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.57/DB/2023

Sri Rakesh Chandra Jugran, Principal, District Institute of Education & Training (DIET), Mayur Vihar, Sahastradhara Road, Dehradun..

…….Petitioner

vs.

1. State of Uttarakhand through Secretary, School Education, Secretariat, Govt. of Uttarakhand, Subhash Road, Dehradun.
2. Director General, School Education, Nanoor Kheda, Dehradun, Uttarakhand.
3. Director, Academic Research & Training, Uttarakhand, Nanoor Kheda, Dehradun.
4. Additional Director, S.C.E.R.T., Uttarakhand, Tapovan Road, Nalapani, Dehradun.
5. Sri Ajay Kumar Naudiyal, Additional Director, Elementary Education, Kumaun Mandal, Nainital, Uttarakhand.

…….Respondents

Present: Sri B.B.Naithani, Advocate, for the petitioner.
Sri V.P.Devrani, A.P.O., for State Respondents.

JUDGMENT

DATED: NOVEMBER 17, 2026

Sri Arun Singh Rawat, Vice Chairman (A)

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

> " *1. This Hon'ble Tribunal may be pleased to quash the impugned order No 96455/XXIV-2/2023-29(04)2013 dated 06.02.2023 (Annexure No. A- 1) by which all representations made by the petitioner have been rejected in one go and beyond the prescribed time to dispose of the same.*
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> *2. This Hon'ble Tribunal may further be pleased to direct the respondent to review and upgrade the character Roll entries for the period 2016-17, 2017-18, 2018-19 and 2019-20 as per provision of said G.O. 155/XXX(2)/2015-30(39)2014 Dated 28.04.2015 (Annexure A-8).*
>
> *3. This Hon'ble Tribunal may further be pleased to Direct the respondent no. 1 to consider the case of the petitioner for the purpose of promoting him on the post of Additional Director since the date respondent no. 5 was promoted.*
>
> *4. This Hon'ble Tribunal may further be pleased to issue any order or direction which this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.*
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> *5. This Hon'ble Tribunal may kindly be further pleased to award cost to the petitioner."*

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

2.1 The petitioner was initially appointed to the post of Associate District Inspector of Schools (A.D.I.O.S.) in District Etah, in the erstwhile State of Uttar Pradesh, through the U.P. Public Service Commission. He assumed charge of the said post on 12.01.1999 pursuant to the appointment order dated 31.12.1998. Thereafter, the petitioner was substantively promoted to the post of Deputy Director, Education, in the pay scale of Rs. 15,600–39,100 with Grade Pay of Rs. 7,600/-, vide Government Order dated 01.05.2013. Subsequently, he was promoted to the post of Joint Director in the pay scale of Rs. 37,400–67,000 with Grade Pay of Rs. 8,700/-, vide order dated 31.10.2014.

2.2 A seniority list of Class-I and Class-II officers of the Uttaranchal Education (General Education Cadre) Service was published on 28.03.2006 (Annexure: A-4). In the said seniority list, the petitioner was placed at Serial No. 127, whereas respondent No. 5,

Shri Ajay Kumar Naudiyal, was placed at Serial No. 128. Thus, the petitioner was senior to respondent No. 5. However, respondent No. 5 was promoted to the post of Additional Director vide order dated 26.08.2021, whereas the petitioner's case was not considered for promotion by the Departmental Promotion Committee (DPC), despite his seniority over respondent No. 5.

2.3 The petitioner subsequently obtained information under the Right to Information Act, 2005, and came to know that his Annual Character Roll (ACR) entries for the years 2016-17, 2017-18, 2018-19 and 2019-20 had been downgraded by the Reviewing Officer (respondent No. 3), although the Reporting Officer (respondent No. 4) had awarded him higher gradings. According to the petitioner, the Reviewing Officer downgraded these entries without assigning any reasons or mentioning any specific instance of deficiency in his performance. He further contended that the Reviewing Officer had recorded her agreement with the Reporting Officer's assessment while simultaneously downgrading the gradings, which was contrary to the provisions of Rule 9(1) and (3) of the Government Order dated 18.12.2003.

2.4 The petitioner alleged that the downgraded ACR entries were not communicated to him within the prescribed period of 60 days, as required under Rule 4(1) of the Rules notified on 28.04.2015. According to him, this failure deprived him of an opportunity to submit representations against the adverse entries in time and adversely affected his chances of promotion. He claimed that he was thus prejudiced twice: firstly, by non-communication of the downgraded entries and, secondly, by non-consideration of his candidature for promotion to the post of Additional Director.

2.5 Feeling aggrieved, the petitioner submitted a detailed representation dated 13.10.2021, followed by several reminders and other representations, requesting reconsideration of the downgraded ACR entries and his claim for promotion. However, according to the petitioner, the authorities failed to decide these representations within

the prescribed period. He further alleged that the representations were forwarded to the Reviewing Officer together only on 23.10.2022, instead of being sent separately within the stipulated period under Rule 4(4) of the Rules dated 28.04.2015.

2.6 The petitioner also challenged the manner in which his ACR entries for five years, namely 2016-17 to 2020-21, were communicated to him together through the Deputy Secretary's letter dated 28.02.2022. He contended that these entries were supplied after the DPC proceedings had already been completed, in violation of the Government Orders dated 08.08.2016 and other applicable instructions. He submitted a further representation dated 29.03.2022 against this delayed communication, but the same was also not decided by the competent authority.

2.7 The petitioner contends that the impugned order dated 06.02.2023 does not disclose when the six representations were received by the competent authority or on which dates and under which orders they were forwarded to the reviewing officer. It is further submitted that the representations were not forwarded within the prescribed period of one week, as required under Rule 4(4) of the Rules, 2015, and no explanation has been given for keeping them pending for more than one and a half years before forwarding all of them together on 23.10.2022. The order also fails to disclose any reasons for not considering the reviewing officer's comments on the downgraded entries for each year or for rejecting her recommendation to upgrade the entry for the year 2016–17. Further, no specific incident has been mentioned during the preceding five years to establish that the petitioner was inefficient or negligent in discharging his duties, nor had any departmental proceedings ever been initiated against him. The order also does not explain how the downgrading of his character roll entries was justified or what fault was attributable to him. Lastly, the petitioner contends that the Director General (School Education), being the accepting authority, was not given an opportunity to examine the revised opinion of the reviewing officer.

2.8 The petitioner contended that under Rule 5 of the Rules dated 28.04.2015, an adverse entry against which a representation had not been decided in accordance with the prescribed procedure could not be treated as adverse for the purpose of promotion and other service matters. He submitted that, before the DPC meeting, neither had the downgraded entries been communicated to him nor had his representations against those entries been decided. Further, the mandatory certificate regarding communication of ACR entries and disposal of representations, as required under the Government Order dated 22.09.2017, was allegedly not submitted by the Head of the Department before the DPC.

2.9 It was further alleged that the DPC wrongly considered the downgraded ACR entries without ensuring their proper communication to the petitioner. The DPC also failed to consider his ACR for the year 2015-16, in which he had received the highest grading and which had not been downgraded. According to the petitioner, his service record was not properly considered in comparison with that of respondent No. 5, and no reasons were communicated to him for his supersession. He also alleged non-compliance with Rules 4(3) and 4.8 of the Selection by Promotion Rules notified on 09.01.2013, particularly the requirement to inform an employee when he is not found suitable for promotion.

2.10 It was further submitted that the petitioner submitted various representations on 27.07.2021, 27.10.2021, 24.11.2021, 26.11.2021 and 23.05.2022 to the concerned authorities, which remained undecided or unanswered. He alleged that the failure of the authorities to decide these representations within the prescribed time was contrary to the Rules dated 28.04.2015 and that he should not be made to suffer on account of the authorities' failure to follow the prescribed procedure.

2.11 It is the submission of Ld. Counsel for the petitioner that petitioner’s supersession by respondent No. 5 was arbitrary and illegal, as his candidature had not been considered in accordance with the

applicable service rules and government instructions. He, therefore, sought reconsideration of his claim for promotion to the post of Additional Director by reviewing the DPC proceedings in accordance with Rules 4 and 5 of the Rules dated 28.04.2015, and requested that he be granted promotion from the date on which his junior, respondent No. 5, was promoted, by passing a reasoned and speaking order.

3. The claim petition has been contested on behalf of Respondents. Separate counter affidavits have been filed on behalf of Respondent No.1 and Respondent No. 2. Sri J.L.Sharma, Joint Secretary, Education Department, Govt. of Uttarakhand, Dehradun, has filed Counter Affidavit on behalf of Respondent No. 1. Sri Banshidhar Tiwari, Director of General Education, Education Department, Govt. of Uttarakhand, Dehradun, has filed Counter Affidavit on behalf of Respondent No. 2. Both counter affidavits contain identical assertions and averments.

3.1 In the C.A. filed on behalf of Respondents, it has been submitted that the petitioner was initially appointed as Assistant District Inspector of Schools (A.D.I.O.S.) in the Education Department of the erstwhile State of Uttar Pradesh and joined his services on 12.01.1999 in District Etah, U.P. His services are presently governed by the Uttarakhand State Education (Administrative-Cadre) Services Rules, 2013. He was promoted to the post of Deputy Director Education on 01.05.2013 and thereafter to the post of Joint Director Education on 31.10.2014, after relaxation in the qualifying service was granted by the Government vide order dated 22.08.2014.

3.2 It has further been submitted that the next promotional post from Joint Director Education is Additional Director Education. Under the Rules of 2013, promotion to this post is based on the criteria of merit-cum-seniority. The eligibility conditions include completion of 20 years of service in the Administrative Cadre and two years of service as Joint Director Education. The petitioner, being senior, was included in the eligibility list and his case was duly considered by the Departmental Promotion Committee (DPC).

However, he was not found suitable for promotion due to downgraded ACR entries for the assessment years 2016-17, 2017-18, 2018-19 and 2019-20. Consequently, respondent no. 5, who was junior to the petitioner, was recommended for promotion, as seniority alone was not the deciding criterion.

3.3 The respondents have further stated that the downgraded ACR entries were received from the Government for communication to the concerned officers. Pursuant to the directions issued on 16.02.2022, the Director General of Education, Uttarakhand, communicated the downgraded entries for the aforesaid years to the petitioner. Thereafter, the petitioner submitted representations seeking upgradation of these entries under the Uttarakhand Government Servant (Adverse Annual Confidential Report Representation Disposal) Rules, 2015. However, after due consideration, the competent authority rejected his representations vide a reasoned order dated 06.02.2023 (Annexure: C.A.- R 4), finding no sufficient grounds for upgradation. The respondents have also contended that, under Rule 4(4)(a) of the 2015 Rules, the annual entry awarded by the accepting authority is final and the remarks of the reviewing officer cannot override it.

3.4 It has also been stated that the DPC, in its meeting held on 22.04.2021, considered the petitioner's case but did not recommend him for promotion, as evident from its recommendation enclosed as Annexure C.A. R.-5. The petitioner's representations dated 13.10.2020, 27.07.2021, 24.11.2021, 29.03.2022 and 23.05.2022 were also rejected by the competent authority on 06.06.2022, as they were found unsatisfactory (Para 27 of the C.A.). The respondents have stated that the petitioner's case was considered in accordance with the applicable service rules and that there was no illegality or irregularity in the decision-making process.

3.5 It is also contended on behalf of the respondents that the petitioner has not challenged the downgraded ACR entries for the years 2016-17 to 2019-20 before any court of law and has also not

sought any relief against those entries in the present claim petition. According to the respondents, the challenge to these entries is now time-barred under Section 5(b)(1)(i) of the U.P. Public Services Tribunal Act, 1976, as applicable in Uttarakhand. Therefore, the petitioner cannot seek promotion without first challenging the downgraded ACR entries, and the claim petition is liable to be dismissed as devoid of legal merit.

4 R.A. has been filed on behalf of the petitioner, reiterating substantially the same averments which have been made in the claim petition.

5. We have heard the arguments of the Learned Counsel for the petitioner as well as Learned A.P.O. and perused the documents brought on record.

6. The Ld. Counsel for the petitioner submitted that the petitioner was initially appointed to the post of Associate District Inspector of Schools (A.D.I.O.S.) in District Etah, in the erstwhile State of Uttar Pradesh vide order dated 31.12.1998. Thereafter, the petitioner was substantively promoted to the post of Deputy Director, Education, in the pay scale of Rs. 15,600–39,100 with Grade Pay of Rs. 7,600/-, vide Government Order dated 01.05.2013. Subsequently, he was promoted to the post of Joint Director in the pay scale of Rs. 37,400–67,000 with Grade Pay of Rs. 8,700/-, vide order dated 31.10.2014.

6.1 A seniority list of Class-I and Class-II officers of the Uttaranchal Education (General Education Cadre) Service was published on 28.03.2006. In the said seniority list, the petitioner has been shown at Sl. No. 127 and the respondent No. 5, Shri Ajay Kumar Naudiyal was placed at Sl. No. 128. But, the respondent No. 5 was promoted to the post of Additional Director vide order dated 26.08.2021 before the petitioner.

6.2 Ld. Counsel for the portioner further submitted that Annual Character Roll (ACR) entries of the petitioner for the years

2016-17, 2017-18, 2018-19 and 2019-20 had been downgraded by the Reviewing Officer without assigning any reasons. The Reviewing Officer had been in agreement with the Reporting Officer's assessment but downgraded the gradings, which was contrary to the provisions of Rule 9(1) and (3) of the Government Order dated 18.12.2003. The downgraded ACR entries were not communicated to him within the prescribed period of 60 days, as required under Rule 4(1) of the Rules notified on 28.04.2015, which deprived him of an opportunity to submit representations against the adverse entries in time and adversely affected his chances of promotion.

6.3 Learned counsel for the petitioner argued that petitioner submitted representation against the downgrading of the ACR but his representations were not decided promptly. The information related to the entries were communicated to him after the DPC meeting was held. The learned counsel for the petitioner further contended that the impugned order dated 06.02.2023 does not disclose the facts related to receipt of representations with the appellate authority, their disposal and the delay in deciding the representation, the reason of degrading ACRs by the reviewing officer have not been mentioned.

6.4 Learned counsel for the petitioner further argued that the DPC has not considered the fact that down graded ACRs of the petitioner were considered for the promotion which were not even communicated to the petitioner, he was superseded but the reason of the supersession was not communicated. Petitioner made representations in respect of downgraded ACR in respect of the corresponding years which were not decided in time contrary to the rules. In such a situation the supersession of the petitioner is against the applicable rules. The impugned order dated 06.02.2023 is liable to be quashed

7. Learned A.P.O. argued that the services of the petitioner is presently governed by the Uttarakhand State Education (Administrative-Cadre) Services Rules, 2013. He was promoted to the post of Deputy Director Education on 01.05.2013 and thereafter

to the post of Joint Director Education on 31.10.2014, after relaxation in the qualifying service was granted by the Government vide order dated 22.08.2014.

7.1 The next promotion of the petitioner was to the post of Additional Director Education, under the Rules of 2013, is based on the criteria of merit-cum-seniority. The petitioner completed the residency period for promotion to the post of the Additional Director. The petitioner was included in the eligibility list and considered by the Departmental Promotion Committee (DPC), but he was not found suitable for promotion due to downgraded ACR entries for the assessment years 2016-17, 2017-18, 2018-19 and 2019-20. Respondent no. 5, who was junior to the petitioner, was recommended for promotion, as the ACRs of the Respondent No. 5 were better than the petitioner.

7.2 The downgraded ACR entries were communicated to the petitioner on the directions of the Government vide order dated 16.02.2022. The petitioner submitted representations seeking upgradation of these entries under the Uttarakhand Government Servant (Adverse Annual Confidential Report Representation Disposal) Rules, 2015. The competent authority rejected his representations vide a reasoned order dated 06.02.2023 finding no sufficient grounds for upgradation and held that the annual entries awarded by the accepting authority are final and the remarks of the reviewing officer cannot override it.

7.3 The DPC, in its meeting held on 22.04.2021, considered the petitioner's case but did not recommend him for promotion. The petitioner has not challenged the downgraded ACR entries for the years 2016-17 to 2019-20 before any court of law and has also not sought any relief against those entries in the present claim petition. The challenge to these entries is now time-barred under Section 5(b)(1)(i) of the U.P. Public Services Tribunal Act, 1976, as applicable in Uttarakhand. Therefore, the petitioner cannot seek promotion

without first challenging the downgraded ACR entries, and the claim petition is liable to be dismissed as devoid of legal merit.

8. Based on the arguments of the parties and the documents placed before the Tribunal, we found that the ACRs of the years 2016-17, 2017-18, 2018-19 and 2019-20 have been downgraded by the Reviewing Authority and were accepted by the Accepting Authority. The Reviewing authority agreed to the comments of the Reporting Authority regarding attributes, but downgraded the overall assessment given by the reporting authority without giving any reason.

8.1 The ACR related matters of the petitioner are governed by the Uttaranchal Government Servants (Disposal of Representation Against Adverse Annual Confidential Reports and Allied Matters) Rules, 2002 (as amended in 2015). Rule 4(1) of the aforesaid Rules provides that ACR shall be communicated in writing to the concerned government servant within 90 days from the date of recording of the report. The officer reported upon is given time to submit representation within 45 days and the representation has to be disposed of within the prescribed period. Rule 5 provides that an adverse entry which has not been communicated, or against which the representation has not been disposed of in accordance with the rules, shall not be treated as adverse for purposes of promotion and other service matters.

8.2 Rule 56 of the Uttar Pradesh Fundamental Rules contained in Financial Hand-book, Volume-II, Parts-II to IV, where an adverse report is not communicated or a representation against an adverse report has not been disposed of in accordance with Rule 4, such report shall not be treated adverse for the purposes of promotion and other service matters of the Government Servant concerned. In the present case the report of the petitioner has not been communicated in time as proved above. The petitioner made representation against the downgraded ACRs, but the representations were also not decided in time. Moreover, there are

no reasons given by the reviewing authority to down grade the overall assessment of the petitioner, so the downgraded entries cannot be considered for the promotion.

In view of the above the impugned order dated 06.02.2023 is liable to be quashed and the claim petition is liable to be allowed.

ORDER

The claim petition is allowed. The impugned order dated 06.02.2023 is hereby quashed. The respondents are directed to hold the review DPC to consider the promotion of the petitioner on the post of the Additional Director by not considering the downgraded ACR of the years 2016-17, 2017-18, 2018-2019, 2018-19 with in two months of the presentation of the certified copy of the judgement. No order as to cost.

(RAJENDRA SINGH)
ACTING CHAIRMAN

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

DATE: NOVEMBER 17, 2026.
DEHRADUN

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