

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

Present: Hon'ble Mr. Rajendra Singh

----- Vice Chairman (J)

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

CLAIM PETITION NO. 24/DB/2020

1. Suman Singh Negi s/o Shri Khushal Singh Negi aged about 38 years Presently Posted as Draftsman (M) o/o Dy. G.M. Civil, Small Hydro Project, UJVNL, Srikot, Srinagar, Pauri Garhwal.
2. Ganesh Singh Bhandari s/o Sh. Jitendra Singh Bhandari aged about 33 years, Presently Posted as Draftsman(M) o/o D.G.M. (MM & CM), Dehradun.
3. Bhagat Singh s/o Shri Abbal Singh aged about 28 years Presently Posted as Draftsman(M) o/o HEC Dhakrani, Dehradun.
4. Mohan Bhatt s/o Shri Amba Dutt Bhatt, aged about 28 years Presently Posted as Draftsman(M) Dakpatthar, Dehradun.
5. Anil Kumar s/o Late Atma Ram aged about 31 years Presently Posted as Draftsman(M), HGC, Tiloth, Uttarkashi.
6. Pradeep Kumar Kothari, s/o Sh S.P. Kothari, aged about 36 years Presently Posted as Draftsman(M), Yamuna Colony, Dehradun.
7. Mukesh Kumar, s/o Mohan Chand aged about 27 years presently posted as Draftsman (M), Kalagarh, Pauri Garhwal
8. Bhim Singh s/o Late Puran Singh aged about 30 years Presently Posted as Draftsman(M) Ganga Bhawan Yamuna Colony, Dehradun.
9. Santosh Rawat s/o Suresh Singh Rawat aged about 28 years Presently Posted as Draftsman(M), Dakpatthar, Dehradun.
10. Ashish Saini s/o Shri Yashpal Singh aged about 30 years Presently Posted as Draftsman (M), HGC, Pathari, Bahadrabad, Haridwar.
11. Jeetendra Pal Shah, s/o Late V.P. Shah, Aged about 36 years Presently Posted as Draftsman(M). Yamuna Colony, Dehradun.
12. Ajit Giri s/o Shri Balraj Giri, aged about 37 years, Presently Posted as Draftsman(M) o/o DGM (MU-VU), Dhalipur, Dehradun.

.....Petitioners

Vs

1. State of Uttarakhand through Secretary (Energy), Civil Secretariat, Dehradun
2. Managing Director, UJVN Limited, 'UJJAWAL, GMS. Road, Dehradun.
3. Director (H.R.) UJVN Limited, 'UJJAWAL', G.M.S. Road, Dehradun.
4. General Manager (Personnel &), UJVN Limited, Yamuna Bhawan, Yamuna Colony, Dehradun.
5. Deputy General Manager, (Personnel), UJVN Limited, Yamuna Bhawan, Yamuna Colony, Dehradun.
6. Priya Gairola Kuliyal, Draftsman (C) c/o Managing Director, UJVN Limited, 'UJJAWAL', G.M.S. Road, Dehradun.
7. Basant Joshi Draftsman (C) c/o Managing Director, UJVN Limited, 'UJJAWAL', G.M.S. Road, Dehradun.
8. Rakesh Kumar Draftsman (C) c/o Managing Director, UJVN Limited, 'UJJAWAL', G.M.S. Road, Dehradun.
9. Deepak Kumar Draftsman (C) c/o Managing Director, UJVN Limited, 'UJJAWAL', G.M.S. Road, Dehradun.
10. Samir Kumar Singh Draftsman (C) c/o Managing Director, UJVN Limited, 'UJJAWAL, G.M.S. Road, Dehradun.
11. Bagesh Kumar Chauhan Draftsman (C) c/o Managing Director, UJVN Limited, 'UJJAWAL', G.M.S. Road, Dehradun.
12. Govind Singh Menra Draftsman (C) c/o Managing Director, UJVN Limited, 'UJJAWAL, G.M.S. Road, Dehradun.
13. Madan Narayan Joshi Draftsman (C) c/o Managing Director, UJVN Limited, 'UJJAWAL, G.M.S. Road, Dehradun.
14. Vinod Singh Draftsman (C) c/o Managing Director, UJVN Limited, 'UJJAWAL', G.M.S. Road, Dehradun.
15. Pradeep Singh Pundir Draftsman (C) c/o Managing Director, UJVN Limited, 'UJJAWAL, G.M.S. Road, Dehradun.
16. Kishan Dev Dobhal Draftsman (C) c/o Managing Director, UJVN Limited, 'UJJAWAL, G.M.S. Road, Dehradun.
17. Vivek Raturi Draftsman (C) c/o Managing Director, UJVN Limited, 'UJJAWAL', G.M.S. Road, Dehradun.
18. 18. Subhash Chandra Draftsman (C) c/o Managing Director, UJVNLimited, 'UJJAWAL, G.M.S. Road, Dehradun.

19. Vishnu Prasad Draftsman (C) c/o Managing Director, UJVN Limited,
'UJJAWAL, G.M.S. Road, Dehradun.

.....**Respondents**

Present: Sri Shashank Pandey, Advocate for the petitioners
Sri V.P.Devrani, A.P.O., for the State Respondent no. 1
Sri S.C. Virmani & Sri S.K.Jain, Advocates, for the respondents no. 2 to 5

JUDGMENT

DATED: SEPTEMBER 27, 2023

Mr. Rajeev Gupta, Vice Chairman (A)

This claim petition has been filed seeking the following reliefs:

“a) To issue order or direction and to call for quash and to set aside seniority list dated 23.05.2020 (Annexure A1).

b) To issue order or direction directing the respondents to call for records and quash order dated 22.05.2020 vide which the objections of the petitioner against the tentative seniority list were rejected. (Annexure A2)

c) To direct the respondents to prepare the seniority list separately for both the carders. Or to direct the respondents to prepare seniority list as per Rule 8.

d) To give any other relief as this Hon'ble Court may deem fit in the facts and circumstances of the case.”

2. The facts, according to the claim petition are as below:

2.1 The petitioners are draftsmen (Mechanical) in Uttarakhand Jal Vidyut Nigam Limited (UJVNL) while the private respondents are draftsmen (Civil) in UJVNL. The Uttarakhand Pravidhik Shiksha Parishad vide Advertisement No. 4154 dated 07.12.2013 invited applications for different posts in UJVNL, UPCL & PTCUL. For UJVNL, 15 posts of Draftsman (Mechanical) and 35 posts of Draftsman (Civil) in the pay scale of INR 5200-20200/- and grade pay of INR 2600/- were advertised. The minimum qualification for the Draftsman (Mechanical) was High School, Certificate of Mechanical Draftsmanship from ITI Mechanical Trade/Recognized University/Institution and the minimum qualification for the Draftsman (Civil) was High School & Certificate of Civil Draftsmanship from ITI Civil Trade/Recognized University/Institution. The question papers for the posts of draftsmen

(Mechanical) and draftsmen (Civil) were different and the result of the selection also carried different merit lists against these posts. The average marks scored by the candidates who took examination of draftsmen (Mechanical) were much less than the candidates who appeared in the exam of draftsmen (Civil). Vide order dated 13.06.2019, a combined tentative seniority list of petitioners as well as the private respondents was circulated which was made as per the marks obtained by them in the examination during the selection process.

2.2 The petitioners immediately objected to the tentative seniority list by pointing out that the written examination of Draftsman (Mechanical) and Draftsman (Civil) had separate papers, was conducted separately and no common merit list was declared. In fact for all practical purposes they have always been treated as two separate cadres. However, now they have been placed in a common seniority list. Such an action of the department puts the entire career of the petitioners in jeopardy as the actions of the department have decreased the chances of promotion of the petitioners to a great extent. The petitioners thus, requested the department not to make a combined seniority list but to make two separate seniority lists of Draftsman (Mechanical) and Draftsman (Civil). However, the objections of the petitioners were rejected vide order dated 22.05.2020 stating that the staff structure of the corporation does not have separate posts and of draftsman (Civil) and draftsman (Mechanical) and the next post after promotion of draftsmen is computer which does not differentiate between Civil and Mechanical. Therefore, the seniority of the draftsmen can only be fixed as per the merit list of the Selection Committee.

2.3 Vide order dated 23.05.2020, a final seniority list was circulated in which the petitioners have been shown junior to the draftsman selected in Civil. The respondents failed to see that the candidates who appeared in the examination of mechanical have invariably received lower marks than the candidates who appeared in civil and no neutralization of marks for candidates of civil and mechanical was ever done.

Hence the claim petition.

3. C.A. has been filed on behalf of the respondents No. 2, 3, 4 & 5 mainly stating the following:

3.1 The Uttarakhand Pravidhik Shiksha Parishad, Dehradun conducted the examination of Draftsman Posts Trade wise as Civil and Mechanical separately and declared result but after appointment of these Draftsman in UJVNL the Seniority List has been prepared as per marks obtained by the recruited Draftsman because the Uttar Pradesh State Electricity Board, Ministerial Establishment Regulation-1970 and Staff Structure do not differentiate between Civil and Mechanical Trade. The next Promotional post of the Draftsman is Technical Assistant which also does not differentiate between Civil and Mechanical Trade in prevailing Regulations. According to the declared seniority list dated 23.05.2020, UJVNL promoted 21 draftsman employees to the vacant post of Technical Assistant vide O.M. No. C-135/UJVNL/Director HR/DGM(P)/E-2(TP) dated 30.06.2020 including Shri Suman Singh Negi, the petitioner of this claim petition and he has joined on the promotional post. The above seniority list has already been accepted by the petitioners namely Shri Suman Singh Negi and shri Ajit Giri.

4. There is no representation on behalf of respondents no. 6 to 19 despite sufficient service.

5. R.A. (though not verified) has been filed on behalf of the petitioners reiterating the averments of the claim petition and further stating the following:

5.1 Separate written exams were conducted for the post of Draftsman (Civil) and Draftsman (Mechanical) and separate results were also announced. Thus, seniority list cannot be prepared as per the merit list prepared by the selection committee as no common merit list was prepared by the selection committee. The Seniority now is governed by Uttarakhand Government Servant Seniority Rules, 2002. However, since the Respondents emphasize that instead of seniority rules, Seniority Regulation of 1998 is

applicable on the petitioners, the petitioners have no hesitation in acceding to that since both the rules are *pari materia* with each other and are the same. Moreover, the respondents in this para have themselves admitted that there were two different question papers, one for draftsman (civil) and other for draftsman (mechanical) thereby, justifying that this was not one selection but two different selections and thus their marks cannot be equated for the purpose of determining their seniority.

5.2 Though the petitioners no. 1 and 12 have also been promoted, the rest of the petitioners who had a just reason to be promoted have been denied promotion.

6. The Tribunal in its order dated 08.09.2022 observed the following:

“The Tribunal desired to know whether the merger of two selections lists of direct recruits selected on the basis of different examinations, one for the post of Draftsman (Civil) and other for the post of Draftsman (Mechanical) and the procedure for such merger has been prescribed in some Rules, Regulations or Board's orders. Learned Counsel for the respondents no. 2 to 5 sought time for the same. This Tribunal, prima-facie, is of the view that this cannot be done on the basis of percentage of marks obtained in different examinations having different technical subjects.”

7. Pursuant to the above order, clarification has been filed by the General Manager (P & IR), UJVNL mainly stating the following:

7.1 An examination was conducted for selection on the Draftsman's Post having two different Question Papers one for Draftsman (Civil) trade and another for Draftsman (Mechanical) Trade of equal marks. There are no separate posts of Draftsman (Civil) and Draftsman (Mechanical) in the sanctioned staff structure of UJVNL approved by the Govt. of Uttarakhand as well as in Ministerial Establishment Regulation-1970. However in order to meet organization's need and specialization of Draftsman Post, the Draftsman(Civil) & Draftsman (Mechanical) posts were advertised separately and as such, written examinations for these Posts was also organized separately, but as per staff structure and Regulation the approved Post is Draftsman. Therefore, the seniority list of Draftsman Post have been

prepared jointly and circulated vide OM dated 23.05.2020 on the basis of marks obtained in merit order as per provisions of Seniority Regulation-1998 of both the trades.

7.2 Next promotional post of the Draftsman is Technical Assistant, which also does not differentiate between civil and mechanical trade in the prevailing Regulations, Hence, to prepare separate seniority lists will have no use and it will create conflict in promotion of draftsman as Technical Assistant. It is also submitted that there are no specific Nigam orders in this regard. Therefore, the combined seniority list circulated vide order dated 23.05.2020 has been circulated on the basis of marks obtained by respective selected Draftsman and this is justified to keep promotion avenues for both types of Draftsman as Technical Assistant and this procedure is in practice since long. It is also submitted that the same procedure is also being adopted in affixing the seniority of Assistant Engineer (E&M) and Junior Engineer (E&M) Posts as there is no any other method or rule to affix their seniority.

8. After hearing learned Counsel for the parties and perusing the record, the Tribunal observes the following:

(i) If the posts of draftsman according to service rules and staff structure was/is common for both Civil and Mechanical, the respondent corporation should have asked the Uttarakhand Pravidhik Shiksha Parishad, Dehradun to prepare combined merit list of the candidates selected for draftsman (Mechanical) and draftsman(Civil) and while preparing the same, the Uttarakhand Pravidhik Shiksha Parishad would have undertaken some neutralisation/rationalization exercise as the technical papers, though of equal marks, were different and average marks scored on the civil side are higher than the scored marks on the mechanical side. Since the same was not done, Uttarakhand Pravidhik Shiksha Parishad gave two separate merit lists. While merging both these lists, respondent corporation should have rationalized marks on the basis of some rational principle. The Tribunal holds that merging the two seniority lists of draftsman (Civil) and draftsman

(Mechanical) on the basis of the marks obtained in different examinations having different subjects without rationalization is not proper and bad in law. Therefore, the combined seniority list dated 23.05.2020 (Annexure: A-1) and the order dated 22.05.2020 (Annexure: A-2) are hereby quashed and set aside.

(ii) The way forward is to either make a combined seniority list after rationalization of marks or to maintain two separate seniority lists for draftsman (Mechanical) and draftsman (Civil) and prescribe quotas for the promotion of draftsman (Civil) and draftsman (Mechanical) to the post of Computer/Technical Assistant. Suitable decision in this regard may be taken by the respondent no. 1 in consultation with respondent no. 2.

(iii) If combined seniority list is decided to be made, then respondents no. 1 & 2 may workout a principle for rationalization of marks of one trade against the other and accordingly prepare the combined seniority list and make promotions on the basis of such list.

(iv) If separate seniority lists are decided to be kept for draftsman (Civil) and draftsman (Mechanical), the share of draftsman (Mechanical) and draftsman (Civil) on the promotional posts of Computer/Technical Assistant be prescribed by the respondents no. 1 & 2. This can be either in the ratio of number of posts of draftsman (Mechanical) and draftsman (Civil) or some other rational basis as may be deemed appropriate.

9. With the above directions, the claim petition is disposed of. No order as to costs.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

DATE: SEPTEMBER 27, 2023
DEHRADUN
KNP