

**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)

ORDER

ON

INTERIM RELIEF APPLICATION

In

CLAIM PETITION NO. 52/NB/DB/2021

Priyanka Rani

Vs.

State of Uttarakhand & others

Present: Sri N.K.Papnoi, Advocate, for the Petitioner
Sri Kishore Kumar, A.P.O., for the Respondents no. 1, 2 & 3
Sri Alok Mehra, Advocate, for Respondents no. 4,5,6,7,9,11,12 & 19.
None for other Respondents.

DATED: AUGUST 18, 2021

Justice U.C.Dhyani (Oral)

Interim relief application has been filed on behalf of the petitioner with the following prayer:

.....To stay the operation and implementation of the impugned Office Order No. 11537 dated 23.03.2021 along with enclosed amended final seniority list, and tentative seniority list of Tehsildar dated 01.06.2021 based on the impugned order dated 23.03.2021, further direct to the respondents, not to finalize the final seniority list of Tehsildar working in State of Uttarakhand, which is under preparation on the basis of impugned order, during pendency of the petition, otherwise the applicant will suffer irreparable loss and injury.

2. Learned Counsel for the petitioner submitted, in the backdrop of the facts mentioned in the Claim Petition, that Respondent no.2 vide impugned order dated 23.03.2021, has placed the petitioner at the bottom of the seniority list of Naib Tehsildars, which is not permissible in law, inasmuch as if a settled seniority is changed, then it will be an unending

process. The petitioner has also challenged the tentative seniority list of Tehsildars dated 01.06.2021, which is based on the impugned order dated 23.03.2021.

3. In reply, Sri Alok Mehra, learned Counsel for the respondents No. 4, 5, 6, 7, 9, 11, 12 & 19 submitted that private respondents are senior to the petitioner. Their appointment order was issued after they underwent mandatory training of four and half months, as per Rule 18 of the Uttarakhand Subordinate Revenue Executive (N.T.) Service Rules, 2009. Petitioner's candidature on the post of Naib Tehsildar was cancelled *vide* order dated 20.03.2015. Despite that, without recalling the order dated 20.03.2015, she was offered appointment *vide* order dated 07.07.2015. The petitioner passed the qualifying examination only on 07.05.2018. As such, her date of appointment on the post of Naib Tehsildar would be 07.05.2018, as per condition no. 3 of the appointment order. Rule 3(m) of the Service Rules, 2009 defines 'year of recruitment' which means a period of 12 months commencing on the first day of July of a calendar year, therefore, the year of recruitment of private respondents is 2013-14, while the year of recruitment of petitioner is 2018-19, as such, private respondents are much senior to the petitioner. Petitioner had moved an application on 20.08.2013, expressing her inability to join the mandatory training. She also mentioned that she would accept all the conditions. Beside this, respondent no. 2 *vide* office memo dated 20.08.2013, exempted the petitioner from mandatory training with the condition that she would be placed at sl. no. 29 instead of sl no. 4 of the list, issued by the Public Service Commission and further, if she fails to complete mandatory training on being granted another opportunity to do so, her candidature would be cancelled. Petitioner accepted and acted on the office memo dated 20.08.2013, therefore, she has rightly been placed below the private respondents in the seniority list, as per condition no. iii of the office memo dated 20.08.2013. It is further submitted that so far as the challenge made by the petitioner to the tentative seniority list of Tehsildar dated 01.06.2021 is concerned, it is premature and the petitioner may file her objections to the same. The order dated 23.03.2021 has been issued by the respondent no. 2 after inviting objections and considering the material on record. It is a reasoned and speaking order. Order dated 23.03.2021 is valid

order in view of *Proviso* to Rule 8 of the Uttarakhand Govt. Servant Seniority Rules, 2002.

4. Learned A.P.O. submitted that respondents issued the tentative seniority list as per the Seniority Rules of 2002. They have invited objections and the same have been decided by the competent authority. Thereafter, final seniority list has been issued. After issuance of the final seniority list, some of the incumbents, who are private respondents, submitted their representations against the said list, stating therein that they were not heard at the time of objections against the tentative seniority list. The competent authority, treating the representations as objections, again directed all the incumbents to file their objections. Petitioner was also called and she also submitted her objections. Hence, she is not entitled to interim relief at this stage.

5. Considering the facts of the claim petition and rival submissions, the Tribunal directs that ongoing exercise for preparation of final seniority list of Tehsildars shall be subject to final decision of present claim petition.

6. Interim relief application thus stands disposed of.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: AUGUST 18, 2021
DEHRADUN.
KNP