

**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. 53/NB/DB/2021**

Angad Singh, aged about 61 years, s/o Shri Shahjad Singh, Assistant Engineer, Minor Irrigation, Sub Division, Rudrapur-District Udham Singh Nagar.

.....Petitioner

**vs.**

1. State of Uttarakhand through Secretary, Minor Irrigation, Government of Uttarakhand, Dehradun.
2. Chief Engineer and Head of Department, Minor Irrigation Department, Uttarakhand, Dehradun.
3. Mr. Gurdev Singh, presently posted as Assistant Engineer, Minor Irrigation Sub Division, Chakrata, District-Dehradun (presently under suspension).
4. Mr.B.D.Bainjwal, presently posted as Assistant Engineer, Minor Irrigation Sub Division, Dehradun, District Dehradun.
5. M.S.Farswan, presently posted as Assistant Engineer, Minor Irrigation Sub Division, Narendra Nagar, District Tehri Garhwal.
6. Dinesh Chandra Mishra, presently posted as Assistant Engineer, Minor Irrigation Sub Division, Kashipur, District-Udham Singh Nagar.

.....Respondents

Present: Shri Sanjay Bhatt & Sri Prem Prakash Bhatt, Advocates, for the Petitioner.  
Shri Kishor Kumar, A.P.O., for the Respondent No. 1.

**JUDGMENT**

**DATED: JULY 27, 2021**

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

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

- (i) *To issue appropriate order or direction, directing the official respondents to examine the validity of B.Tech degrees obtained by the private respondents in terms of judgment of Hon'ble Apex Court rendered in the case of Orissa Lift Irrigation Corporation Limited vs. Rabi Sankar Patro and others reported in (2018) 1 SCC page 468 and consequently cancel the out of turn promotion given to the private Respondents on the basis of invalid degree vide order dated 28<sup>th</sup> January 2013 and further to give promotion to the eligible candidates including the petitioner from the date when the private respondents were given out of turn promotion.*

(ii) To issue any suitable, order or direction, 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:

The petitioner was initially appointed as Junior Engineer, in the year 1983. After serving for almost 37 years, petitioner has demitted office on reaching the age of superannuation, in the month of October, 2020. The entire service record of the petitioner was unblemished and he has never been awarded any adverse entry, rather his performance has been appreciated by the superior authorities from time to time. In the entire service period, the petitioner only got one promotion to the next higher post, in the year 2017, while juniors to him, *i.e.*, private respondents were given benefit of promotion in the year 2013.

It is submitted that the petitioner was having diploma in engineering and was appointed as Junior Engineer. Similarly, certain persons, who were having degree in various disciplines, were also appointed as Junior Engineers. Not only this, the junior engineers serving in the department were permitted to obtain a bachelor's degree in engineering during service through distance mode from deemed universities or deemed to be universities. Therefore, several junior engineers have obtained the bachelor's degree during service through distance mode from deemed to be universities.

It is also submitted that the private respondents have obtained degree of B.Tech through distance mode from Janardan Rai Nagar Shahar, Rajasthan Vidhyapeeth University Udaipur, Rajasthan and IASE Sardar Shahar Rajasthan but such degrees, being obtained through distance mode, are not recognized or has held valid as laid down by the Hon'ble Apex Court. The institutions from where private respondents obtained degrees are deemed to be universities and the enrolment of private respondents relates to different academic years, but they obtained such degrees only after 2005 *i.e.*, in 2007 and 2010, as the case may be.

It is further submitted that based on invalid degrees, private respondents got out of turn promotion *vide* order dated 28.01.2013,

whereas, petitioner could not get promotion at that point of time, because private respondents were the only persons to get promotion under degree quota, whereas, the petitioner was senior to them. Since there was no one else eligible under degree quota, the next person in the seniority list was the petitioner.

It has also been submitted that before considering candidature of private respondents by the Departmental Promotion Committee, certain correspondence was made between the department, government and concerned universities/institutes which clearly indicates that degrees of private respondents were under cloud.

Learned Counsel for the petitioner further submitted that the issue with regard to the degrees of B. Tech obtained by the persons through distance mode from deemed to be universities went upto the Hon'ble Apex Court in the case of Orissa Lift Irrigation Corporation Limited vs. Rabi Sankar Patro and others, reported in (2018) 1 SCC 468. In compliance of the decision of Hon'ble Apex Court, some of the departments have reverted back such degree holders to the lower posts where the diploma holders can be appointed.

Petitioner along with another person filed a writ petition No. 475 (S/B) of 2012, before Hon'ble High Court. Since similar writ petition was allowed by Hon'ble High Court and the judgment and order rendered in the writ petition was put to challenge before Hon'ble Apex Court, therefore, the writ petition filed by the petitioner along with his colleague was kept pending awaiting the decision of the Hon'ble Apex Court. However, the judgment of the Hon'ble High Court was upset by the Hon'ble Apex Court, therefore, the writ petition filed by the petitioner was also closed *vide* judgment and order dated 07.08.2020. While disposing of the writ petition, Hon'ble High Court directed the respondents to consider the claim of the petitioners for promotion in accordance with law.

Petitioner agitated his claim before Hon'ble High Court of Uttarakhand by filing writ petition No. 270(S/B) of 2020. Such writ petition was dismissed on 26.11.2020, giving liberty to the petitioner, to avail

alternative remedy before the Tribunal. Petitioner also sought review/ recall of order dated 26.11.2020, which was also rejected by the Hon'ble High Court *vide* order dated 13.07.2021. Hence, this petition.

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 24.08.2020 (Annexure: A9), may kindly be directed to be decided by the Respondent No. 1, 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.1, to decide pending representation dated 24.08.2020 (Annexure: A9) of the petitioner, by a reasoned and speaking order, in accordance with law, at an earliest possible, but not later than 10 weeks of presentation of certified copy of this order along with copy of representation dated 24.08.2020 (Annexure: A9).

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., within 48 hrs.

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

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

*DATE: JULY 27, 2021*

*DEHRADUN*

*KNP*