

**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. 150/DB/2022**

R.K. Yadav, s/o late Sri R.S. Yadav, r/o 10 B Patel Road,  
Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Transport,  
Uttarakhand Government, Dehradun.
2. Uttarakhand Road Transport Corporation, Dehradun, through  
its Managing Director office at 01 Raj Vihar, Chakrata Road,  
Dehradun.

..... Respondents

Present: Sri M.C. Pant (*online*) and Sri Abhishek Chamoli  
Advocates, for the Petitioner  
Sri V.P. Devrani, A.P.O. for the Respondent No. 1  
Sri Vaibhav Jain, Advocate,  
for the Uttarakhand Transport Corporation

**Judgement**

**Dated: 22<sup>nd</sup> September, 2023**

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

Hon'ble High Court of Uttarakhand has been pleased to  
pass an order on 24.09.2022 in WPSB No. 235/2014, R.K. Yadav  
vs. State of Uttarakhand and another, which reads as under:

“Mr. M.C. Pant, learned counsel for the petitioner.

Mr. Pradeep Joshi, learned Additional Standing Counsel for the State.

Mr. Ashish Joshi, learned counsel for respondent no.2.

Ms. Monika Pant, learned counsel for respondent no.3.

The petitioner has preferred the present writ petition for the following relief:-

“i) Issue a writ, rule or direction in nature of certiorari quashing the impugned order dated 07.07.2014 (contained as Annexure No.1) after calling entire record along with its effect and operation also.

ii) Issue a writ, rule or direction in nature of mandamus directing the respondents to consider the case of the petitioner for promotion on the post General Manager (Operation) or General Manager (Personal) in forthcoming D.P.C had it been the impugned order was never in existence.”

The petitioner is a public servant. The Uttarakhand Public Service Tribunal has the jurisdiction to deal with the issue raised in this writ petition.

Considering the fact that the petition is pending since 2014 and pleadings have been completed, we direct the Registry to transfer the complete records of the case to the Tribunal, which shall be registered as a claim petition and be dealt with by the Tribunal, in accordance with law.

We request the Tribunal to endeavor to dispose of the petition at an early date, considering that the writ-petition is pending since 2014.

The petition stands disposed of accordingly.”

2. The original record of the writ petition has been transferred to this Tribunal *vide* letter no. 14789/UHC/Service (S/B) 2022 dated 17.10.2022 of the Deputy Registrar (Judicial) of the Hon’ble High Court. The writ petition has been registered as claim petition no. 150/DB/2022.

3. A direction given by Principal Secretary to M.D., Uttarakhand Parivahan Nigam on 07.07.2014 (Annexure No. 1) is in the teeth of present petition.

4. By virtue of said order, the Govt. has directed the M.D. of the Transport Corporation that it will not be advisable to hold DPC

during the pendency of the writ petition before the Hon'ble High Court. It may be noted here that the petitioner was dismissed from service *vide* order dated 21.02.2014 against which the petitioner filed WPSB No. 77/2014, in which an interim order was passed by the Hon'ble High Court on 06.03.2014 (Annexure No. 3), which reads as below:

“Mr. M.C. Pant, Advocate for the petitioner.

Ms. Puja Banga, Brief Holder for the State of Uttarakhand / respondent no. 1.

Mr. Ashish Joshi, Advocate for respondent no. 2.

Mr. Arvind Vashisth, Advocate for respondent no. 3.

At the time of joining, petitioner held out that he has got Post Graduate Diploma in Business Administration. There is no dispute that a certificate to that effect issued by Institute of Management Soft Computer & Industrial Engineering, Dehradun was made over to the respondent employer. On the basis thereof, petitioner was recognized as a holder of Post Graduate Diploma in Business Administration. On the basis thereof, an appointment was made. By the impugned order, the appointment has been cancelled on the ground that the said Diploma was not recognized at the time of entrance. It does not appear that at the time of entrance, petitioner made any misrepresentation. It was obligatory, *prima facie*, for the respondent employer to verify, before giving the appointment to the petitioner, that the Diploma relied by him is a recognized Diploma. Twenty eight years after permitting the petitioner to work, on the ground that the said Diploma was not a recognized Diploma at the time of entrance of the petitioner in service, *prima facie* it does not appear that it is permissible to cancel the appointment of the petitioner.

We, accordingly, admit the writ petition, stay the impugned order and direct the respondents to file their counter affidavits as quickly as possible, but not later than eight weeks from today.

Rejoinder affidavit, if any, be filed within four weeks thereafter.

List thereafter.”

5. It was in the context of the above that the petitioner prayed for promotion on the post of G.M. (Operation) or G.M. (Personnel) in the forthcoming D.P.C., on which the guidance of the Govt. was sought by M.D., Uttarakhand Parivahan. Govt. gave

the direction on 07.07.2014 (Annexure No. 1), in which it was mentioned that it will not be advisable to hold the D.P.C. Rather, the Transport Corporation should try to vacate the stay order, against which the present petition has been filed.

6. The petition is supported by the documents. The petition is contested by the respondents. Sri Jevan Singh Tilada, Deputy Secretary, Transport, Govt. of Uttarakhand, has filed the counter affidavit, in which the material averments contained in the petition have been denied. Separate counter affidavit has been filed by Sri S.C. Joshi, Assistant General Manager (Law), Uttarakhand Transport Corporation on behalf of respondent no. 2. In such C.A., it has been mentioned, among other things, that from the year 2011, the D.P.C. was held in which the name of the petitioner along with other persons were considered for promotion on the post of General Manager. But as the petitioner was not found eligible and as such he was not promoted on the post of General Manager. Thereafter, on 19.11.2012, 28.02.2013, 21.05.2013, 28.05.2013 and on 11.07.2013, the date for holding the D.P.C. was fixed but due to some reasons the D.P.C. could not be held and the case of the petitioner as well as the other persons could not be considered. On 10.04.2014, a letter was written by Managing Director to seek the direction for considering the claim of the petitioner for promotion on the post of General Manager. In reply to the said letter, respondent no. 1 issued order dated 07.07.2014 directing the corporation not to consider the case of the petitioner for promotion on the post of General Manager.

6.1 The D.P.C. was convened on several dates, but could not be held due to unavoidable circumstances. *Vide* order dated 07.04.2010, one annual increment was stopped which was quashed by the Chairman *vide* order dated 21.06.2011. *Vide* order dated 31.05.2010, one annual increment was temporarily stopped for three years and on representation of the petitioner, the same was modified with the stoppage of one increment without

cumulative effect. *Vide* order dated 23.07.2010, three annual increments were temporarily stopped for five years and on the representation of the petitioner, the Chairman *vide* order dated 21.06.2011 quashed the said punishment. *Vide* order dated 21.05.2014, the petitioner was dismissed from service.

6.2 It is mentioned in para 39 of the C.A. that in pursuance of the order passed by the Hon'ble High Court, the name of the petitioner was placed for consideration for D.P.C. on 17.07.2014 and 22.08.2014<sup>7</sup> but due to unavoidable circumstances, the D.P.C. could not be held.

7. It may be noted here that the case of the petitioner was considered for promotion. Various meetings of D.P.C. were held but the name of the petitioner for promotion could not be considered due to unavoidable circumstances and now his case for promotion to the post of General Manager cannot be considered after long lapse of time. The petitioner has since retired, therefore, present petition has rendered infructuous with due passage of time.

8. The petition is, therefore, disposed of as infructuous with due passage of time. No order as to costs.

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

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

*DATE: 22<sup>nd</sup> September, 2023*  
*DEHRADUN*  
*RS*