

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

Through Audio Conferencing

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. A.S.Nayal

-----Member (A)

**CLAIM PETITION NO. 29/NB/DB/2019**

Mahendra Singh Jeena, aged about 35 years, S/o Shri Keshar Singh Jeena,  
Presently posted as Constable (Driver), Kotwali, Bageshwar.

.....Petitioner

vs.

1. State of Uttarakhand through its Secretary Home, Secretariat, Dehradun.
2. Director General of Police, Dehradun, Uttarakhand.
3. Inspector General of Police, Headquarters, Karmik, Dehradun, Uttarakhand.
4. Inspector General of Police, Kumaon, Nainital.
5. Superintendent of Police, Bageshwar.

..... Respondents

Present: Shri Kunwar N.S.Rautela, Advocate, for the Petitioner.

Shri Kishor Kumar, A.P.O., for the Respondents.

**JUDGMENT**

**DATED: FEBRUARY 12, 2021**

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

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

*“(i) To call the entire record & quash the exam-permission-rejection order dated 18.07.2019 passed by Respondent No. 5.*

*(ii) To quash the impugned order dated 10.04.2013 passed by the respondent No. 3.*

*(iii) To issue an appropriate order or direction to declare as unconstitutional, illegal & arbitrary the Rule 24 of the Uttarakhand Police Constable & Head Constable (Civil Police, Intelligence & Armed Police) and its Amendment thereof.*

[Not Pressed]

(iv) *To issue such other just & proper order or direction directing the respondents to grant equal opportunities in promotion/service conditions to the personnels of Police-Parivahan-Shakha as being provided to Civil, Armed & Intelligence or other streams of Police, & accordingly declare the applicant eligible to participate in promotional exercise for the upcoming exams of head-constable.*

(v) *To issue any other order or direction which the Hon'ble Court may deem just & proper.*

(vi) *Award the cost of the petition."*

2. Briefly put, the facts of the claim petition are as follows:

The petitioner was substantively appointed as Constable in Provincial Armed Constabulary (PAC) on 24.10.2005. The petitioner has been earning rewards from his superiors for his sincerity & due devotion to duty since 2009. In 2009, the petitioner completed departmental driving course & was transferred from P.A.C. to *Police-Parivahan-Shakha*. In 2010, exam of Sub-Inspector-Ranker was held, wherein petitioner also participated but could not qualify. On 25.01.2011, the petitioner was awarded commendation on Republic Day, considering his proficiency during natural calamity. *Vide* order dated 28.09.2011, all those Armed Police personnel were transferred to Civil-Police who secured qualifying marks, *i.e.*, more than 50% in Sub-Inspector Ranker exam-2010. The Constables drivers were treated as personnel of Armed Police. *Vide* order dated 28.09.2011, all those PAC personnel were transferred to Civil-Police who secured qualifying marks, *i.e.*, more than 50% in Sub-Inspector Ranker exam-2010. When an undue act of superior authorities transferring some personnel into Civil-Police without process was revealed, respondent No. 03 issued an order dated 10.04.2013 to stop transfer of participants qualified in Sub-Inspector Ranker exam. This order was not communicated to officials concerned. *Vide* order dated 01.03.2015, Sub-Inspector Ranker exam was held by respondents in which the petitioner participated. On 22.09.2015, result of Sub-Inspector Ranker exam 2014-15 was declared and the petitioner qualified the same by scoring 68% marks. In the year 2017, petitioner completed his postgraduate (private) from Kumoun University. The petitioner was not aware of the order dated 10.04.2014 which stopped the transfer of qualified candidates in Sub-Inspector Ranker, and he made a representation dated 14.12.2017 on the basis of his qualifying marks

obtained in the exam 2015 to take transfer to Civil Police from *Police Parivahan-Shakha*. *Vide* order dated 02.01.2018, the representation of the petitioner was disposed of and it was disclosed to the petitioner, for the first time, that the respondent No. 3 has stopped transfer of those participants who score qualifying marks in sub-inspector ranker exam *vide* order dated 10.04.2013.

Thereafter, petitioner decided to prepare for next departmental exam. In the year 2018, respondents framed impugned Service Rules, known as 'The Uttarakhand Police Constable & Head Constable (Civil Police, Intelligence & Armed Police) Service Rules, 2018' and amendment took place in the Rules on 18.02.2019. An advertisement was issued for promotional exercise of Constables into Head Constables on 19.06.2019. Respondent No. 5, *vide* letter dated 01.07.2019 invited applications from aspirants of Head-Constable Exam-2019. Petitioner submitted his application for permission to participate in Head-Constable exam, followed by a reminder.

Respondent No. 5 debarred the petitioner from participating in Head-Constables Exam-2019 on the basis of the Service Rules of 2018 as amended on 18.02.2019. The Head Constable exam is again going to take place in near future. The petitioner wants to participate in it. Hence, this petition.

3. W.S./C.A. has been filed on behalf of the respondents. It is submitted that petitioner is not entitled to the reliefs claimed. Rejoinder affidavit has also been filed on behalf of the petitioner.

4. After arguing the claim petition at some length, learned Counsel for the petitioner confined his prayer, only to the extent that his representations for (i) absorption in Civil Police and (ii) permission to appear *provisionally* in the departmental examination to be held on 21.02.2021, may kindly be directed to be decided by the appropriate authorities, in accordance with law, to which learned A.P.O. has no objection.

5. Considering the facts of the case and oral submissions made in this behalf, this Tribunal is of the view that innocuous prayer made by learned Counsel for the petitioner is worth accepting.

6. The claim petition is, accordingly disposed of, finally, by directing the petitioner to move his representations to the appropriate Police Authorities within a day of obtaining certified copy of this order for redressal of his grievances. The respondent No. 1 is requested to decide representation of the petitioner for absorption in Civil Police, by a reasoned and speaking order, in accordance with law, at an earliest possible, but not later than 8 weeks of presentation of certified copy of this order along with fresh representation.

7. Respondent No. 2 is also requested to consider the prayer of the petitioner for appearing in the departmental exam to be held on 21.02.2021 *provisionally*, as per rules, at an earliest possible and in any case, before the commencement of the said examination.

8. Needless to say that the decision so taken shall be communicated to the petitioner soon thereafter.

9. It is made clear that we have not expressed any opinion on the merits of the case.

10. Rival contentions of the parties are left open.

11. No order as to costs.

12. Let certified copies of this judgment/order be supplied free of cost to the petitioner and Ld. A.P.O. today itself.

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

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

*DATE: FEBRUARY 12, 2021*  
*DEHRADUN*

*KNP*