

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

Present: Hon'ble Mr. Justice U.C.Dhyani
----- Chairman

Hon'ble Mr. Rajeev Gupta
-----Vice Chairman (A)

EXECUTION PETITION NO. 09 /DB/2021

*(Arising out of judgment dated 20.07.2021,
passed in Claim petition No. 104/DB/2019)*

Mayan Pal Singh Verma.

.....Petitioner-executioner

vs.

State of Uttarakhand through Principal Secretary, Public Works Department,
Government of Uttarakhand, Secretariat, Subhash Road Dehradun, Uttarakhand
and another.

.....Respondents.

Present: Sri L.K.Maithani, Advocate, for the petitioner-executioner.
Sri V.P.Devrani, A.P.O., for the respondents.

JUDGMENT

DATED: SEPTEMBER 15, 2021

Justice U.C.Dhyani (Oral)

Present execution petition has been filed by the petitioner-executioner for following reliefs:

“Hon'ble Tribunal may graciously be pleased to allow this application and pass appropriate and suitable orders against the respondents for

effective compliance of their judgment and order dated 20.07.2021, or pass any other orders or directions which the Hon'ble Tribunal deems fit and proper in circumstances of the case.”

2. This Tribunal disposed of the Claim Petition No. 104/DB/2019 on 20.07.2021, with the following directions:

“17. We have been given to understand that the petitioner has been considered for promotion to the post of Chief Engineer Level-II in earlier DPCs, in which he has not been found to fulfill the requisite criteria of merit. In the light of the above, a review DPC needs to be held in his case but, before the same, the petitioner has to indicate whether he wants to give representations against the uncommunicated ‘good’ entries or not. If he submits representations for upgradation of such entries, then after the competent authority ‘s decision on the same, the review DPC may be held and the entries may be read in the modified form after such decision. If the petitioner prefers not to furnish any representations for upgradation of such entries, then these uncommunicated entries are required to be ignored by the review DPC for consideration of his notional promotion to the post of Chief Engineer Level-II from the date of promotion of his juniors. The claim petition is accordingly disposed of with the following directions:

(i) The uncommunicated ‘*Uttam*’ Annual Confidential Reports (ACRs) cannot be upgraded unless the petitioner submits representations for upgradation of the same and the representations are duly decided by the competent authority.

(ii) The petitioner is hereby given an opportunity to represent for upgradation of the uncommunicated ‘*Uttam*’ entries within 45 days from today to the competent authority, who shall consider the same and take suitable decisions on the representations within the period as specified in the Rules of 2015. After such decisions have been taken, the review DPC for consideration of promotion of the petitioner to the post of Chief Engineer Level-II shall be held in which such entries shall be read and acted upon along with modifications, if any, done by the competent authority after decisions on his representations.

(iii) If the petitioner opts not to give any representation for upgradation of above uncommunicated ‘*Uttam*’ entries, the same shall be ignored while considering his promotion to the post of Chief Engineer Level-II by the review DPC, which may be convened shortly after such option of the petitioner.

(iv) In the review DPC, if the petitioner is found fit for promotion on the criteria of ‘merit-cum-seniority’, he shall be given notional promotion to the post of Chief Engineer Level-II from the date his juniors were promoted on such post.

In the circumstances, no order as to costs.”

2. In paragraphs 3 and 4 of the affidavit which has been filed by the petitioner-executioner before the Bench today, he has stated the following:

“3. That the deponent does not want to make any representation for up-gradation of un-communicated “*Uttam*” entries of the year 2015-16 (for the period of 11.08.2015 to 31.03.2016) and year 2016-17 (for the period 01.04.2016 to 10.11.2016 and 11.11.2016 to 31.03.2017).

4. That the deponent opts for the second option of the judgment of ignoring the un-communicated “*Uttam*” entries of the year 2015-16 (for the period of 11.08.2015 to 31.03.2016) and year 2016-17 (for the period 01.04.2016 to 10.11.2016 and 11.11.2016 to 31.03.2017) and wants that in the review DPC for the post of Chief Engineer Level-2 these un-communicated “*Uttam*” entries shall be ignored.....”

3. The petitioner submits that he does not wish to represent for up-gradation of un-communicated “*Uttam*” entries.

4. According to Direction No. (iii), the un-communicated “*Uttam*” entries shall be ignored while considering his promotion to the post of Chief Engineer Level-2 by the review DPC. The respondent department may hold review DPC within a period of 03 months from the date of presentation of certified copy of this order.

5. The execution application thus stands disposed of.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: SEPTEMBER 15, 2021.
DEHRADUN

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