05.2015. The seniority of the Engineers was prepared separately branch-wise for Civil, Electrical and Mechanical branches in accordance with the Government Servant Seniority Rules, 2002, the Government Servant Service Regulations, 2004 and the Uttarakhand Jal Sansthan Engineering Service Rules, 2011. The petitioner further relies upon Government Order No. 987 dated 20.08.2015, whereby the posts of Assistant Engineer (Civil) and Assistant Engineer (Electrical/Mechanical) were quantified in the ratio of 2:1. The relevant seniority list has been filed as Annexure No. 9.

2.4 The petitioner contends that since Respondent Nos. 4 to 10 were appointed pursuant to a subsequent selection, they could not have been placed above the petitioner, who was selected earlier. In support of his claim, the petitioner relies upon the Government of India memorandum dated 03.07.1986, according to which a person appointed as a result of an earlier selection is senior to a person appointed as a result of a subsequent selection. On this basis, the petitioner claims seniority over Respondent Nos. 4 to 10. The petitioner submitted a representation dated 08.05.2017 against the seniority

position, but alleges that no action was taken thereon. Thereafter, a confirmation list was issued on 31.10.2018 in which the petitioner was again placed below Respondent Nos. 4 to 10.

2.5 The petitioner further contends that the recruitment advertisements of 2007 and 2011 were issued branch-wise and the examinations were conducted subject-wise; therefore, the seniority also ought to have been determined branch-wise. In support, the petitioner refers to the branch-wise seniority list issued on 04.07.2015 pursuant to the order dated 11.04.2014 passed by the Hon'ble Tribunal in Claim Petition No. 65/2012, Umesh Chandra Naudiyal and others v. State and others. The petitioner also refers to the seniority list redrawn on 06.07.2017 pursuant to the order passed by the Hon'ble Tribunal in Kailash Chandra Painuly v. State, wherein, according to the petitioner, the seniority list was directed to be redrawn in accordance with the relevant rules.

2.6 The petitioner thereafter submitted another representation dated 02.05.2020 requesting that the seniority list be prepared in accordance with the Uttarakhand Engineering Service Rules, 1996, as amended from time to time, the Rules of 2011 and the Uttarakhand Government Servant Seniority Rules, 2002. The petitioner states that no action has been taken on the said representation. The petitioner also relies upon the judgment of the Hon'ble Supreme Court in *Gonal Bihimpa v. State of Karnataka* (1987), contending that the date of entry into the cadre is the basis for determining seniority. On these grounds, the petitioner seeks correction of his seniority and placement above Respondent Nos. 4 to 10 in accordance with the applicable rules and the petitioner's earlier selection and appointment.

3. Claim petition has been contested on behalf of respondents. Separate C.A. has been filed on behalf of Respondent No.2 and Respondent No.3.

3.1 In the C.A. filed on behalf of Respondent No.2, it has been stated that the first result for the post of Assistant Engineer

(Civil/Mechanical) was declared by the Uttarakhand Public Service Commission on 14.02.2011, in which the petitioner was placed at Serial No. 17. In that result, certain posts reserved for General Women, OBC Women and Scheduled Caste Women were carried forward because eligible candidates were not available. Respondents No. 6 and 10 challenged the carry-forward of these posts and non-issuance of appointment letters by filing writ petitions before the High Court. During those proceedings, the Public Service Commission admitted that the posts had been wrongly carried forward due to a mistake and stated that the process of filling them on the basis of merit had already been started. The writ petitions were accordingly disposed of by judgment dated 31.07.2012.

3.2 Thereafter, the Public Service Commission issued a **revised** result on 01.08.2012 for the posts which had wrongly been kept vacant. In that revised merit list, Respondents No. 4 to 10 were included at different serial numbers. The respondents contended that the petitioner was placed at Serial No. 18 in the revised result for Assistant Engineer (Civil). According to them, the appointments of Respondents No. 4 to 10 were therefore not fresh or irregular appointments, but were made to correct the mistake in the original result. Consequently, they were placed senior to the petitioner according to the revised merit position and applicable rules.

3.3 The respondents further contended that the petitioner had been given an opportunity to submit objections but did not avail the opportunity within time. They specifically stated that the petitioner never challenged either the earlier seniority lists or the revised result dated 01.08.2012. According to the respondents, the petitioner challenged the seniority for the first time much later, and therefore, the challenge is grossly time-barred. They maintain that the selection and seniority of Respondents No. 4 to 10 resulted from correction of the original result dated 14.02.2011 and was carried out in accordance with the merit list and law.

3.4 With regard to the seniority list dated 25.04.2017, the respondents state that the petitioner was given an opportunity to file objections before its finalization. However, according to them, the petitioner did not submit objections at the relevant stage and submitted his objection later only on 08.05.2017, after the seniority list had already been finalized. The respondents also state that the appointment of Respondents No. 4 to 10 was made pursuant to a subsequent selection.

3.5 Regarding the petitioner's contention that separate branch-wise seniority lists should have been prepared for Civil and Electrical Engineers, the respondents deny this contention. They state that the 2011 Rules do not provide for separate seniority lists of Civil and Electrical Engineers for the post of Assistant Engineer based on their performance or written examination. According to the respondents, the seniority list supplied by the Public Service Commission to the department is adopted by the department, and the same mechanism was followed while redrawing the tentative seniority list dated 28.04.2020, in compliance with the Tribunal's order dated 28.07.2020.

3.6 The respondents further relied upon an earlier decision of the Tribunal in Sushil Kumar v. State of Uttarakhand, Claim Petition No. 30/DB/2015, stating that the issue of separate seniority lists had already been settled and that there could not be separate seniority lists in the manner claimed by the petitioner. They also deny that no action was taken on the petitioner's representation. It is further stated on behalf of respondents that the petitioner's seniority has been correctly fixed in accordance with the applicable Rules, and that the seniority of Respondents No. 4 to 10 has been correctly determined on the basis of the corrected/revised merit position. They therefore deny the petitioner's allegations and seek to justify the impugned seniority position.

4. It is stated in the Counter Affidavit filed on behalf of Respondent No.3, that in compliance with the Uttarakhand High Court’s order dated 12.06. 2012 passed in W.P. No. 213/2011, Rajeev

Mishra v. State of Uttarakhand & Others, and Government Order No. 868/XXX(2)/2011 dated 29 August 2011, the Uttarakhand Public Service Commission prepared and declared a revised selection list on 01.08.2012. In that revised list, Respondent Nos. 4 to 10 were included, and the revised list was forwarded to the Government by the Commission through its letter dated 29.08. 2012.

4.1 It is further stated that the earlier Government Order dated 28.12.2004 contained a provision concerning horizontal reservation for women in Government services. Under that provision, if suitable women candidates were not available in a particular selection year, the vacancies reserved for women were to be carried forward for three years. If suitable women candidates were still not available continuously for three years, the vacancies could not be carried forward any further. The remaining vacancies were then to be filled by eligible male candidates belonging to the concerned category, according to their seniority and in the same order.

4.2 This carry-forward arrangement was subsequently found to be inconsistent with the law laid down by the Hon'ble Supreme Court. Respondent No.3 in his Counter Affidavit has relied upon, particularly, on the Constitution Bench judgment in Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217, and the later judgment in Jitendra Kumar Singh v. State of Uttar Pradesh, (2010) 3 SCC 119. According to the Counter Affidavit, these judgments establish that the rule of carrying forward vacancies does not apply to horizontally reserved categories. In view of these Hon'ble Supreme Court decisions, the Government reconsidered the issue of carrying forward women's horizontal-reservation vacancies. The Government decided that the provision contained in the 28.12.2004 Government Order allowing such vacancies to be carried forward was to be abolished. Consequently, where suitable women candidates are not available against horizontal reservation for women, the vacancy is not to be carried forward to subsequent years. Instead, it is to be filled from the

available eligible male candidates of the same category, following the same seniority and order in the select merit list.

4.3 Thus, the stand taken in the Counter Affidavit is that the earlier three-year carry-forward benefit for unfilled women's horizontal-reservation vacancies ceased to operate pursuant to Government Order dated 29.08.2011, which was issued after examining the Supreme Court's judgments. On this basis, the revised selection list prepared by the Public Service Commission on 01.08.2012, which included Respondent Nos. 4 to 10, was treated as being in compliance with the High Court's order and the Government's revised policy.

4.4 It is finally submitted by the respondents that women's horizontal-reservation vacancies could earlier be carried forward for three years, but after considering the Supreme Court's decisions in *Indra Sawhney* and *Jitendra Kumar Singh*, the Government abolished that carry-forward rule in 2011. If a suitable woman was unavailable, the vacancy was instead to be filled by an eligible male candidate of the same category from the merit list. The State says that the revised selection list of 1 August 2012, including Respondents 4–10, was prepared on this basis and in compliance with the High Court's directions.

5. R.A. has been filed on behalf of the petitioner reiterating the averments mentioned in the claim petition.

6. We have heard the arguments of the Learned Counsel for the petitioner as well as Learned APO and perused the documents brought on record.

7. Ld. Counsel for the petitioner argued that the respondents have issued the tentative seniority list dated 28.04.2020 as per the provision of the Uttarakhand Jal Sansthan Engineering Service Rules, 2011 (hereinafter referred to as Rules of 2011), in which petitioner's name is at Sl. No. 49 and names of the private respondents are at Sl. No. 7,11, 23, 27, 29, 41 and 47. Names of all the respondents are above the petitioner. In the tentative seniority list, the date of

appointment of the respondents No. 7,11, 23, 27, 29, 41 and 47 is 05.03.2013, whereas the date of appointment of the petitioner is 03.06.2011.

7.1 Rule 16 of the Rules of 2011 provides the procedure for direct recruitment and preparation of the merit list whereas Rule 18 provides for appointment of the candidates from the approved merit list submitted by the Commission. There is no categorization of the subject-wise post of Assistant Engineer in the recruitment rules. In such a situation, marks obtained by the candidates from Civil, Electrical/ Mechanical cannot be compared and combined merit list cannot be prepared.

7.2 The petitioner has challenged the inclusion of the names of private respondents in the seniority list who have been appointed almost after two years of the petitioner's appointment. The petitioner has submitted representation dated 08.05.2020, against the tentative seniority list and requested for preparation of separate seniority list of the Assistant Engineers, working in Civil and Electrical/ Mechanical. It is the submission of Ld. Counsel for the petitioner that the respondents have been appointed after the petitioner, their names should be below the petitioner in the seniority list based on the facts mentioned above. The seniority of the Assistant Engineers should be prepared as per the relevant statutory provision of the Rule 22 (1) of the Uttar Pradesh Palika & Jal Sansthan Water Works (Centralized Service) Rules, 1996 and Rule 24 (4)(b) of the Rules of 2011. Therefore, the impugned seniority list is liable to be quashed.

8. Ld. Counsel for Respondent No. 2 argued that final result vide which the petitioner was declared successful was announced on 14.02.2011 and the petitioner is at Sl. No. 17 in the result. However, five vacancies of women candidates of different categories were carried forward on the ground that no eligible candidate was available to fill up the carried forward vacancies in Jal Sansthan. Private respondents among Respondents No. 4 to 10, aggrieved by application of rule of 'carry forward' and non-availability of OBC and

Scheduled Caste women candidate, filed a writ petition in the Hon'ble High Court of Uttarakhand. The Uttarakhand Public Service Commission admitted the mistake and filled up the carried forward vacancies by revised result on 01.08.2012, including the carried forward seats, which were kept vacant earlier. The names of the respondents are mentioned in the result dated 01.08.2012 at Sl. No. 5, 7, 9, 14,15 & 16 in the Assistant Engineer of Mechanical discipline and at Sl. No. 10 of the Civil Engineer discipline. Name of the petitioner is at Sl. No. 18. The revised result dated 01.08.2012 was never challenged by the petitioner before the year 2020. At the time of finalization of the seniority list of the Assistant Engineers on 24.05.2017, the petitioner did not file his objection in time. He has requested to prepare the seniority list branch-wise and is aggrieved by issuance of the combined seniority list. However, the Rules of 2011 do not have any provision to issue separate seniority list. The tentative seniority list issued on 28.04.2020 has been redrawn on aforesaid basis and it has been explained in the order dated 28.07.2020 of the Hon'ble Tribunal. It has been decided by the Hon'ble Tribunal in claim petition No. 30/DB/2015 in the matter of Sushil Kumar vs. State of Uttarakhand and others that there cannot a separate seniority list.

8.1 Seniority of Respondent No. 4 to 10 has been fixed in consonance of the judgment in the case of Shankar Singh Bhakuni vs. State of Uttarakhand as well as judgment of the Hon'ble Apex Court. In view of the above, the claim petition is liable to be dismissed.

9. Ld. Counsel for Respondent No. 3 argued that the revised selection list dated 01.08.2012 has been issued in compliance of order dated 12.06.2012 of the Hon'ble High Court of Uttarakhand in WPSB No. 213/2011 Rajeev Mishra vs. State of Uttarakhand and others and G.O. dated 29.08.2011, as no suitable woman candidate was available for consecutive three years' vacancies for the women candidates, therefore, women candidate vacancies were carried forward and were filled by the male candidates. The seniority of the male candidates has been in the same order.

10 Based on the arguments of the parties and the documents placed before the tribunal , we find that first result for the post of Assistant Engineer (Civil/Mechanical) was declared by the Uttarakhand Public Service Commission on 14.02.2011. In that result the posts reserved for General Women, OBC Women and Scheduled Caste Women were not filled as the eligible women candidates were not available. These posts were filled when the mistake was noticed and there were petitions in the Hon'ble High Court of Uttarakhand at Nainital . Incompliance of the order of the Uttarakhand High Court's order dated 12.06. 2012 passed in W.P. No. 213/2011, Rajeev Mishra v. State of Uttarakhand & Others, and Government Order No. 868/XXX(2)/2011 dated 29 August 2011, the Uttarakhand Public Service Commission prepared and declared a revised selection list on 01.08.2012. Respondents No. 4 to 10 were included at different serial numbers in the revised list . The appointments of Respondents No. 4 to 10 were not fresh or irregular appointments from separate examination but were the corrective measures and the candidates were selected from the same examination . Consequently, they were placed senior to the petitioner according to the revised merit position and applicable rules. Similar seniority related matter has been discussed by this Tribunal in the matter of Jaipal Singh vs. State of Uttarakhand and others in Claim petition No 49/NB/DB/2019 in which the Tribunal has held that the seniority of the year 2010-11 given to the private respondents who were given appointment based on the revised merit list issued in 2012, is correct .The petitioner did not challenge the revised merit list at that time and now challenging the issue in 2020, is time barred.

10.1 The seniority list dated 25.04.2017 was not challenged by the petitioner in time when it was finalized. The contention of the petitioner that separate branch wise seniority list should have been prepared cannot be accepted as there is no provision in the recruitment rules for such arrangement. The merit list provided by the Uttarakhand Public Service commission is adopted by the department to prepare the tentative seniority list. The tentative seniority list has

been drawn by the respondents on 28.04.2020 on the same mechanism and in compliance of the Tribunal's order dated 28.07.2020. The issue of the separate seniority list has been decided by the Tribunal in the Claim Petition No. 30/DB/20156 in the matter of Sushil Kumar v. State of Uttarakhand.

10.2 Moreover, the petitioner has challenged the tentative seniority list dated 28.04.2020, which has not been finalized. The tentative seniority list cannot be challenged in view of the judgement of the Hon'ble High Court of Jharkhand in the matter of Shashi Bhusan Kumar vs State of Jharkhand 2018 (30 JCR 169). Hon'ble Court in para-6 has held that:

> "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."

In view of the above the claim petition is liable to be dismissed.

## ORDER

The claim petition is hereby dismissed. No order as to cost.

**(RAJENDRA SINGH)**
ACTING CHAIRMAN

**(ARUN SINGH RAWAT)**
VICE CHAIRMAN (A)

*DATE: OCTOBER 16*, 2026.
*DEHRADUN*

*VM*