

**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. 15/DB/2020

Arun Kumar Negi.

.....Petitioner.

vs.

1. State of Uttarakhand through Secretary, Irrigation Department, Uttarakhand Secretariat, Subhash Road, Dehradun.
2. Engineer-in-Chief, Irrigation Department, Uttarakhand, Dehradun.
3. The Principal Secretary, State of U.P., Secretariat, Lucknow.
4. Engineer-in-Chief, Irrigation Department, U.P., Canal Road, Lucknow.

.....Respondents.

Present: Dr. N.K.Pant, Advocate, for the Petitioner.

Sri V.P.Devrani, A.P.O., for Respondents No.1 & 2.

Sri V.P.Sharma, Advocate, for Respondents No.3 & 4

JUDGMENT

DATED: APRIL 15, 2021

Justice U.C.Dhyani (Oral)

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

(i) To issue an order or direction calling for the record and to quash the impugned rejection letter dated 30.11.2019.

(ii) To issue an order or direction calling for the record of the regularization and promotion on the post of Junior Engineer and Assistant Engineer respectively.

(iii) To issue an order or directing the respondent No. 1 and 3 to issue a fresh G.O. for regularization from the date of his initial appointment and promote on the post of Assistant Engineer from the date his junior, Shri Melkani was promoted.

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

(v) Award the cost of claim petition to the petitioner.

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. 14/DB/2020, Shailendra Kumar Basliyal vs. State and others. Therefore, we propose to decide present claim petition in terms of *Shailendra Kumar Basliyal's* decision, on the basis of parity.

3. We have delivered the judgment in Claim Petition No. 14/DB/2020, Shailendra Kumar Basliyal vs. State and others today itself. Last portion of the of the same reads as under:

“.....We make it clear that, as on date, this claim petition is not maintainable before this Tribunal, being barred by principle of *res-judicata*. Claim petition has not been filed within a year, and therefore, it is barred by limitation. Also, it has no jurisdiction in view of the decisions of Umakant Joshi (*supra*) and Dr. Kamaljeet Singh (*supra*).

As per entry 136 of the Schedule, appended to the Limitation Act, 1963, normally, period of limitation for the execution of such decree (read: order) is twelve years. Time begins to run from the date when decree or order becomes enforceable. Even this period of twelve years has expired. Petitioner is only to be blamed for the same.

ORDER:

The claim petition is hereby dismissed, as not maintainable before this Tribunal. In the circumstances, no order as to costs.

It is made clear that this Tribunal has not expressed any opinion on the merits of the claim petition, for the same has already

been decided on merits by the State Public Services Tribunal, Lucknow on 26.05.1999 in Claim Petition No. 1904/1998. The respondents (State of U.P. and others) were already given a direction to consider the case of petitioner for regularization and promotion. Instead of filing execution application before the State Public Services Tribunal, Lucknow, on time, petitioner has filed present claim petition before this Tribunal, which is not maintainable.”

4. Since present claim petition is squarely covered by the decision rendered by us in *Shailendra Kumar Basliyal's* Claim Petition, therefore the same is decided in terms of the decision dated 15.04.2021 of Claim petition No. 14/DB/2020, Shailendra Kumar Basliyal vs. State & others..

5. Order accordingly.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: APRIL 15, 2021
DEHRADUN.

KNP