

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

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

CLAIM PETITION NO. 53/DB/2020

Ajay Kumar, aged about 38 years, s/o Sri Anand Prakash, presently posted as Incharge Executive Engineer, Maintenance Division Ganga, Uttarakhand Jal Sansthan, Haridwar, Uttarakhand.

.....Petitioner.

vs.

1. State of Uttarakhand through Principal Secretary, Peyjal, Civil Secretariat, Dehradun.
2. Chief General Manager, Uttarakhand Jal Sansthan, Dehradun, Uttarakhand.

.....Respondents.

Present: Sri M.C.Pant, Advocate, for the Petitioner.

Sri V.P.Devrani, A.P.O., for Respondent No.1.

Sri Deepak Singh, Advocate, for Respondent No.2.

Dr. N.K.Pant, Advocate, for the intervener.

JUDGMENT

DATED: MARCH 22, 2021

Justice U.C.Dhyani (Oral)

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

- (i) To issue order or direction in nature commanding/ directing the respondent no.1 to grant promotion to the petitioner on the post of Executive Engineer, by convening a review DPC and further to consider the case of the petitioner for the next higher post of

S.E. in case the promotion of the private respondents junior be considered for the same and further to implement its own order dated 06.12.2018 (Annexure: 08), further please to grant all admissible benefits for all practical purposes since the date of the promotion of the juniors on the post of E.E. and also to declare the petitioner deemed to be eligible and qualified for the promotion on the post of E.E. and other higher post as per his merit position maintained by the PSC after calling the entire records from the respondents by allowing him the deeming date of appointment with reference to the recruitment year of 2011-12 along with all consequential benefits or to mould the prayer accordingly which the court may deem fit and proper in the circumstances of the present case.

- (ii) To issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the t case.
- (iii) To issue any other order and direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.
- (iv) Cost of the petition to be awarded to the petitioners.

2. Material facts of present claim petition and law governing the field are identical to the facts and law laid down in claim petition No. 61/DB/2019, Ashish Bhatt & others vs. State and others. Therefore, we propose to decide present claim petition in terms of *Ashish Bhatt's* decision, on the basis of parity.

INTERVENTION APPLICATION

3. An intervention application, supported by an affidavit, was filed by Sri Sunil Tiwari on 21.08.2020, to permit the intervener to intervene in this claim petition. The ground taken by the intervener in his intervention application was that the applicant is senior to the petitioners in the present seniority list and, therefore, he should be permitted to intervene. No impleadment application has been filed on behalf of Sri Sunil Tiwari in the present claim petition, as was filed S/Sri Jaipal Singh, Ajay Pal Singh and Rajendra Prasad Mamgain in Claim Petition No. 61/DB/2020 Ashish Bhatt & others vs. State & others. Dr. N.K.Pant, Ld. Counsel for the intervener was permitted to argue on his behalf. In present claim petition, this Tribunal is not deciding the issue of seniority although in *Post Peinuly* seniority list dated 12.02.2021, petitioner Sri Ajay Kumar is at Sl. No. 10 and intervener Sri Sunil Tiwari is at Sl. No. 32. Even if the intervener would have filed impleadment application, the same was liable to be dismissed on the

same grounds which we have indicated in respect of interveners of Claim Petition No. 61/DB/2019, Ashish Bhatt & others vs. State and others.

4. We have delivered the judgment in Claim Petition No. 61/DB/2019, Ashish Bhatt & others vs. State & others today itself. Operative portion of the same reads as under:

“In view of the above, Respondent No. 1 is directed to convene a DPC for consideration of notional promotion of petitioners *w.e.f.* 05.11.2018. The petitioners, who thus get promoted, shall be deemed to have been promoted *w.e.f.* 05.11.2018 with all related service benefits. Our adjudication is based upon Annexure A-9, A-10 and averments made in the written statements/ counter affidavits filed on behalf of the respondents. It is made clear that this Tribunal has not expressed any opinion on *inter se* seniority of the petitioners *vis-à-vis* others.

The claim petition is, accordingly, disposed of. No order as to costs.”

5. Since present claim petition is squarely covered by the decision rendered by us in *Ashish Bhatt's* Claim Petition, therefore the same is decided in terms of the decision dated 22.03.2021 of Claim petition No. 61/DB/2020, Ashish Bhatt & others vs. State & others.
6. Order accordingly.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: DATED: MARCH 22, 2021
DEHRADUN

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