

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
BENCH AT NAINITAL**

Claim Petition No. 146/NB/SB/2022

Uttarakhand Van Beat/ Van Arakshi Sangh, Uttarakhand, Dehradun, through its President Sri Harsh Vardhan Gariya (male), aged about 35 years, s/o Sri M.R. Gariya, presently posted as Forest Beat Officer, Western Devidhura Beat, Devidhura Forest Range, Champawat Forest Division, Champawat.

.....Petitioner

versus

1. State of Uttarakhand through Principal Secretary, Forest, Environment and Climate Change, Govt. Of Uttarakhand, Dehradun.
2. Additional Chief Secretary/ Secretary, Finance, Govt. Of Uttarakhand, Dehradun.
3. Principal Chief Conservator of Forest (HoFF), Uttarakhand, Dehradun.
4. Chief Conservator of Forest, Human Resource and Personnel Management, Dehradun.

.....Respondents

Present: Sri Vinay Kumar, Advocate, for the Petitioner
Sri Kishore Kumar, A.P.O., for the Respondent No. 1.

Judgement

Dated: 28th November, 2022

Sri Rajendra Chauhan, Vice Chairman (J) (Oral)

Present petition has been filed by the “Uttarakhand Van Beat/ Van Arakshi Sangh, Uttarakhand” through its President, for redressal of the grievances of the Members of the Union, against which objections have been raised by learned A.P.O. on behalf of the respondent-state that petition is not entertainable by this Bench because of the reasons that under the U.P. Public Services (Tribunal) Act, 1976 (as applicable in State

of Uttarakhand), reference of claim to Tribunal can only be made by a Person, who is or has been a public servant and is aggrieved by an order, pertaining to a service matter, within the jurisdiction of the Tribunal. As per definition of “Public Servant” under the Act, the Union is not covered hence, a public servant may make a reference in individual capacity but the Union cannot file any petition in this manner and their petition is not maintainable.

I have heard learned Counsel for the petitioner and learned A.P.O. and perused the provisions of the Act. As per Section 4 of the Uttar Pradesh Public Services (Tribunal) Act, 1976 (as applicable in State of Uttarakhand), a person who is or has been a “Public Servant” and is aggrieved by an order pertaining to a service matter within the jurisdiction of the Tribunal, may make a reference of a claim to the Tribunal for redressal of his grievance. Section 4 of the Act reads as under:

“4. Reference of claim to Tribunal.- (1) Subject to the other provisions of this Act, a person who is or has been a public servant and is aggrieved by an order pertaining to a service matter within the jurisdiction of the Tribunal, may make a reference of claim to the Tribunal for the redressal of his grievance.

Explanation: For the purpose of this sub-section “order” means an order or omission or in-action of the State Government or a local authority or any other Corporation or Company referred to in clause (b) of section 2 or of an officer, committee or other body or agency of the State Government of such local authority or Corporation or company:

Provided that no reference shall, subject to the terms of any contract, be made in respect of a claim arising out of the transfer of a public servant;

Provided further that in the case of the death of a public servant, his legal representative, and where there are two or more such representatives, all of them jointly, may make a reference to the Tribunal for payment of salary, allowances, gratuity, provident fund, pension and other pecuniary benefits relating to service due to such public servant.”

Who is a “Public Servant” for the purpose of the meaning of the Act, is defined in Section 2 clause (b) of the Act, which reads as under:

“2(b) “public servant” means every person in the service or pay of-
(i) the State Government; or
(ii) a local authority not being Cantonment Board; or
(iii) a local corporation owned or controlled by the State Government (including any company as defined in Section 3 of the Companies Act,

1956 in which not less than fifty per cent of paid up share capital is held by the State Government) but does not include-

- (1) a person in the pay or service of any other company; or*
- (2) a member of the All India Service or other Central Services."*

The Tribunal is of the view that the "Uttarakhand Van Beat/ Van Arakshi Sangh" is not covered under the definition of a 'public servant'. Hence, as Union, the petitioner cannot approach to this Tribunal. However, its members who are "Public Servant" if having any grievance relating to service matter, individually or jointly with other interested person, may approach this Tribunal. While in this petition, no individual member as public servant has filed this petition. Hence, the Tribunal is of the view that the petition of the Union is not maintainable.

Considering all the above, the Tribunal finds that the petition of the petitioner (Union) is not maintainable. Hence, it is not admitted and stands rejected, at the admission stage.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

DATE: 28th November, 2022
DEHRADUN
RS