

**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)

CLAIM PETITION NO. 80/DB/2021

Gagan Kumar, aged about 32 years, s/o Late Sri Tikam Singh, r/o T 1/11, Peerbaba Colony, Near Railway Bridge, Ganeshpur, Tehsil Roorkee, District Haridwar, Uttarakhand. Presently posted as Clerk/ Data Entry Operator, Uttarakhand Board of Technical Education, Sunehra Road, Kashipuri Road, Roorkee, District Haridwar, Uttarakhand.

.....Petitioners

vs.

1. State of Uttarakhand through Secretary, Department of Technical Education, Govt. of Uttarakhand, Dehradun.
2. Uttarakhand Board of Technical Education (through its Principal Secretary), Sunehra Road, Kashipuri Road, Roorkee, Uttarakhand.
3. Gautam Kumar s/o Sri Sadhu Ram, presently posted as Clerk/ Data Entry Operator, Uttarakhand Board of Technical Education, Sunehra Road, Kashipuri Road, Roorkee, District Haridwar, Uttarakhand.
4. Samish Kumar s/o Sri Harpal Singh, presently posted as Clerk/ Data Entry Operator, Uttarakhand Board of Technical Education, Sunehra Road, Kashipuri Road, Roorkee, District Haridwar, Uttarakhand.
5. Gyaneshwar Rawat s/o Sri Sunder Singh, presently posted as Clerk/ Data Entry Operator, Uttarakhand Board of Technical Education, Sunehra Road, Kashipuri Road, Roorkee, District Haridwar, Uttarakhand.
6. Manju d/o Sri Sunder Nath, presently posted as Clerk/ Data Entry Operator, Uttarakhand Board of Technical Education, Sunehra Road, Kashipuri Road, Roorkee, District Haridwar, Uttarakhand.

.....Respondents

Present: Sri Naman Kamboj, Advocate, for the petitioner.
Sri V.P.Devrani, A.P.O., for respondents.

JUDGMENT

DATED: AUGUST 27, 2021

Justice U.C.Dhyani (Oral)

RELIEFS PRAYED FOR

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

- i. To set aside/ quash the office order dated 08.03.2021 (Annexure: No. A 1 to this petition).
- ii. To consider the claimant for Departmental Promotional Committee (DPC) and grant all the related benefits in favour of the claimant.
- iii. Issue any other relief, which this Hon'ble Tribunal may deem fit and proper in the circumstance of the case be passed in favour of the claimant."

PETITIONER'S VERSION

2. Brief facts giving rise to the present claim petition, are as follows:
 - 2.1. The petitioner joined as Clerk/ Date Entry Operator on 20.09.2013 in Uttarakhand Technical Education Council. Petitioner after completing two years' probation period (from 20.09.2013 to 19.09.2015), obtained 'no objection certificate' on 29.10.2015 (Annexure: A 3) from the Office of Uttarakhand Technical Education Council, Roorkee (Haridwar) and joined Uttarakhand Power Corporation on 11.03.2016. He was given "On Job Training". (Copy of order dated 11.03.2016: Annexure- A 7). Petitioner resigned from Uttarakhand Power Corporation Ltd. on 04.06.2016 (Annexure: A-9). He, then *vide* application dated 09.06.2016 (Copy: Annexure- A 10) requested respondent no.2 to revert him to its parent department (Uttarakhand Technical Education Council Roorkee, (Haridwar). *Vide* order dated 17.06.2016 (Copy: Annexure- A 11) the prayer of the petitioner for reverting him back to the department was dismissed, on the ground that resignation of the petitioner has been accepted *vide* order page no. 4065-72 dated 10.03.2016. Pursuant to order dated

17.06.2016, Respondent No.1 *vide* order dated 12.07.2016 (Copy: Annexure- A 12), rejected the rejoining of the petitioner.

2.2 Petitioner preferred WPSB No. 2391/2018 before the Hon'ble High Court of Uttarakhand. Hon'ble Court disposed of the writ petition on 17.05.2019, with liberty to the petitioner to make a fresh representation within two weeks and directed the respondents to decide the said representation within six weeks, in accordance with law. Copy of Hon'ble Court's order dated 17.05.2019 is enclosed as Annexure: A 13 to the claim petition. Respondent No.2, on the pretext of Order page no. 4065-72 dated 10.03.2016, dismissed the representation of the petitioner by order dated 03.07.2019 (Copy: Annexure- A 14).

2.3 Petitioner again approached Hon'ble High Court by way of WPSB No. 1982/2019, but in the meanwhile Respondent No.2 passed an order on 21.10.2020, directing the petitioner to join the department on the said post, therefore, petitioner withdrew WPSB No. 1982/2019.

2.4 *Vide* order dated 04.03.2021, objections were invited from the employees working on the post of Clerk/ Date Entry Operator. Subsequently, final seniority list was published and name of the petitioner figured at Sl. No.1 in the said list. Copies of order dated 04.03.2017 and final seniority list are filed as Annexure: A 17 (colly). In the meeting of DPC, held on 06.03.2021, petitioner was denied promotion whereas his juniors were promoted. Petitioner moved representation dated 12.03.2021 (Annexure: A 18), which has not been decided as yet.

PRAYER RESTRICTED

3. After arguing the claim petition at some length, Ld. Counsel for the petitioner confined his prayer only to the extent that since petitioner's representation has not been decided so far, therefore, a direction be given to the respondent no.2 to decide fresh representation of the petitioner by a reasoned and speaking order, at an earliest possible, in accordance with law, to which Ld. A.P.O. has no objection.

ORDER

4. Without prejudice to rival contentions, the claim petition is disposed of at the admission stage by directing Respondent No.2 to decide the fresh representation of the petitioner by a reasoned and speaking order, in accordance with law, at an earliest possible but not later than 12 weeks of presentation of certified copy of this order, along with representation.
5. Needless to say that the decision so taken be communicated to the petitioner soon thereafter.
6. It is made clear that the Tribunal has not expressed any opinion on the merits of the claim petition.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: AUGUST 27, 2021
DEHRADUN

VM