

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

Through Audio Conferencing

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

CLAIM PETITION NO. 51/NB/DB/2021

Girish Chandra Tiwari, aged 55 years, S/o Sri Khyali Ram Tiwari, Presently posted as Revenue Sub-Inspector at Kaladungi, Haldwani, District Nainital.

.....Petitioner

vs.

1. Board of Revenue, Uttarakhand at Dehradun through its Secretary, Ring Road, Ladpur, Dehradun.
2. Commissioner, Kumaon Region, Nainital, District-Nainital.
3. District Magistrate, Nainital, District-Nainital.
4. Sri Suresh Chandra Budlakoti, S/o Sri Padma Datt Budlakoti, Presently posted as Revenue Inspector at Tehsil Haldwani, District-Nainital.

.....Respondents

Present: Shri Ganesh Kandpal, Advocate, for the Petitioner.

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

JUDGMENT

DATED: JUNLY 19, 2021

Justice U.C.Dhyani (Oral)

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

“(i) To direct the respondent No. 2 to decide the representation of the petitioner dated 22.03.2021 as per the direction issued by the respondent No. 1 vide its letter dated 31.03.2021 contained in Annexure No. 1 & 2 to the claim petition.

(ii) To pass any other suitable order, which this Hon'ble Tribunal may deem fit and proper on the basis of the facts and circumstances of the case.

(iii) Award the cost of the petition to the petitioner.

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

In the year 1989, an advertisement was issued for appointment on the post of Revenue Sub-Inspector (Lekhpal). Pursuant to the said advertisement, the petitioner as well as respondent No. 4 applied for the

same and appeared in the examination conducted by the respondent. After qualifying the entrance examination, the petitioner and respondent No. 4 as well as other qualified candidates were sent to the Patwari Training.

After completing the said Training, petitioner joined the service as Revenue Sub Inspector (Lekhpal). Petitioner obtained more marks than respondent No.4, therefore, petitioner is senior to respondent No. 4 in the seniority list of Revenue Sub-Inspector (Lekhpal). Whereas, the petitioner was confirmed on the said post on 01.09.1992, respondent No. 4 was confirmed on 31.12.1992.

Thereafter, the respondent department issued seniority list of Revenue Sub-Inspectors (Lekhpal) from time to time and the petitioner was shown senior to the respondent No. 4.

On 31.07.2013, District Magistrate, Nainital issued a final seniority list of Revenue Sub Inspector (Lekhpal) of District Nainital. In the said seniority list, name of petitioner was shown at Sl. No. 23 and name of respondent no. 4 was shown at Sl. No. 24. Thereafter, petitioner and private respondent No. 4 were sent for three months training for 12th batch of Revenue Inspector in Revenue Police and Land Record Survey Training Institute, Almora. After completing the said training, the petitioner joined as Revenue Sub Inspector (Lekhpal) in their respective areas allotted to them.

Post of Revenue Inspector was vacant in Haldwani Tehsil and the petitioner was fully eligible to be promoted on the post of Revenue Inspector. Petitioner moved a representation dated 14.06.2019 before the Commissioner, Kumaon Region in this regard. Though, the petitioner is senior to respondent No. 4 as per the Revenue Sub Inspector (Lekhpal) Rules, 2015 and the Uttarakhand Government Servants Seniority Rules, 2002, but instead of promoting petitioner, ignoring the entire rules, the respondent promoted private respondent No. 4 *vide* order dated 08.07.2019. Thereafter, petitioner was also promoted *vide* order dated 13.07.2020 on the post of Revenue Inspector.

It is also submitted on behalf of the petitioner that despite the fact that petitioner is senior to respondent No. 4 since the very first day of appointment, junior was promoted arbitrarily before promoting the petitioner.

Aggrieved by the arbitrary action of the respondent, the petitioner moved a representation before the Commissioner, Revenue Board, Uttarakhand on 22.03.2021. Thereafter, the Commissioner, Revenue Board, Uttarakhand wrote a letter to the Commissioner Kumaon Region, Nainital on 31.03.2021 stating therein that he had received the representation of the petitioner and the petitioner had obtained 453 marks in the Revenue Sub Inspector (Lekhpal) Training examination and Respondent No. 4 had obtained 444 marks. Despite that, respondent No. 4 has been promoted to the post of Revenue Inspector on 08.02.2019 while the petitioner has been promoted later, on 13.07.2020. Till date no action has been taken on such representation of the petitioner.

Being aggrieved, the petitioner filed a writ petition No. 769(S/S) of 2021 before Hon'ble High Court. *Vide* order dated 06.07.2021, the Hon'ble High Court was of the view that the matter should be adjudicated by this Tribunal, for the purpose of redressal of his grievance. Hence, this claim petition has been filed by the petitioner.

3. After arguing the claim petition at some length, Ld. Counsel for the petitioner confined his prayer only to the extent that petitioner's representation dated 22.03.2021 (Annexure: A1), may kindly be directed to be decided by the Respondent No. 2 as per endorsement of Respondent No. 1 *vide* its letter dated 31.03.2021 (Annexure: A2) (to Respondent No.2), as per law, at an early date, to which learned A.P.O. has no objection.

4. 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.

5. Claim petition is, accordingly, disposed of, at the admission stage, by directing Respondent No.2, to decide pending representation dated

22.03.2021 (Annexure: A1) of the petitioner, by a reasoned and speaking order, in accordance with law, at an earliest possible, but not later than four weeks of presentation of certified copy of this order along with copy of Annexure: A1.

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

7. It is made clear that we have not expressed any opinion on the merits of the case. No order as to costs.

8. Let certified copies of this judgment be supplied free of cost to the petitioner and Ld. A.P.O., by 22.07.2021 positively.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JULY 19, 2021

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