

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

Through Audio Conferencing

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

CONTEMPT PETITION NO. 01/DB/2021

*(Arising out of judgment dated 14.12.2020,
passed in Claim petition No. 86/DB/2020)*

Manish Semwal

.....Petitioner.

vs.

1. Sri Nitesh Jha, Secretary, Peyjal, Government of Uttarakhand.
2. Sri S.K.Sharma, Chief General Manager, Uttarakhand Jal Sansthan, Dehradun.

.....Respondents.

[Since contempt petition was not admitted, therefore, notices were not issued to them]

Present: Dr. N.K. Pant, Advocate, for the petitioner.
Sri V.P.Devrani, A.P.O., in assistance of the Tribunal.

JUDGMENT

DATED: AUGUST 10, 2021

Justice U.C.Dhyani (Oral)

In claim petition No. 86/DB/2020, Manish Semwal vs. State and others, this Tribunal *vide* order 14.12.2020 directed as under:

"3 Ld. A.P.O., on seeking instructions from Respondent No.2, submitted that petitioner's representation has not been decided so far and Learned A.P.O. has no objection, if a direction is given by the Tribunal to decide the representation of the petitioner by a reasoned

order, in accordance with law, after giving opportunity of personal hearing to the petitioner. Notice has not been issued to Respondent No. 3, on such innocuous prayer.

4 Without elaborating the facts of the case and after hearing Ld. Counsel for the parties, this Tribunal is of the opinion that the representation of the petitioner should be directed to be decided, in accordance with law.

5. Claim petition is, accordingly, disposed of by directing Respondents No. 1 and 2 to decide the representation dated 07.05.2020 of the petitioner, by a reasoned and speaking order, in accordance with law, after affording opportunity of personal hearing to the petitioner, at an earliest possible, but not later than eight weeks of presentation of certified copy of this order along with a copy of the representation.

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.

8. Rival contentions of the parties are left open.”

2. Present contempt petition was filed by the petitioner on 01.03.2021. When the same was taken up on 02.03.2021, the Tribunal made a request to Ld. A.P.O. to seek instructions in the matter within 4 weeks.

3. The contempt petition was filed by the petitioner for the following:

(1) Commence the contempt procedure against the respondents no. 1 & 2 for neglecting the compliance of Hon'ble Tribunal's order dated 14.12.2020 and issuing a final seniority list dated 12.02.2021/ 15.02.2021 ignoring Hon'ble Tribunal's order dated 14.12.2020. Issue notices to the respondents no. 1 & 2 for further action.

4. On 31.03.2021, Sri Sanjay Kumar, Assistant Legal Advisor, Uttarakhand Jal Sansthan, appeared before the Tribunal and placed Office Memorandum No. 112/*Untees-1/2021/(07/Adhi)/2001* Dehradun: Dated 11 February, 2021. Copy of the Office Memorandum was given to the petitioner in the Court and a week's time was given to Ld. Counsel for the petitioner to respond to the same. Ld. Counsel for the petitioner responded to the same by filing rejoinder on 30.05.2021. In para 6 of such rejoinder, it has been mentioned that Respondent No.1 called the petitioner for personal hearing on 21.12.2020 and he moved a representation; no action

has been taken by Respondent No.1 on the same; seniority list dated 12.02.2021 has been issued, which is contempt of Hon'ble Tribunal's order. In paras 7, 8 and 9 of the rejoinder, the petitioner has contended on the merits of the case. In para 10 of the rejoinder, it has been mentioned that although Respondent No.1 has filed the order dated 11.02.2021 before the Hon'ble Tribunal, but the said order was never received by the petitioner. The same ought to have been sent to the petitioner either through registered post or by hand. According to the petitioner, it appears that the petitioner's representation has been decided after issuance of final seniority list dated 12.02.2021 and therefore, seniority list dated 12.02.2021 is liable to be set aside.

5. It may be noted here, at the very outset, that a very simple order was passed by this Tribunal on 14.12.2020 in Claim Petition No.86/DB/2020, Manish Semwal vs. State and others for deciding the representation of the petitioner, in accordance with law. According to Sri Sanjay Kumar, Assistant Legal Advisor, Uttarakhand Jal Sansthan, petitioner's representation was decided on 11.02.2021, a copy of which was supplied to the petitioner in the Court. It is possible that the petitioner might not have been sent a copy of the order on representation of the petitioner, by due date, but the same does not attract the provisions of the Contempt of Courts Act, 1971. In order to attract the provisions of Contempt of Courts Act, 1971, there should be willful and deliberate disobedience of the order of the Court. Direction for deciding the representation of the petitioner has nothing to do with the issuance of final seniority list. Ld. A.P.O. informed the Court that seniority list dated 12.02.2021 was issued in compliance of Tribunal's order dated 28.07.2020 passed in Claim Petition No. 42/DB/2018, Kailash Chandra Peinuly vs. State & others.
6. The representation of the petitioner has been decided. Petitioner himself has admitted in rejoinder dated 30.05.2021 that he was called by Respondent No.1 for personal hearing on 21.12.2020 and he submitted his representation. Whereas the submission of Ld. A.P.O. is that the representation of the petitioner has been decided, it is the contention of Ld. Counsel for the petitioner that the representation of the petitioner was

not decided. When Tribunal's hearing took place on 31.03.2021, Sri Sanjay Kumar, Assistant Legal Advisor, Uttarakhand Jal Sansthan, placed a copy of O.M. dated 11.02.2021 to show that petitioner's representation has been decided on the said date.

7. The Tribunal is satisfied that its order dated 14.12.2020 passed in Claim Petition No. 86/DB/2020 has been complied with, as such there is no scope for initiating any proceeding under the Contempt of Courts Act, 1971.
8. The contempt petition is, accordingly, closed.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: AUGUST 10, 2021
DEHRADUN

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