

**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. 103/DB/2023**

Mayank Kaushik, s/o Sri Chandra Shekhar Kaushik, Junior clerk, Office of Engineer-in-Chief and Head of the Department, P.W.D., Dehradun, Uttarakhand.

.....Petitioner.

**vs.**

1. State of Uttarakhand through its Principal Secretary, Public Works Department, Govt. of Uttarakhand, Dehradun.
2. Engineer-in-Chief and Head of Department office, Public Works Department, Dehradun.

.....Respondents.

Present: Dr. N.K.Pant, Advocate, for the petitioner.(virtually)  
Sri V.P.Devrani, A.P.O., for Respondent No.1.

**JUDGMENT**

**DATED: JUNE 07, 2023**

**Justice U.C.Dhyani (Oral)**

Petitioner has filed present claim petition for amending his promotion order dated 22.02.2023, which, according to him, is against the Govt. Orders dated 06.02.2018 and 03.02.2023.

2. At the very outset, Ld. A.P.O. objected to the maintainability of the claim petition, *inter alia*, on the ground that under the garb of present relief, the petitioner is, in fact, seeking the stay of his transfer order, which is not permissible before this Tribunal in view of *proviso* to sub-section (1) of Section 4 of the Pradesh Public Services (Tribunal) Act, 1976, (as applicable to State of Uttarakhand).

3. In reply, Ld. Counsel for the petitioner submitted that the Office Memorandum dated 22.02.2023 (Annexure: A-4) is against the G.O. dated 06.02.2018 (Annexure: A-2) and G.O. dated 03.02.2023 (Annexure: A-3). *Vide* Office Memorandum dated 22.02.2023 (Annexure: A 4), the petitioner, a Junior Assistant, was promoted as Senior Assistant and was posted in the office of Chief Engineer, Regional Office , P.W.D., Pauri. Presently, he is posted in the office of Engineer-in-Chief/ HOD, P.W.D., Dehradun.

4. In response to the query of the Tribunal, Dr. N.K.Pant, Ld. Counsel for the petitioner submitted that the claim petition has been filed against the posting of the petitioner from Dehradun to Pauri and not against the promotion order.

5. Govt. Order dated 06.02.2018 (Annexure: A-2) contains the guidelines for annual transfer of the public servant. G.O. dated 03.02.2023 (Annexure: A-3) is for updating the posts of the employees in HRMS Module.

6. Sub-section (1) of Section 4 of the Uttar Pradesh Public Services (Tribunal) Act, 1976 along with its *proviso*, reads as under:

“4. **Reference of claim to Tribunal-** (1) Subject to the other provision of this Act, a person who is or has been a public servant and is aggrieved by an the 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.

.....

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.”

[Emphasis supplied]

7. No reference before this Tribunal can, therefore, be made in respect of a claim arising out of the transfer of a public servant. Under the garb of amending the promotion order dated 22.02.2023, the petitioner seeks to stay his transfer from Dehradun to Pauri. The claim in respect of such reference is not maintainable before this Tribunal.

8. The claim petition is dismissed as not maintainable, at the admission stage.

**(RAJEEV GUPTA)**  
VICE CHAIRMAN (A)

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: JUNE 07,2023*  
*DEHRADUN*

*VM*