

**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)

CLAIM PETITION NO. 01/DB/2022

1. Dhaman Singh Negi s/o Late Sri Chandra Singh Negi, aged about 52 years, Group 'D' employee, Central Bhandar, Uttarakhand Jal Sansthan, Nehru Colony, Dehradun.
2. Vinod Singh Payal s/o Late Sri Jagdish Singh Payal aged about 37 years, Group 'D' employee, Uttarakhand Jal Sansthan, Tehsil Colony Devprayag, Tehri Garhwal.
3. Ramakant Yadav s/o Sri Shobarn Singh, aged about 52 years, Group 'D' employee, Uttarakhand Jal Sansthan, Haldwani, District Nainital.
4. Ms. Vimla Chandra w/o Sri Narain Singh Keda, aged about 42 years, Group 'D' employee, Uttarakhand Jal Sansthan, Udham Singh Nagar.
5. Jagdish Chandra Bhatt s/o Sri Krishnanand Bhatt, aged about 52 years, Group 'D' employee, Uttarakhand Jal Sansthan, Haldwani, District Nainital

.....Petitioners

vs.

1. The State of Uttarakhand through Secretary, Peysa Jal, Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Chief General Manager, Uttarakhand Jal Sansthan, Nehru Colony, Dehradun.
3. Secretary (Administration) Uttarakhand Jal Sansthan, Nehru Colony, Dehradun.

.....Respondents

Present: Sri L.K.Maithani, Advocate, for the petitioners.
Sri V.P.Devrani, A.P.O., for respondent no.1
Dr. N.K.Pant, Advocate, for respondents no. 2 & 3.

JUDGMENT

DATED: MAY 23, 2022

Justice U.C.Dhyani (Oral)

By means of present claim petition, petitioners seek the following reliefs:

“(a) To issue an order or direction to the respondent to convene a review D.P.C. and consider the petitioners for promotion to the post of Junior Assistant against the vacancies of the year 2012-13 to 2014-15 under the provisions of the Uttarakhand Jal Sansthan Employees Service Regulations, 2004 as amended time to time, on the basis of seniority list No. 6681 of dated 31.01.2015 prepared for the purpose and if the petitioners are found fit for promotion, grant promotion to the post of Junior Assistant with all consequential benefits.

(b) To issue any other suitable order or direction which this Hon’ble Tribunal may deem fit and proper in the circumstances of the case.

(c) To award the cost of case.”

2 At the very outset, Ld. A.P.O. objected to the maintainability of the claim petition, *inter alia*, on the ground that the same is barred by limitation.

3 Ld. Counsel for the petitioners, while drawing attention of the Tribunal towards the letter/ recommendations dated 11.03.2020 of Respondent No.2 written to Respondent No.1, confined his prayer only to the extent that a direction be given to the Respondent No.1 to take suitable action, on the recommendations/ letter dated 11.03.2020 of Respondent No.2 (Annexure: A-12), in accordance with law.

4 At the first blush, the petition appeared to be barred by limitation, but when the Tribunal looked into the documents, which have been filed by Ld. Counsel for the petitioners in support of the claim petition, along with his restricted oral prayer, it is found that the claim petition is within time.

5 The reasons are not far to seek. A direction was given by Additional Secretary to the Government in Drinking Water and Sanitation Department (Respondent No.1), *vide* letter dated 09.08.2018 to the Chief General Manager, Uttarakhand Jal Sansthan, Dehradun (Respondent No.2), to take necessary action for promotion of Sarvsri Dhaman Singh Negi, Vinod Singh Payal, Ramakant Yadav, Jagdish Chandra Bhatt and Ms. Vimla Chandra (all Class IV employees) to the post of Junior Assistant as per *Uttarakhand Jal Sansthan Karmchhari Seva Viniymwali, 2004* (Annexure: A-7). This was done on the basis of the representations of the petitioners. In other words, Respondent No.1 directed Respondent No.2 to promote the petitioners on the vacant posts of Junior Assistants as per *Uttarakhand Jal Sansthan Karmchhari Seva Viniymwali, 2004*. When the letter was not replied to by Respondent No.2, a reminder was given on 11.09.2018 by Respondent No.1 (Annexure: A-8).

6 In response to the letter dated 15.10.2018 of Respondent No.2, in which guidance was sought from Respondent No.1, letter dated 29.07.2019 (Annexure: A-9) was issued as to why the Class-IV employees were not promoted to the post of Junior Assistant. When letter dated 29.07.2019 was not replied to by Respondent No.2, a reminder was given on 22.08.2019. The same was followed by another reminder dated 01.01.2020 (Annexure: A-10), desiring Respondent No.2 to furnish report within seven days. A reply was sent by Respondent No.2 to Respondent No.1 on 08.01.2020. Respondent No.1 raised two queries, asking Respondent No.2 to send replies to those queries (Annexure: A-11). Finally, letter dated 11.03.2020 (Annexure: A-12) was sent by Respondent No.2 to Respondent No.1. Point-wise report was given.

7 The sum and substance of letter dated 11.03.2020 is that *Uttarakhand Jal Sansthan Karmchhari Seva Viniymawali, 2004*, as amended from time to time is applicable to the petitioners. Apart from this, the *Uttarakhand Adhinasth Karyalaya Lipik Vargiya Karmchhari Varg (Seedhi Bharti) (Sanshodhan) Niymawali, 2013* has been implemented in Uttarakhand Jal Sansthan. Posts in the lowest grade of

the clerical cadre in the concerned subordinate office will be filled up by promotion from 15 percent of such employees, who have passed the high school examination and 10 percent who have passed the intermediate examination. In the said regulations, for the selection year 2012-13 to 2015-16, vacancies up to 45 percent of the total posts of the lowest category of subordinate office clerk category, have been earmarked for 25% for those employees of Group D of that office who have passed the high school examination, and 20% for those, who have passed the Intermediate examination. In relation to total posts, 05 percent vacancies were provided to be filled up by the appointing authority by promotion from amongst the drivers of that office who have passed the high school examination or higher examination.

It was mandatory to promote eligible employees to the posts of Junior Assistant, as per the Rules of Uttarakhand Jal Sansthan and Personnel Department.

Under the regulations/rules prevailing at that time, Sri Ramakant, Ms. Vimala Chand, Mr. Jagdish Chandra Bhatt, Mr. Dhaman Singh Negi and Sri Vinod Payal, who were working on class IV post, fulfilled the qualifications prescribed for promotion to the post of Junior Assistants. But promotions could not take place because departmental employees and their organizations were against the same.

Sri A.K.Sharma, Chief General Manager, Uttarakhand Jal Sansthan, in his letter dated 11.03.2020, which was addressed to the Under Secretary, Drinking Water and Sanitation, Section-I, Govt. of Uttarakhand, Dehradun, has recommended the case of 05 employees for promotion to the vacant post(s) of Junior Assistant from amongst Group-D employees, under the provisions of *Uttarakhand Jal Sansthan Karmchari Seva Viniymawali*, 2004. It has been mentioned that it will be in the interest of the employees and the department to promote five eligible employees, who could not be promoted during special drive for promotion till the selection year 2015-16. Guidance was sought from the Govt. on promotion of five eligible employees to the vacant post(s) of Junior Assistant.

8 Respondent No.2, therefore, recommended the case of the
petitioners and sought direction from Respondent No.1(on those
recommendations).

9 It is the submission of Ld. Counsel for the petitioners that
Respondent No.1 has not taken any action on the recommendations of
Respondent No.2. Ld. Counsel for the petitioners, therefore, seeks a
direction to Respondent No.1 to take suitable action, as per law, on
the recommendations/ letter dated 11.03.2020 of Respondent No.2
(Annexure: A-12).

10 The Tribunal is of the view that such innocuous prayer of the
petitioners, in the peculiar facts of the case, should be accepted.

11 The claim petition is disposed of, at the admission stage, by
directing Respondent No.1 to take suitable action on letter/
recommendations dated 11.03.2020 (Annexure: A-12) of Respondent
No.2, in which guidance was sought from Respondent No.1, while
recommending promotion of the petitioners to the post of Junior
Assistants, at an earliest possible, and without unreasonable delay, in
accordance with law, on presentation of the certified copy of this
order.

11. It is made clear that the Tribunal has not expressed any
opinion on the merits of the case.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MAY 23, 2022
DEHRADUN

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