

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

Present: Sri V.K. Maheshwari

----- Vice Chairman (J)

&

Sri D.K. Kotia

----- Vice Chairman (A)

CLAIM PETITION NO. 57/2010

1. Ram Nath Aswal, S/o Late Sri K.B.Aswal, R/o H.N. 1 B Block Sarswati Vihar, P.O. Ajabpur Kala, District Dehradun,
2. Bharat Singh Rawat, S/o Sri Mangsir Singh Rawat, R/O Gakesh Vihar, Ajabpur Khurd, P.O. Ajabpur Kala, District Dehradun,
3. Man Mohan Pandey, S/O Late Sri Ram Prasad Pandey, R/O Village Samsher Garh, P.O.Ajabpur Kala, District Dehradun,
4. Kishan Singh Lingwal, S/o Late Sri Ram Dutt Singh, R/o Village Gurudwara Colony Clement Town, District Dehradun,
5. Bhagwan Singh Negi S/o Sri Bhopal Singh Negi, R/o Village Shirkot Rounakot, District Tehri Garhwal,
6. Chander Singh, S/o Late Sri Laxman Singh, R/o Village Khafkat, P.O.....District Bageshwar,
7. Man Singh S/o Late Sri Jogeshwar Rawat, R/o Village Manjkhi , P.O. Jhide District Pauri Garhwal,
8. Bhagwan Singh Rawat S/o Late Sri Ummed Singh Rawat, R/o Village Surdevwala, P.O.Raipur District Dehradun,
9. Rajpal Singh, S/o Late Bhopal Singh, R/o Village Padampur Sukhraw District Pauri Garhwal,
10. Dinesh Singh Barthwal, S/o Sri Gabar Singh Barthwal Village, P.O. Beena Malla,

11. Madan Singh Panwar, S/o Late Sri Inder Singh Panwar, R/O Village, Smith Nagar, P.O. Prem Nagar, District Dehradun,
12. Kuwar Pal Singh, S/o Sri Raj Pal Singh, R/o Village Doiwala District Dehradun,
13. Vashudev Gaur, S/o Late Sri Sadanand Gaur, R/o Village Dankot, P.O. Futgar Patti Kiyana District Rudraparyag,
14. Manhar Singh, S/o Ummed Singh Rawat, R/o Village Kota P.O. Pawo District Pauri Garhwal,
15. Prem Ballabh Murari, S/o Sri Vidhya Dhar Singh, R/o Village Cabali Cham, P.O. Kariya Karan District Champawat,
16. Bhagwan Singh Panwar, S/o Late Sri Sher Singh, R/o Village Cabali Cham, P.O.Sure Patti Hesiraykhal District Tehri Garhwal,
17. Mahabir Singh, S/o Mohan Singh, R/o Village Thakurpur, P.O.Umedpur Prem Nagar, District Dehradun,
18. Dharam Pal Pathniya S/O Late Sri Hairdaya Singh, R/o Village Kotrati Kalyanpur , P.O. Horawala Vikas Nagar District Dehradun,
19. Yashwant Singh, S/o Sri Dhyan Singh Rawat, Village, Kamla Nagar, P.O. Balupur District Dehradun,
20. Guru Prasad Dobhal, S/o Late Sri Hari Prasad Dobhal, R/o Village Asthal, P.O. Maldavita District Dehradun,
21. Nagendra Chandra Bamrora, S/o Late Sri Daya Ram Bamrora, R/o Village Shiv Nagar Defence Colony, District Dehradun,
22. Ram Chandra S/o Late Sri Mani Ram, R/o Village Koti, P.O. Maily District Pauri Garhwal,
23. Girish Chandra, S/o Sita Ram, R/o Village Pali, P.O. Madama Kandarwal, District Pauri Garhwal,
24. Surendra Dutt, S/o Sri Narayan Dutt, R/o Village Nathanpur District Dehradun,

25. Bharat Singh Rawat, S/o Late Sri Prem Singh Rawat, R/o Village Kalwadi, P.O. Chauradi District Pauri Garhwal,
26. Dinesh Singh Negi, S/o Late Sri Prem Singh Negi, R/o Village, 75/2, Smithnagar, P.O.Prem Nagar, District Dehradun,
27. Ram Chandra Singh Rawat, S/o Late Sri Bhagat Singh Rawat, R/o Village Sainik Colony, P.O. Balawala, District Dehradun,
28. Tej Singh Dhama, S/o Sri Bhawan Singh, R/o Village Thakupur, P.O. Umedpur, District Dehradun,
29. Ranjeet Singh Negi, S/o Sri Indrajeet Singh Negi, R/o Village 55, Mohanpur, P.O. Prem Nagar, District Dehradun,
30. Nand Kishore Pant, S/o Sri Bhuddi Ballabh Pant, R/o Village & Post Nakraunda, District Dehradun,
31. Dewakar Dhyani, S/o Sri Padma Dutt Dhyani, Village and P.O. Nehrugram, District Dehradun,
32. Naresh Kumar, S/o Sri Chandra Bahadur, R/o Village 21 Dangwal Marg, Naishvila Road, District Dehradun,
33. Jaiprakash Gurang, S/o Sri Prem Singh, R/o House No. 645, Sawali, P.O. Premnagar, District Dehradun,
34. Bansidhar Nainwal, S/o Late Sri Shivram Nainwal, R/o Village Rajeev Nagar, P.O. Nehru Colony, District Dehradun,
35. Pooran Singh, S/o Sri Mohan Singh Rawat, R/o Village Bakli, P.O. Chaukhutia, Gunai, District Almora,
36. Kailash Bahuguna, S/o Late Sri Govardhan Prasad, R/o Village, Mothorowala, P.O. Kargi grant, District Dehradun,
37. Bilash Chandra Bhatt, S/o Late Sri Govind Ballabh Bhatt, Village Malilamari, P.O. Champawat, District Champawat,
38. Jagdish Lal Verma, S/o Late Sri Mohan Lal Verma, R/o Village Hartola, P.O. Barakot, District Champawat,
39. Balkishan Pant, S/o Sri Hari Dutt Pant, R/o Village Malkola, P.O. Bardakhan, Champawat,

40. Jayendra Singh Aswal, S/o Late Sri Bachhan Singh, R/o Village Lawa, P.O. Quali, District Tehri Garhwal,
41. Amar Singh, S/o Late Sri Dharam Singh, R/o Village Khatsari, P.O. Pulhindola, District Champawat,
42. Narendra Singh Kanwal, S/o Late Sri Sher Singh, R/o Village Bhagirathi, P.O. Bageshwar, District Bageshwar,
43. Sohan Lal Raturi, S/o Late Sri Mukund Ram Raturi, R/o Village, Gautampur, Gogiyana, P.O. Pilki, District Tehri Garhwal,
44. Soban Singh Ranawat, S/o Sri Kripal Singh, Ranawat, R/o Suman Colony, P.O. Chamba, District Tehri Garhwal,
45. Mahesh Chandra Joshi, S/o Sri Lalmani Joshi, R/o Village Palkoti, P.O. Shrikot, District Bageshwar,
46. Bhola Dutt, S/o Late Sri Madhwanand, R/o Soman Khaliya, P.O. Semlakhiya, Ramnagar, District Nainital,
47. Rukam Singh, S/o Late Sri Ram Singh, R/o Village Koti, P.O. Maingro, District Tehri Garhwal,
48. Surendra Singh Rautela, S/o Late Sri Bachi Singh Rautela, R/o Village, Bithoriya-1, P.O. Haldwani, District Nainital,
49. Paveen Singh, S/o Late Sri Karm Singh, R/o Village & P.O. Nagal Jwalapur, Doiwala, District Dehradun,
50. Rajwar Singh, S/o Sri Daulat Singh Bisht, R/o, Village....
51. Rarjendra Singh, S/o Late Sri Prem Lal, R/o Village Bagadihat, P.O. Titri, District Pithoragarh,
52. Harish Rana, S/o Sri Ranjeet Singh Rana, R/o Village 218, Indranagar, P.O. Indranagar, District Dehradun,
53. Shanti Prasad, S/o Sri Sekhra Nand, R/o Village.....
54. Hayat Singh, S/o Sri Girdhar Singh, R/o Village Bhaskuli, P.O. Donisilang, District Champawat,
55. Hayat Nath, S/o Sri Amar Nath, R/o Village Japaaranachin, P.O. Champawat, District Champawat,
56. Jagdish Singh, S/o Sri Jait Singh, R/o Village Menargunga, P.O. Bageshwar District Bageshwar,

57. Girish Chandra Nagarkoti, S/o Sri Chaunamani Nagarkoti, R/o.....
58. Deewan Chandra, S/o Sri Kulu Chandra, R/o Village Bhajapur, P.O. Chandni, District Champawat,
59. PooranSingh Negi, S/o Late Sri Sabar Singh Negi, R/o Village.....
60. Madhwanand Joshi, S/o Sri Badri Dutt Joshi, R/o Village Sinaula, P.O. Chaumel, District Champawat,
61. Arjun Singh, S/o Late Sri Laxman Singh, R/o Village Tarkuli, P.O. Riyansi, District Champawat,
62. Ganga Singh Rawat, S/o Late Sri Madan Singh Rawat, R/o Village Gwali Gaon (Talla), P.O. Kelani, Tehsil Bhikiyasain, District Almora,
63. Pooran Prasad, S/o Late Sri Maheshanand, R/o Village, Majhkot, P.O. Kundergaon, District Pauri Garhwal,
64. Pooran Singh Rawat, S/oLate Sri Man Singh, R/o Village Singda, P.O. Ghat, District Champawat,
65. Rajendra Kumar, S/o Sri Damodar, R/o Village Raktmani, P.O. Almora, District Almora,
66. Govind Singh Nagarkoti, S/o Sri Dungar Singh Nagarkoti, R/o Village, Bamradi, P.O. Bamradi, District Bageshwar,
67. Yashwant Singh, S/o Late Sri Jagat Ram, R/o Village Shanyu, P.O. Champeshwar, District Pauri Garhwal,
68. Kunwar Singh Kathait, S/o Late Sri Pratap Singh Kaithait,R/o Village Nangli, P.O. Adibandri, District Chamoli,
69. Makar Singh Kathait, S/o Sri Kanchan Singh Kathait, R/o Village Jakhari, P.O. Ghat District Chamoli,
70. Dayanand Bhatt, S/o Sri Teeka Ram Bhatt, R/o Village, Joop, P.O. Champawat, District Champawat,
71. Lalit Bahadur Kshetri, S/o Late Sri Guthey Kshetri, R/o Village Thakurpur, P.O. Ummedpur, District Dheradun

72. Har Singh, S/o Late Sri Dharam Singh, R/o Village Kimauta, P.O. Karkarimal, District Champawat,
73. Jaswant Singh, S/o Sri Dhoom Singh, R/o Village Galoto, P.O. Koladungri, District Chamoli,
74. Makar Singh Negi, S/o Late Sri Pratap Singh Negi, R/o Mohalla, Basant Vihar, P.O. Gopeshwar, District Chamoli,
75. Sunder Lal Painuli, S/o Late Sri Munsu Ram Painuli, R/o Village Devipur, P.O. Ummedpur, Premnagar, District Dehradun,
76. Manwar Singh Rawat, S/o Sri Keshar Singh Rawat, R/o Village Charmadi, P.O. Khirsakhal, District Pauri Garhwal,
77. Govind Singh Parihar, S/o Sri Nra Singh Parihar, R/o Village Pudalgaoun, P.O. Bageshwar, District Bageshwar,
78. Ramesh Bahadur, S/o Sri Aan Singh Gurung, R/o Village.....
79. Harish Chandra Joshi, S/o Ganga Dutt Joshi, R/o Village Pantquarali, P.O. Kalyani, District Bageshwar,
80. Kritram Thapliyal, S/o Sri Vishnu Dutt, R/o Village Nathanpur, P.O. Nathanpur, District Dehradun,
81. Dharam Singh Rana, S/o Sri Sabbal Singh Rana, R/o Village Vijaypur, P.O. Anarwala, District Dehradun
82. Subhash Chandra Devrani, S/o Late Panchiram, R/o Village, THDC Colony, P.O. Ramwal District Dehradun,
83. Janardan Singh Koranga, S/o Sri Pushkar Singh, R/o Village Dulam, P.O. Marani, District Bageshwar
84. Dashrath Singh Badthawar, S/o Sri Jagdev Singh, R/o Village and Post Radwar District Chamoli,
85. Khasti Ballabh Joshi, S/o Late Sri Dayakishan Joshi, R/o Village Khimali, P.O. Bagjiwala, District Pithoragarh,
86. Chamn Singh Rawat, S/o Late Sri Bhagat Singh Rawat, R/o Village...
87. Suresh Chandra Singh, S/oLate Sri Gabar Singh, R/o Village....

88. Govind Singh, S/o Sri Bhan Singh, R/o Village.....
89. Kedar Singh, S/o Bhopal Singh, R/o Village Punpuni, P.O. Punpuni, District Bageshwar,
90. Khim Singh, S/o Late Sri Kunwar Singh, R/o Village-Haroni, P.O. Minkandey, District Champawat
-Petitioners

VERSUS

1. State of Uttarakhand through Secretary, Home, Government of Uttarakhand, Secretariat, Dehradun,
2. Director General of Police, Directorate, Dehradun
-Respondents

Present: Sri M.C.Pant, Counsel
for the petitioners

Sri U.C.Dhaundiyal, A.P.O.
for the respondents

JUDGMENT

DATE: MARCH 03, 2015

DELIVERED BY SRI D.K.KOTIA, VICE CHAIRMAN (A)

1. The petitioners have filed this claim petition for seeking the following relief:

“A. *To issue an order or direction directing the respondents to consider the case of the petitioners for treating them substantively appointed w.e.f 2001 and to treat them appointed in their respective trades of Radio operator, Mechanic and Driver etc. as per their initial*

appointment in service w.e.f 2001 along with all consequential benefits thereof including seniority etc.

(a). To quash the impugned order dated 07.07.2010 and 11.08.2010 as contained to Annexure No. 11 and 12 to the petition along with its effect and operation also and to declare the initial appointment of the petitioners on contractual basis is also as per rules and substantive in view of the Police Act.

B. To issue any other order or direction which this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.

C. Award costs of the claim petition to the petitioners”

2. The facts in brief are that an Office Memorandum (OM) dated 02.11.2001 was issued by the Home Department of the Government of Uttarakhand for the recruitment of 1000 ex-servicemen on contract basis for 2 years on the post of Police Constable to meet the urgent requirement. OM also mentioned that these appointments will be 'ex-cadre'. A 'contract' was also required to be entered into between the appointed ex-servicemen and the government. A consolidated salary of Rs. 3050 per month was fixed. The appointment was to be made under Section 2 of the Indian Police Act, 1861. The service conditions were to be governed by the contract.

3. On the basis of the OM dated 02.11.2001, the Police Department vide advertisement dated 26.11.2001 invited applications for the recruitment on the post of Constable (general duty and tradesmen) for 13 districts of the State. Out

of 1000 posts, 523 posts were for general duty and remaining posts were for different trades like driver, signal operator, draftsman, bomb disposal specialist etc. After physical test and medical examination, 461 ex-servicemen were selected and after training, they were appointed and joined the duty after signing the contracts. The contract of ex-servicemen was extended from time to time and the last extension was given on 26.03.2008 for one year.

4. Meanwhile, ex-servicemen appointed on contract basis made a representation through Advocate to respondent No. 2 on 09.02.2004 to regularize their services and provide them all the facilities of a regular employee from the date of joining. The petitioners also filed a writ petition (No. 1556 of 2004) in the Hon'ble High Court. The Hon'ble High Court passed the following order on 26.08.2008:

“Heard Sri Rahul Coucul Advocate holding brief of Sri Vipul Sharma learned counsel for the petitioners and Sri H.M. Raturi, learned Standing Counsel for the State/respondents.

Learned counsel appearing on behalf of the petitioners confined his grievance that the writ petition may be disposed of finally with a direction the respondents to decide the representation of the petitioners dated 9th Feb., 2004 within a shortest period.

Prayer is innocuous, deserves to be accepted.

The writ petition is disposed of finally with the direction to the respondents to decide the representation of the petitioners dated 09th Feb, 2004, contained in Annexure No. 5 to the writ petition within

four months from the date of production of certified copy of this order.”

5. The State Government vide G.O. dated 25.07.2008 created 433 posts in respect of 4 districts of Chamoli, Rudraprayag, Uttarkashi and Haridwar. Out of these 433 posts, 298 posts were created in constable cadre. The paragraphs 3 and 4 of this G.O. are reproduced below:

“3-उपरोक्तानुसार सृजित पदों को सर्वप्रथम ऐसे भूतपूर्व सैनिकों से नियमानुसार भरा जायेगा जो शासनादेश संख्या-976/गृह/2001, दिनांक 02-11-2001 के अंतर्गत खुली प्रतियोगिता के माध्यम से पुलिस विभाग में संविदा पर लिये गये थे तथा वर्तमान समय में कार्यरत हैं। शेष पदों को भूतपूर्व सैनिकों की विशेष भर्ती द्वारा भरा जायेगा।

4- इस प्रकार भर्ती भूतपूर्व सैनिकों को पुलिस अधिनियम के अंतर्गत सशस्त्र पुलिस कार्मिक के रूप में नियुक्त किया जायेगा तथा पुलिस कर्मियों पर लागू सभी नियम आदि इन पर लागू होंगे। पुलिस विभाग में इनकी वरिष्ठता उसी दिन से लागू होगी जब से वे इस शासनादेश के अंतर्गत भर्ती होंगे।”

6. In pursuant to G.O. dated 25.07.2008, 253 ex-servicemen who were on contract were appointed as regular constables after completion of 3 months training in 4 districts provided seniority and other benefits of regular employees from the date of their appointment under this G.O.

7. The petitioners made a representation to respondent No. 1 on 30.10.2009 mainly for giving them appointment on the post of various tradesmen like driver, radio operator, mechanic, draftsman etc. w.e.f 2001 when they were initially

appointed on contract on various trades. The representation of the petitioners was rejected by the Government on 09.10.2010. Hence, this petition.

8. It has been mainly stated by the petitioners in their claim petition that the petitioners were appointed as skilled employees under different trades like radio operator, mechanic, draftsman, driver etc. on available vacancies fulfilling all the requisite qualification and eligibility for the posts after regular selection process and therefore, they are entitled on their respective posts of tradesmen substantively w.e.f. 2001 and their entire length of contract service should be counted for seniority, promotion, pension and other service benefits.

9. Respondents No. 1 and 2 have opposed the claims of the petitioners and stated in their written statement that under the rules the appointment on various posts of tradesmen is not made by direct recruitment. In Police, the appointment is made only on the post of constable. Thereafter, constables are selected for various trades as per departmental rules through a selection committee and after the training for the particular trade, the appointment is made to the tradesmen cadre. The petitioners have therefore, been appointed on the post of constables and their seniority has been counted from the date on which they have been appointed according to the G.O. dated 25.07.2008 and therefore, they are not entitled to get seniority from the date of their appointment on contract basis. Respondents have therefore, prayed to dismiss the claim petition.

10. No rejoinder affidavit was filed by the petitioners. However, some documents were filed by the respondents through a supplementary counter affidavit.

11. We have heard the learned counsels for both the parties and perused the records carefully.

12. Learned counsel for the petitioners has contended that since the respondents have not counted the length of service of the petitioners, they have worked on contract basis; the petitioners have been deprived from their right of legitimate expectation as they are suffering from the loss of seniority as well as benefit of service just as pay and other service matters. After due consideration, we are of the view that the situation in the case in hand cannot be covered under the doctrine of legitimate expectation. There was no express promise to provide regular appointment to employees engaged on contract basis and that too from the date of their contract by any respondent/authority in order to make out a case of legitimate expectation. Nor, there existed a past practice in Police Department to make appointments on contract basis, regularization of appointments made on contract basis and to provide the seniority from the back date in such a situation. The legitimate expectation is different from a wish, desire or hope. As has been held by various Courts of Law, the legitimacy of an expectation may be inferred only if it is founded on the sanction of law or custom or usage or an established practice. It would be appropriate here to reproduce the following paragraph of the decision of

the Hon'ble Supreme Court in *Secretary, State of Karnataka and others Vs. Umadevi and others*, (2006)4 SCC 1

“47. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in cases concerned, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post.”

13. Learned counsel for the petitioners has also contended that the respondents being an employer and taking advantage of the situation known as non-equal powers of bargaining of the petitioners issued the order dated 25.07.2008 and subsequent orders of appointment of the petitioners as Constables, which is violative to Section 23 of the Indian Contract Act. The counsel for the petitioners has also referred the judgment of the Hon'ble Supreme Court, in

Central Inland Water Transport Corporation Ltd. Vs. Brojo Nath Ganguly, (1986)3 SCC, 156.

We have gone through the said judgment carefully and are of the view that the same is not at all applicable to the case in hand. The issue of non-equal bargaining power of employees engaged on temporary/casual/contract basis was also discussed by the Hon'ble Supreme Court in ***Secretary, State of Karnataka and others Vs. Umadevi and others, (2006)4 SCC 1.*** We would like to reproduce a part of para 45 of the judgment below:

“45. While directing that appointments, temporary or casual, be regularized or made permanent, the courts are swayed by the fact that the person concerned has worked for some time and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with open eyes. It may be true that he is not in a position to bargain-not at arm's length-since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible. If the court were to avoid a contractual employment of this

nature on the ground that the parties were not having equal bargaining power, that too would not enable the court to grant any relief to that employee.”

14. The counsel for the petitioners has contended that the petitioners are fully qualified and eligible to be appointed as radio operator, mechanic, driver etc. keeping in view their past experience in Indian Army and 8 years service in Police Department on these technical posts, they should have been regularized on these posts of tradesmen rather than on the general posts of Constables. Learned A.P.O. has stated that there is no provision of direct recruitment on these posts of tradesmen. There is a procedure laid down under the rules and the constables are appointed on these posts of tradesmen according to rules following a prescribed procedure. It is admitted to the respondents that tradesmen are selected out of the constables. It is also admitted to the respondents that the petitioners were appointed on the posts of tradesmen and they have worked on these technical posts from 2001 to 2008. In 2008, they were regularly appointed on the post of Constable. The respondents formulated a special policy to appoint the petitioners on a regular basis in 2008 but provided them regular appointment on the post of constable and not on the post of tradesmen. We are of the view that when a special policy to make regular appointment in respect of ex-servicemen who were engaged on contract basis on the posts of tradesmen was formulated, the relevant experience of these employees should have been taken into account and if vacancies of tradesmen exist and the Police Department finds them eligible to hold the posts and their

experience on these technical posts useful to the Department, their regular appointment on the post of tradesmen on which they worked during their contract period needs to be reconsidered. This, we think, would not only be fair to the ex-servicemen but also in the interest of the Police Department to utilize their experience.

15. Learned counsel for the petitioners also contended that the petitioners have been working since 2001 in their respective trades and they are entitled to be considered and appointed substantively w.e.f. 2001. He argued that the petitioners were appointed against the available sanctioned vacancies and on the basis of the doctrine of continuous officiation, they should to be provided seniority from 2001 when they were first appointed. Learned A.P.O refuted this and contended that the petitioners were regularized and given regular appointment by G.O. dated 25.07.2008 which very clearly provides that the ex-servicemen appointed according to this G.O. will get seniority from the date they are appointed under the G.O. dated 25.07.2008., We find that the petitioners were appointed on contract basis and the posts on which they were appointed were created as ex-cadre post. They were appointed in order to meet urgent need of police functions pending regular recruitment. In fact, the Police Department had advertised the recruitment of 2000 constables on 18.08.2001 and since the process of recruitment was expected to take some time, the ex-servicemen (petitioners) were appointed in 2001 on contract basis to meet the immediate requirement of police personnel.

Since the petitioners were not appointed in a substantive manner in 2001 and their regular appointment on substantive basis was made in 2008, they are entitled to the seniority from the date of their substantive appointment only. The G.O. dated 25.07.2008 and the rules of seniority both provide that the seniority is to be given from the date of the substantive appointment. When the petitioners were appointed on contract basis on ex-cadre posts for a period of 2 years initially on a consolidated salary, these appointments in 2001 cannot make the petitioners entitled for seniority from 2001. Their contractual appointment has been made a regular appointment vide G.O. dated 25.07.2008 and therefore, it is not possible to provide them seniority from the back date. The learned counsel for the petitioners referred the following two case law in this regard:

- i. Nihal Singh and others Vs. State of Punjab and others, (2014)2 SCCD, 761(SC)
- ii. Rudra Kumar Sain and others Vs. Union of India and others, (2000) S.C.C.(L&S) 1055

We have gone through above cases carefully and reach the conclusion that these are not applicable to the case in hand and do not provide any help to the petitioners in providing them seniority from the year 2001.

16. In the light of the discussion above, we are of the view that the petitioners are not entitled to get seniority w.e.f 2001 when they were appointed on contract basis. However,

the petitioners should be considered for their regular appointment in 2008 on the posts of various trades on which they were appointed in 2001.

ORDER

The claim petition is partly allowed. The respondents No. 1 and 2 are directed to consider within a period of six months from today regular appointment of the petitioners on various trades on which they have worked under the scheme prepared by the respondents vide G.O. dated 25.07.2008 subject to need of the Police Department and vacancies. No order as to costs.

Sd/-

V.K.MAHESHWARI
VICE CHAIRMAN (J)

Sd/-

D.K.KOTIA
VICE CHAIRMAN (A)

DATE: MARCH 03, 2015
DEHRADUN

KNP