

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

Present: Hon'ble Mr. Ram Singh

-----Vice Chairman (J)

Hon'ble Mr. A.S.NAYAL

-----MEMBER (A)

**CLAIM PETITION NO. 12/NB/DB/2016**

1. Constable Ramesh Kumar, S/o Sri Vijay Ram, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
2. Constable Santosh Kumar, S/o Sri Rishi Narayan, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
3. Constable Rajesh Upadhyay, S/o Sri Mathura Dutt, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
4. Constable Narendra Prakash, S/o Sri Khim Ram, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
5. Constable Vijay Rawat, S/o Sri Chandan Singh, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
6. Constable Shankar Nath, S/o Sri Amar Nath, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
7. Constable Rakesh Negi, S/o Sri Tula Singh, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
8. Constable Jeevan Ram, S/o Sri Lali Ram, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
9. Constable Vishal Singh, S/o Sri Prakash Chandra, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
10. Constable Harish Giri, S/o Sri Mohan Giri, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
11. Constable Nirdosh Kumar, S/o Sri Gajraj Singh, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
12. Constable Deepak Raj, S/o Sri Jaipal Singh, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
13. Constable Pushkar Nath, S/o Sri Jagan Nath, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital

14. Constable Dinesh Mathani, S/o Sri Gunanand Mathani, presently posted at P.T.C., Haridwar
15. Constable Rajesh Gusain, S/o Sri Dhan Singh Gosain, presently posted at I.R.B. (II), Haridwar, District Haridwar
16. Constable Dayal Singh, S/o Sri Dharam Singh, presently posted at I.R.B. (II), Haridwar, District Haridwar
17. Constable Amit Kumar, S/o Sri Rajbir Singh, presently posted at I.R.B. (II), Haridwar, District Haridwar
18. Constable Balbir Singh, S/o Sri Ranjor Singh, presently posted at I.R.B. (II), Haridwar, District Haridwar
19. Constable Sandeep Kumar, S/o Sri Lakhi Singh, presently posted at I.R.B. (II), Haridwar, District Haridwar
20. Constable Vikas Upreti, S/o Sri Krishna Kumar Upreti, presently posted at I.R.B. (II), Haridwar, District Haridwar
21. Constable Kiran Singh Phartiyal, S/o Sri Har Singh Phartiyal, presently posted at 46 Battalion P.A.C. Rudrapur, District Udham Singh Nagar
22. Constable Rakesh Chandra, S/o Sri Lacchi Chandra, presently posted at 46 Battalion P.A.C. Rudrapur, District Udham Singh Nagar
23. Constable Hari Shankar, S/o Late Sri Harpal Singh, presently posted at 46 Battalion P.A.C. Rudrapur, District Udham Singh Nagar
24. Constable Kamal Kant, S/o Sri Virendra Singh, presently posted at I.R.B. (I).
25. Constable Preetam Singh Rana, S/o Sri Govind Singh Rana, presently posted at 40 Battalion P.A.C. Haridwar, District Haridwar
26. Constable Puskar Chandra, S/o Sri Rami Chandra, presently posted at 40 Battalion P.A.C.
27. Constable Rajendra Pal, S/o Sri Khim Ram, presently posted at 46 Battalion P.A.C. Rudrapur, District Udham Singh Nagar
28. Constable Rajbir Singh, S/o Sri Ghambir Singh, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
29. Constable Rajendra Kumar, S/o Sri Virma Singh, presently posted at 40 Battalion P.A.C. Haridwar, District Haridwar
30. Constable Dinesh Joshi, S/o Late Sri Dayanand Joshi, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
31. Constable Vijay Singh, S/o Sri Daulat Singh, presently posted at 40 Battalion P.A.C. Haridwar, District Haridwar
32. Constable Ashok Kumar, S/o Sri Sobhan Ram, presently posted at 40 Battalion P.A.C. Haridwar, District Haridwar

33. Constable Hem Chandra, S/o Sri Lok Ram, presently posted at 46 Battalion P.A.C. Rudrapur, District Udham Singh Nagar
34. Constable Dinesh Rongkali, S/o Sri Diwan Rongkali, presently posted at 46 Battalion P.A.C. Rudrapur, District Udham Singh Nagar
35. Constable Gopal Singh, S/o Sri Tikam Ram, presently posted at 46 Battalion P.A.C. Rudrapur, District Udham Singh Nagar
36. Constable Jagdish Chandra, S/o Sri Chandra Ram, presently posted at 46 Battalion P.A.C. Rudrapur, District Udham Singh Nagar
37. Constable Vinod Kumar, S/o Sri Ramesh Chandra Arya, presently posted at 46 Battalion P.A.C. Rudrapur, District Udham Singh Nagar
38. Constable Yogendra Kumar, S/o Late Sri Thakur Singh, presently posted at 46 Battalion P.A.C. Rudrapur, District Udham Singh Nagar
39. Constable Vikram Singh Bisht, S/o Himmat Singh Bisht, presently posted at 46 Battalion P.A.C. Rudrapur, District Udham Singh Nagar
40. Constable Krishna Lal, S/o Sri Gopal Ram, presently posted at 46 Battalion P.A.C. Rudrapur, District Udham Singh Nagar
41. Constable Sandeep Jugran, S/o Sri Dinesh Chand Jugran, presently posted at I.R.B. (II), Haridwar, District Haridwar
42. Constable Suresh Dutt Kabi, S/o Sri Ramesh Dutt Kabi, presently posted at I.R.B. (II), Haridwar, District Haridwar
43. Constable Sunil Sah, S/o Sri K. L. Sah, presently posted at I.R.B. (I), Haridwar, District Haridwar
44. Constable Sharad Singh, S/o Sri Shyam Lal Kohli, presently posted at I.R.B. (II), Haridwar, District Haridwar
45. Constable Jitendra Singh, S/o Sri Bahadur Singh, presently posted at I.R.B. (I), Haridwar, District Haridwar
46. Constable Anil Kumar, S/o Sri Roop Singh, presently posted at 40 Battalion P.A.C. Haridwar, District Haridwar
47. Constable Bharat Vyas, S/o Sri Harpal Singh, presently posted at 40 Battalion P.A.C. Haridwar, District Haridwar
48. Constable Pradeep Kumar, S/o Sri Chandra Prakash, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
49. Constable Manoj Kumar, S/o Sri Johari Lal, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
50. Constable Ravindra Singh, S/o Sri Govind Singh, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
51. Constable Prakash Singh, S/o Sri Hosiyar Singh, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital

52. Constable Bijendra Singh, S/o Sri Kishore Lal, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
53. Constable Virendra Kumar, S/o Sri Buddhi Lal, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital
54. Constable Manish Kumar, S/o Sri Makan Lal, presently posted at I.R.B. (I), Bailparo, Ramnagar, District Nainital.

..... **Petitioners**

**Versus**

1. State of Uttarakhand through Secretary, Home Department, Government of Uttarakhand, Dehradun.
2. Director General of Police, Police Head Quarter, Uttarakhand, Dehradun
3. Inspector General of Police, Police Head Quarter, Uttarakhand, Dehradun.
4. Commandant, 46 Battalion, P.A.C., Rudrapur, U. S. Nagar, District Udham Singh Nagar.
5. Commandant, 40 Battalion P.A.C., Haridwar, District Haridwar.
6. Commandant, Indian Reserve Battalion (I), Bailpadao, Ramnagar, District Nainital.
7. Commandant, Indian Reserve Battalion (II), Haridwar, District Haridwar.
8. Commandant, 31 Battalion, P.A.C., Rudrapur, Udham Singh Nagar, District Udham Singh Nagar.
9. Constable 1909 Vinod Singh, S/o not known.
10. Constable 1893 Ravindra Kumar, S/o not known.
11. Constable 3731 Karnpal, S/o not known.
12. Constable 3787 Mukesh, S/o not known.
13. Constable 3381 Ravindra Singh, S/o not known.
14. Constable 3776 Amit Kumar, S/o not known.
15. Constable 3785 Anil Singh Chauhan, S/o not known.
16. Constable 3412 Sanjay Singh Negi, S/o not known.
17. Constable 3770 Gyanendra Sorayan, S/o not known.
18. Constable 3668 Vinit Kumar, S/o not known.
19. Constable 3541 Priyank Pant, S/o not known.
20. Constable 1877 Manvir Singh, S/o not known.
21. Constable 3631 Deepak Mamgain, S/o not known
22. Constable 3769 Ranjeet Singh, S/o not known

23. Constable 3711 Pradeep Kumar S/o not known
24. Constable 3392 Bhupendra Singh, S/o not known
25. Constable 3662 Manoj Singh Nainwal, S/o not known
26. Constable 2602 Ganesh Joshi, S/o not known
27. Constable 3556 Hemant Kumar Sharma, S/o not known
28. Constable 3819 Jitendra Singh Negi, S/o not known
29. Constable 3488 Jagdish, S/o not known
30. Constable 1867 Abhijeet Rayal, S/o not known
31. Constable 3545 Lalit Rawat, S/o not known
32. Constable 3569 Amit Devrani, S/o not known
33. Constable 2668 Lalit Mohan Singh Bisht, S/o not known
34. Constable 3425 Manoj Kumar Singh, S/o not known
35. Constable 2710 Jitendra Giri, S/o not known
36. Constable 3417 Jagdish Chandra Arya, S/o not known
37. Constable 3394 Jagdish Chandra Bhandari, S/o not known
38. Constable 40931 Prakash Chandra, S/o not known
39. Constable 3397 Krishna Prasad, S/o not known
40. Constable 40923 Prahalad Singh Martoliya, S/o not known
41. Constable 3430 Subhash Chandra Kohli, S/o not known
42. Constable 40943 Vinod Arya, S/o not known
43. Constable 3505 Pyarelal Joshi, S/o not known
44. Constable 3826 Shant Lal, S/o not known
45. Constable 3834 Balwant Singh, S/o not known
46. Constable 40941 Neeraj Kumar, S/o not known
47. Constable 2612 Vinesh Kumar, S/o not known
48. Constable 3409 Chandan Singh, S/o not known
49. Constable 2603 Tribhuv Singh Rawat, S/o not known
50. Constable 3374 Sahanbaj Ahmad, S/o not known
51. Constable 3429 Dinesh Chandra, S/o not known
52. Constable 3401 Shivshankar Arya, S/o not known
53. Constable 3836 Bhupal Singh Jaimyal, S/o not known
54. Constable 3833 Vinod Kumar, S/o not known
55. Constable 3822 Narayan Kumar, S/o not known

56. Constable 3471 Nagendra Singh Rana, S/o not known
57. Constable 2706 Mohd. Imran Ansari, S/o not known
58. Constable 2713 Jagdish Ram, S/o not known
59. Constable 40908 Harish Kumar, S/o not known
60. Constable 3418 Ravindra Giri, S/o not known
61. Constable 2615 Deepak Singh Negi, S/o not known
62. Constable 2709 Mukesh Upadhyay, S/o not known
63. Constable 40938 Vinay Singh, S/o not known
64. Constable 3848 Naveen Chandra Kholiya, S/o not known
65. Constable 3483 Ashish Kabi, S/o not known
66. Constable 40937 Pushkar Singh, S/o not known
67. Constable 2682 Narendra Singh, S/o not known

..... **Respondents**

Present: Sri Bhagwat Mehra, Ld. Counsel  
for the petitioners

Sri V.P.Devrani, Ld. A.P.O.  
for the respondents No.1 to 8  
None for the other respondents

**JUDGMENT**

**DATE: OCTOBER 10, 2018**

**HON'BLE MR. RAM SINGH, VICE CHAIRMAN (J)**

1. The petitioners have filed this claim petition for the following reliefs:-

*"A. To declare the inaction/omission on the part of the Respondents, particularly Respondent No. 2 in not transferring the petitioners from P.A.C. to District/Armed Police despite being senior, as arbitrary and illegal.*

*B. To set-aside the impugned rejection order dated 18.03.2015 and order dated 12.11.2008 passed by the Respondent No. 2 (Annexure No. 1 and 5 respectively) in so far as it relates to Respondents No. 9 to 67.*

*C. To direct the Respondents, particularly Respondent No. 2 to transfer the petitioners from P.A.C. to the*

*District/Armed Police, keeping in view their seniority as well as their service record, from due date.*

*D. To direct the Official Respondents to grant all consequential benefits.*

*E. To pass any other suitable order as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.*

*F. To allow the claim petition with cost."*

2. The petitioners were appointed as Constables in Police Armed Constabulary (hereinafter referred to as 'PAC') in the 2005. A letter dated 21.04.2008 was circulated by respondent No. 3 informing about a proposal to fulfill up the vacancies in District Police/Armed Police by transferring the services of PAC Constables to that branch. Options were invited from the Constables of PAC, interested to get them transferred to the District Police.

3. Annexing the eligibility criteria, a letter was issued to all the Commandants of respective PAC Battalions and after inviting applications, 582 Police Constables were transferred to the District Police/Armed Police vide order dated 12.11.2008 and were appointed/allotted in Garhwal and Kumoun regions. The petitioners also submitted their options but they were not transferred from PAC to the District Police. In the year 2013, after getting information under RTI Act, it came to their knowledge that the persons transferred to Armed Police, were of 2005 batch, who were transferred on the basis of seniority.

4. Being the members of the Police Force, the petitioners maintained discipline and did not raise any objection against such transfer of 582 Constables. The petitioners also got information that there are still some more vacancies available for transfer from PAC to District Police and the matter was later on agitated before the Hon'ble High Court by filing a writ petition bearing no. 941 (S/S) of 2013,

Ramesh Kumar and others vs. State of Uttarakhand & others, whereby a direction was issued on 21.11.2014 to the respondents to take a decision in the matter within a period of three weeks after considering the representations of the petitioners. The petitioners submitted their representations but the same was denied and dismissed vide order dated 18.03.2015.

5. The petitioners have also submitted that the order was not directly communicated to them and it came in their knowledge in the month of May 2015 and after getting information under RTI Act, they came to know that the persons junior to them, were transferred ignoring the claim and seniority of the petitioners. The petitioners are 54 persons hence, they have impleaded only 54 persons as party in their petition with the request that the petitioners may still be accommodated in District/Civil Police against the available vacancies or against the vacancies replacing 54 private respondents. According to the petitioners, order dated 12.11.2008, was made in contravention of long standing policy and was passed in an arbitrary manner and discretionary powers available with the authorities were wrongly exercised. Impugned order dated 12.11.2008 and the order dated 18.03.2015, passed after the direction of the Hon'ble High Court, deserve to be set aside, hence this petition was filed by the petitioners for the relief as sought above.

6. Respondents No. 1 to 8 were represented by the A.P.O. while other private respondents did not appear and the matter was heard ex-parte against them.

7. The respondents No. 1 to 8 submitted their Counter Affidavit with the averments that the onetime policy/executive guidelines was followed and keeping in view of shortage of Armed/Civil Police in the State, Director General of Police wrote a letter on 22.04.2008 to the concerned Commandant of all PACs with the request to provide the



nomination of desired constables, working under them within 15 days. The criteria of selection was also fixed that the Constables must have completed 5 years of service and 40 years of age; must be willing for transfer of his service to District/Civil Police; his integrity for last 5 years must be good; and there should not be any punishment since last three years. In view of the eligibility criteria fixed, the petitioners did not come within the zone of consideration, hence they were not transferred to the Civil Police and the persons eligible on the basis of criteria, were transferred vide order dated 12.11.2008. The petitioners cleverly did not challenge that order within a stipulated time of one year before any court of law and to cover up the limitation gap, after a long period, by application under RTI Act, sought information and filed their petition.

8. The respondents have also submitted that the impugned rejection order dated 18.3.2015 issued by the respondents is legally correct, valid and perfect in the eye of law and requires no interference by this Tribunal. The services of 582 Constables of PAC were transferred in view of the para 525 of the Police Regulations and all those persons have not been impleaded as party to the petition. The petitioners were not found eligible for transfer on account of being junior and as per the guidelines framed for this purpose. The petition is time barred and has been filed on the basis of misleading facts.

9. The respondents have also contended that no relief can be granted to the petitioners to transfer their services from PAC to District Police because such policy was for onetime only and cannot be applied again and again and the services of the Constables in PAC is also necessary to maintain the law and order in the State and to provide security to the society. Hiding the real facts, petitioners obtained the relief from the Hon'ble High Court and the representations of the petitioners were decided with detailed reasons. As per the Police Regulations, the powers to transfer services of Constable for PAC to

Civil Police and vice-a-versa is conferred with the DIG under para 525, and impugned order for transfer of the services were made by the competent authority, as per the Police Regulations. The petitioners have no ground to sustain their claim and the relief sought by them cannot be granted by this Court, as there is a limit for transfer of 10% of the personnel from PAC to the District Police. Hence, petition deserves to be dismissed.

10. Petitioners have also filed rejoinder affidavit reiterating the facts mentioned in the claim petition.

11. We have heard both the sides and perused the record.

12. The petitioners' claim challenging the rejection order and requesting to transfer their services from PAC to District Police/Armed Police has been opposed by the respondents in their Counter Affidavit on so many grounds. Learned A.P.O. on behalf of the respondents No. 1 to 8 has also opposed the petition, alleging that the petitioners cannot claim to get their services transferred from PAC to District Police/Armed Police as a matter of right. There was no such condition annexed with their recruitment process. However, in view of the shortage of staff in District/Civil Police, as a onetime policy, the options were invited and criteria was also fixed. Applying that criteria, some PAC Constables were transferred to the District Police/Armed Police vide order dated 12.11.2008.

13. The respondents have mentioned detailed grounds in para 3 of their Counter Affidavit. This version of the Counter Affidavit was only evasively denied by the petitioners in para 4 of their R.A. with the following contents:

“That the contents of Para 3 of the Written Statement, as stated are erroneous and misconceived in view of the real facts of the case, hence emphatically denied.”

The petitioners have not specified in clear terms how their rights have been affected and what is the irregularity in the order passed by the respondents and in the absence of specific mentioning of such instance/irregularity, the contents of para 3 of the Counter Affidavit are worth accepting, because after the order passed by the Hon'ble High court, the representations of the petitioners were decided by the respondents with the reasons and court is of the view that there is no merit in the claim of the petitioners.

14. Respondents have also argued that the services of the Constables from PAC to District Police/Armed Police, cannot be transferred again and again and transfer cannot be made more than 10% of the staff of PAC. The court agrees with the contention raised by the respondents because even if the posts are lying vacant in District Police/Armed Police and if the respondent/ Government wants to fill up the vacancies at a particular time in view of the acute shortage of the Police personnels in District Police/Armed Police, adopting one time solution, then the Constable of PAC branch cannot claim again and again to transfer their services to the District Police/Armed Police. We agree with the argument of the respondents.

15. The petitioners have also raised that the transfer order dated 12.11.2008 was not made by the competent authority, whereas, learned A.P.O. has argued that as per Regulation 525, the Constable of more than two years service may be transferred from District Civil Police to Armed Police and vice-versa for any period with the permission of the Deputy Inspector General of Police. The court finds that with the permission of Deputy Inspector General of Police, the transfer of Constable from one branch to another branch for any period, order can be passed. Proviso to Regulation 525 also mentions that any transfer of Police service from one branch to other Provinces (State) from the Uttar Pradesh Police requires the sanction of the Inspector General. This is not the case in hand and court is of the view

that Deputy Inspector General of Police is competent authority with whose consent, the transfer can be made effective from one branch to other branch. According to the respondents, in the present case, the transfer was made effective by the Inspector General of Police vide order dated 12.11.2008. The Inspector General of Police is the senior official than Deputy Inspector General of Police and court is of the view that as per Regulation 525, he too can exercise this power.

16. The respondents have raised an issue that this petition was filed after a long delay i.e. 8 or 9 years of the order dated 12.11.2008 whereas, the petitioners have alleged that the irregularity came in their knowledge only after getting the information under RTI Act. The petitioners have approached the court after a long gap of about 8 to 9 years and in view of the Court, this is too long gap, as so many persons have already been absorbed and served the department for such a long time. If, the petitioners were having grievances, they should have approached the court in time and now their petition is hopelessly time barred and is liable to be dismissed on this ground also.

17. This court cannot go into the subjective satisfaction of the Appointing Authority and looking into the merit of the case, court finds no ground to interfere in the matter and the petition deserves to be dismissed.

**ORDER**

The claim petition is hereby dismissed. No order as to costs.

**(A.S.NAYAL)**  
MEMBER (A)

**(RAM SINGH)**  
VICE CHAIRMAN (J)

*DATE: OCTOBER 10, 2018*  
*NAINITAL*

*KNP*