

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

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

Writ Petition No. 327 (S/B) of 2013

[Reclassified and Renumbered as Claim Petition No. 116/NB/DB/2022]

Dr. Satyaveer Singh, s/o Sri Sheoraj Singh, serving as Principal,
Extension Training Centre, Rural Development, Department,
Haldwani, District Nainital.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Rural Development,
Government of Uttarakhand, Dehradun.
2. Commissioner, Rural Development, Pauri.
3. Sri Arun Kumar Rajpoot, s/o not known to the petitioner,
Cordinator, Mahatma Gandhi National Rural Employment
Guarantee Scheme (MNREGA), Office of P.M.U., Uttarakhand
Secretariat, Dehradun.
4. Dr. Ganesh Singh Khati, s/o not known to the petitioner,
serving as Principal, Extension Training Centre, Hawalbagh,
Almora, District Almora.

..... Respondents

Present: Sri Alok Mehra, Advocate, for the Petitioner
Sri Kishore Kumar, A.P.O. for the Respondents No. 1 & 2
Sri Bhagwat Mehra, Advocate, for Respondents No. 3 & 4

Judgement

Dated: 09th August, 2023

Mr. Rajeev Gupta, Vice Chairman (A) (Oral)

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 22.09.2022 in WPSB No. 327 of 2021, Dr. Satyaveer Singh vs. State of Uttarakhand and others, which (order) reads as under:

"The petitioner is a public servant.

2. The reliefs sought in the writ petition are the following:-

"i. Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 20.09.2013, issued by respondent no. 1, (Annexure No. 7 to the writ petition), whereby Special Adverse Entry for reporting year 2012- 13 was given to the petitioner.

i-a) issue a writ order or direction in the nature of certiorari quashing the impugned order dated 24-10-2013 (annexure no. 13 to the writ petition).

ii. Issue a writ, order or direction in the nature of mandamus declaring petitioner's non selection by the D.P.C. for promotion to the post of Deputy Commissioner, on the basis of Special Adverse Entry given vide order dated 20.09.2013, as arbitrary and illegal.

iii. Issue a writ, order or direction in the nature of mandamus commanding the respondent no. 1 to consider and promote the petitioner against available vacancy on the post of Deputy Commissioner, Rural Development, in view of his seniority as well as merit."

3. These reliefs can be considered by the Uttarakhand Public Services Tribunal.

4. Considering the fact that the Writ Petition has been pending since 2013, and pleadings are complete, we direct the Registry to transfer the complete record of this Writ Petition to the Uttarakhand Public Services Tribunal. The Tribunal shall register the same as a Claim Petition, and deal with the same accordingly.

5. The Writ Petition stands disposed of accordingly."

2. The original record of the writ petition has been transferred to this Tribunal *vide* letter no. 14625/UHC/Service (S/B) 2022 dated 14.10.2022 of the Deputy Registrar (Judicial) of the Hon'ble High Court. The same has been registered as claim petition no. 116/NB/DB/2022.

3. Learned Counsel for the petitioner submits that the representation of the petitioner against the 'Special Adverse Entry' awarded to him *vide* order dated 20.09.2013 has been shown to be decided on 24.10.2013 just one day before the Departmental Promotion Committee (D.P.C.) was convened on 25.10.2013 but actually it has been decided later in back date as the envelope communicating the decision on the representation has been sent on 01.11.2013. Therefore, this 'Special Adverse Entry' should not have been read against the petitioner in the D.P.C. on 25.10.2013 and it is on the basis of this 'Special Adverse Entry' that the petitioner has been declared unfit by the D.P.C. Learned Counsel for the petitioner further submits that according to G.O. dated 11.05.2005 (Annexure No. 12), this 'Special Adverse Entry' cannot relate to the five years period for which A.C.R.s were to be seen in the D.P.C. held on 25.10.2013.

4. Learned Counsel for the private respondents submits that the private respondents have been promoted on 11.08.2015 while the petitioner has retired on 31.12.2014, therefore, the petitioner cannot claim to be promoted from the date of promotion of juniors i.e. 11.08.2015 and further the petitioner has never challenged the promotion orders of the respondents. The petitioner has also not explicitly challenged the proceedings of the D.P.C. dated 25.10.2013.

5. Learned A.P.O. submits that main contest is between the petitioner and the private respondents and the Govt. and respondent department have taken action as per the rules and procedures.

6. The Tribunal observes that the matter is very old and agrees with the contention of learned Counsel for the private respondents that the petitioner cannot be promoted *w.e.f.* 11.08.2015, the date of the promotion of his juniors as the petitioner has retired on 31.12.2014. In the peculiar facts of the case, the Tribunal deems it appropriate that the petitioner may

make a detailed representation to respondent no. 1, along with certified copy of this order, who shall decide the same by passing a reasoned and speaking order within 08 weeks of the same and if the case for holding review D.P.C. of the petitioner is made out, the same shall be held within a period of 04 weeks thereafter.

7. The petition is disposed of as above. No order as to costs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: 09th August, 2023
DEHRADUN
RS