

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

**CLAIM PETITION NO. 52/SB/2020**

Sri Bhupati Raj Kumar Raj, aged about 65 years, s/o late Sri Hans Raj, retd. Tehsildar, Revenue Department, r/o Tarun Vihar, Lane No. 3, Near Bengali Kothi, Ajabpur Kalan, District Dehradun, Uttarakhand.

.....Petitioner

versus

1. State of Uttarakhand through Principal Secretary (Revenue), Government of Uttarakhand, Secretariat, Dehradun, Uttarakhand.
2. Commissioner, Garhwal Mandal, District Pauri Garhwal.
3. Secretary, Board of Revenue, Ring Road, Dehradun.
4. Collector and District Magistrate, Tehri Garhwal.
5. Collector and District Magistrate, Chamoli.

..... Respondents

Present: Sri L.K. Maithani, Advocate, for the Petitioner  
Sri V.P. Devrani, A.P.O., for the Respondents (online)

**JUDGEMENT**

**Dated: 06<sup>th</sup> February, 2024**

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

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

- (i) To quash the impugned order dated 01.08.2019 of respondent No. 4 (Annexure No. A-1) with a declaration that the promotion of the petitioner on the post of Van Panchayat Inspector was regular as such he is entitled to get all the benefits of service i.e. benefit of ACP, increments promotion etc., during which he was working on ad-hoc basis on the post of Naib Tehsildar and Tehsildar.

(ii) To issue an order or direction to the respondents to grant the benefit of second promotional pay scale of Naib Tehsildar admissible after completing 24 years continuous service under the old time scale, pay scale scheme and benefit of third ACP of pay scale of Tehsildar since 01.09.2008 admissible to the petitioner after completion of 26 years service because since the date of ad-hoc promotion of the petitioner to the post of Naib Tehsildar and Tehsildar upto the date of retirement the petitioner had permanent lien on the post of Van Panchayat Inspector.

(iii) To issue an order or direction to the respondents to grant annual increments to the petitioner during the period of ad-hoc promotion on the post of Naib Tehsildar and Tehsildar as during the ad-hoc promotion the lien of the petitioner remained with the respondent department on the post of Van Panchayat Inspector.

(iv) To issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

(v) To award the cost of the case.

*[Emphasis Supplied]*

2. After his retirement, the petitioner moved a representation on 11.03.2015 to the District Magistrate, Tehri Garhwal, regarding his pay fixation and sanction of pension. The prayer of the petitioner, in such representation, was that **his pay and pension be fixed as per pay and pension of Sri Satish Kumar and Sri Veerpal Singh Rawat, who were junior to him.**

3. Petitioner's representation dated 11.03.2015 did not find favour with the District Magistrate, Tehri Garhwal, vide communication dated 01.08.2019, which is under challenge in present claim petition.

4. **It is mentioned in the impugned communication dated 01.08.2019 that the petitioner is not entitled to the reliefs claimed, *inter alia*, on the ground that the petitioner remained on *ad-hoc* promotion, during 2009-2014, and pay increment is never available on *ad-hoc* promotion, as per rules. Such letter dated 01.08.2019 was issued to the petitioner on the basis of opinion given by Senior Treasury Officer, New Tehri.**

5. Relevant documents have been filed by the petitioner in support of the claim petition.

6. The claim petition has been contested on behalf of the respondents by filing W.S. Learned A.P.O. has submitted the same on 23.02.2021 with the C.A. of Sri Guru Prasad Mangain, Senior Administrative Officer, D.M.'s office, Tehri.

7. Learned A.P.O. drew attention of the Bench towards brief facts narrated from para 5 to para 15 of the C.A. to submit that the petitioner has been given all service benefits and he is not entitled to any other financial upgradation *dehors* G.O.s. Learned A.P.O. further submitted that the claim petition is devoid of merits and should be dismissed with costs. It is also pointed out by learned A.P.O. that the claim petition is barred by limitation in view of Section 5(1)(b)(i) of the U.P. Public Services (Tribunal) Act, 1976 (as applicable to the State of Uttarakhand).

8. Relevant documents have been filed in support of the W.S.

9. Learned Counsel for the petitioner drew attention of the Bench towards para 4(i) to para 4(xx) of the petition to submit that due to inaction on the part of the respondents, petitioner was not granted benefit of A.C.P. and regular pay scale of Naib Tehsildar and Tehsildar. His lien continued on the post of Van Panchayat Inspector, hence denial of 2<sup>nd</sup> and 3<sup>rd</sup> promotional pay scale to the petitioner was wrong.

10. Detailed facts of the claim petition are not being reproduced here, for, they are already part of record.

11. Learned Counsel for the petitioner submitted that petitioner's representation has not been decided by the competent authority. He prayed that the petitioner's matter should have been considered by respondent no. 1, in accordance with law. Learned

Counsel for the petitioner further submitted that although petitioner gave a representation to D.M., Tehri Garhwal (respondent no. 4), after his retirement, but it was incumbent upon respondent no. 4 to have referred the matter to the Govt. in revenue department (respondent no. 1) to take decision, as per law. Learned Counsel for the petitioner also submitted that the representation of the petitioner was decided cursorily on the basis of opinion given by Senior Treasury Officer, New Tehri. The petitioner, in his representation, had mentioned that he was entitled to pay fixation and pension like Sri Satish Kumar and Sir Veerpal Singh Rawat, who were junior to him, but nothing has been mentioned in the impugned communication dated 01.08.2019 (Annexure: A1) regarding the same.

12. In reply, learned A.P.O. submitted that no detailed reasons were required to be given in disposing of the representation of the petitioner. Learned A.P.O. pointed out that detailed reasons have been given in the C.A. filed on behalf of the respondents.

13. It is trite law that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise an order bad in the beginning may, by the time it comes to Court on account of a challenge, gets validated by additional grounds later brought out, as has been observed by Hon'ble Apex Court in *Mohinder Singh Gill vs. Chief Election Commissioner, New Delhi and others*, (1978) 1 SCC 404.

14. It will be quite useful to reproduce the observations of Hon'ble Mr. Justice Vivian Bose in *Commissioner of Police, Bombay vs. Gordhandas Bhanji*, AIR 1952 SC 16, herein below for convenience:

“Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.

Orders are not like old wine becoming better as they grow older”

15. *Prima Facie*, the Tribunal is of the view that the representation of the petitioner ought to have been considered by the higher authority after obtaining comments from D.M., Tehri Garhwal. The same has not been done in the instant case, which appears to have caused prejudice to the petitioner. Moreover, all the facts which were disclosed by the petitioner in his representation dated 11.03.2015 have not been properly addressed in the impugned communication dated 01.08.2019 which appears to have resulted in miscarriage of justice to the petitioner. Learned Counsel for the petitioner submitted that the petitioner will make a representation to respondent no. 1, who should be directed to decide the representation of the petitioner after obtaining the comments of D.M., Tehri Garhwal, as per law.

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

16. Learned A.P.O. is not averse to the idea of remitting the matter to respondent no. 1 for deciding the representation of the petitioner, as per law, after obtaining the comments of D.M., Tehri Garhwal and after seeking opinion from the Finance and Personnel Department of the Govt.

17. Claim Petition is disposed of, by setting aside impugned order dated 01.08.2019, and by directing respondent no. 1 to decide the representation of the petitioner, after obtaining the comments of D.M., Tehri Garhwal and after seeking opinion from Finance and Personnel Department of the Govt., by a reasoned and speaking order, in accordance with law, without unreasonable

delay, preferably within 12 weeks of presentation of certified copy of this order along with representation enclosing the documents in support thereof. No order as to costs.

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

*DATE: 06<sup>th</sup> February, 2024*  
*DEHRADUN*  
*RS*