

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

**CLAIM PETITION NO. 150/SB/2023**

Mahender Singh, Office Assistant, Grade-I, posted at Office of Manager (A & S), Uttarakhand Jal Vidyut Nigam Limited, Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, (Power and Alternative Energy), Secretariat, Subhash Road, Dehradun.
2. The Managing Director, Uttarakhand Jal Vidyut Nigam Limited, Maharani Bagh, GMS Road, Dehradun.
3. The General Manager (Personnel), Uttarakhand Jal Vidyut Nigam Limited, Maharani Bagh, GMS Road, Dehradun.
4. Sri Naushad Alam, Office Assistant-III (Now *Apar Varg Sahayak*).
5. Sri Ram Kishore, Office Assistant-III (Now *Apar Varg Sahayak*)  
(Serial No. 4 and 5 through respondent no. 3)

..... Respondents

Present: Sri Uttam Singh, Advocate, for the Petitioner  
Sri V.P. Devrani, A.P.O., for the Respondent No. 1  
Dr. N.K. Pant, Advocate, for respondents no. 2 to 5

**JUDGEMENT**

**Dated: 28<sup>th</sup> December, 2023**

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

By means of present claim petition, petitioner seeks following reliefs:

“(i) To set aside the order dated 10.04.2023 passed by the respondent no. 2 (Annexure No. 1).

(ii) Direct the respondent to grant Corporate Cadre from the date of granting to the Junior and consequential benefits.

(iii) To pass any other suitable order, which the Hon'ble Tribunal may deem fit and proper on the basis of facts and circumstances of the case.

(iv) Award the cost of the petition to the petitioner.”

2. Earlier, the petitioner filed claim petition no. 166/DB/2022, Mahendra Singh vs. State of Uttarakhand and others, which was disposed of, at the admission stage, by directing Managing Director, Uttarakhand Jal Vidyut Nigam Ltd., to decide pending representation of the petitioner by a reasoned and speaking order, without unreasonable delay and in accordance with law, on presentation of certified copy of the order along with copy of the representation enclosing relevant documents.

3. Facts, in brief, of the claim petition are that the petitioner was appointed on 19.07.1996 as Office Assistant-III in the erstwhile state of Uttar Pradesh Electricity Board. Under the U.P. State Electricity Reforms Transfer Act, 1999, the Board was trifurcated into three Corporations, i.e. U.P. Power Corporation Ltd., U.P. Jal Vidyut Nigam Ltd. and U.P. Rajya Vidyut Utpadan Nigam Ltd. The Hydro Power Electric Project, which was earlier operated by UPSEB, was transferred to the U.P. Jal Vidyut Nigam Ltd. When State of Uttarakhand came into existence on 09.11.2000, all the Hydropower business/ projects in Uttarakhand were transferred to Uttarakhand Jal Vidyut Nigam Ltd. (UJVNL). The newly created UJVNL issued notification dated 16.12.2002 regarding the service conditions of the employees who had come on deputation from the erstwhile State of U.P. The Corporation vide Memorandum dated 29.09.2004 decided Integrated Unified Cadre Clerks/Stenographers Scheme (Copy: Annexure- A 3) and from the date of this order, all the earlier orders were rendered ineffective. Respondents vide order dated 04.11.2004 ordered that there would be Joint Cadre of Clerks/ Stenographers.

3.1 Respondents *vide* letter dated 15.10.2012 invited applications for merger into Corporate Cadre. Petitioner also submitted willingness on 09.11.2012, which was not considered by the respondents. Petitioner was to be promoted from the Office Assistant-III to Junior Personal Assistant in view of Cadre structure dated 29.09.2004, but petitioner was promoted as Office Assistant-II on 30.06.2012. Petitioner was again promoted to the post of Office Assistant-I on 30.06.2017, whereas, in fact, the petitioner was to be promoted in accordance with the new Corporate Structure. Petitioner filed various representations to the respondents for granting Corporate Cadre at par with the junior, but in vain.

3.2 The respondent Corporation *vide* memorandum dated 26.11.2021 changed the cadre of some of the employees but the petitioner, in spite of being the senior most, has been deprived of the cadre-benefit.

4. When claim petition no. 166/DB/2022 was filed, learned Counsel for the prayed that petitioner's representation dated 22.07.2022, which was addressed to the Managing Director, Uttarakhand Jal Vidyut Nigam Ltd., may kindly be directed to be decided by the respondents, at an earliest possible, in accordance with law, to which Ld. A.P.O. had no objection.

5. As has been mentioned above, the claim petition was disposed of, at the admission stage, by directing Managing Director, Uttarakhand Jal Vidyut Nigam Ltd., to decide pending representation of the petitioner by a reasoned and speaking order, without unreasonable delay and in accordance with law.

6. Thereafter, petitioner made a representation to respondent no. 2, who decided such representation by a detailed office memorandum dated 10.04.2023 (Annexure No. 1). Respondent No. 2 did not find substance in the representation of

the petitioner, which office memorandum dated 10.04.2023 (Annexure No. 1) is under challenge in present claim petition.

7. Learned Counsel for the petitioner drew attention of this Bench towards paras no. 4.13 and 4.14 of the claim petition, to submit that many vital points in the representation have not been dealt with by respondent no. 2, while deciding the representation of the petitioner, which (vital points) go to the very root of the claim petition. Paras no. 4.13 and 4.14 of the claim petition are reproduced herein below for convenience:

“4.13 ..... the respondent vide letter dated 15.10.2012 invited option/application from the Office Assistant-III (Pay scale in 7<sup>th</sup> Pay Commission 27200-86100) who has/ have completed 3 years service on 01.07.2012 for merger into Corporate Cadre (Junior Assistant) (Pay scale in 7<sup>th</sup> Pay Commission 27200-86100) i.e. on same pay scale i.e. specifically from retrospective date. The petitioner on 01.07.2012 had completed 16 years service and submitted willingness on 09.11.2012 immediately on calling to submit option, but the respondent did not consider the same.

4.14 ..... in accordance with the cadre structure dated 29.09.2004 and date of considering the eligibility for merger as 01.07.2012 (recruitment 2012-13), a retrospective date. The petitioner on the said date was within the forecorner of the eligibility for consideration as merger from the post of Office Assistant-III to Junior Assistant in Corporate Cadre but the respondent rejected on the sole ground that the petitioner was promoted as Office Assistant-II (non Corporate Cadre) on 30.06.2012.”

8. Learned Counsel for the petitioner, therefore, submitted that the petitioner's matter may kindly be directed to be reconsidered by respondent no. 2, in the light of averments contained in paras no. 4.13 and 4.14 of the claim petition, which have been reproduced herein above in para 7 of the text of this judgement.

9. In reply, Dr. N.K. Pant, learned Counsel for the respondents no. 2 to 5, as also Sri V.P. Devrani, A.P.O., for respondent no. 1 objected to the very foundation of the claim petition, *inter alia*, on the ground that the same is barred by limitation in view of Section 5(1)(b) of the U.P. Public Services (Tribunal) Act, 1976. Dr. N.K. Pant submitted that a stale claim

petition has been filed by the petitioner, in which his representation has been decided by a detailed order with cogent reasons, therefore, the petitioner is not entitled to any relief in this claim petition. Dr. N.K. Pant, however, submitted that if the Tribunal directs respondent no. 2 to reconsider the case of the petitioner in the light of averments contained in paras no. 4.13 and 4.14 of the claim petition, which (paras) have been reproduced in para 7 of the text of this judgement, the same shall again be considered by respondent no. 2, as per law.

10. Learned Counsel for the parties submitted that such an order can be passed by Single Bench of the Tribunal.

11. Claim Petition is disposed of, with the consent of learned Counsel for the parties, by directing Managing Director, Uttarakhand Jal Vidyut Nigam Ltd. (respondent no. 2) to re-visit the case of the petitioner in the light of averments contained in paras no. 4.13 and 4.14 of the claim petition, which have been mentioned in para 7 of the text of this judgement. No order as to costs.

12. It is made clear that the Tribunal has not expressed any opinion on the merits of the case.

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

*DATE: 28<sup>th</sup> December, 2023*  
DEHRADUN  
RS