

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

Present: Sri V.K. Maheshwari

----- Vice Chairman (J)

&

Sri D.K. Kotia

----- Vice Chairman (A)

CLAIM PETITION NO. 62/2011

Smt. Shakuntala Sharma, W/o Late Sri Ashok Kumar Sharma,
R/o 34, Khatri Mohalla, Saharanpur Chowk, Dehradun

.....Petitioner

VERSUS

1. State of Uttarakhand through Principal Secretary, Transport Department, Civil Secretariat, Dehradun,
2. Uttarakhand Transport Corporation, through Chairman, Secretariat, Dehradun.
3. Managing Director, Uttarakhand Transport Corporation, 117, Indira Nagar, Dehradun.

.....Respondents

Present: Sri L.K.Maithani, Counsel
for the petitioner
Sri Umesh Dhaundiyal, A.P.O
for the respondent no. 1
Sri Indrajeet Singh, Counsel
For the respondents no. 2 and 3

JUDGMENT

DATE: NOVEMBER 06, 2013

DELIVERED BY SRI V.K. MAHESHWARI, VICE CHAIRMAN (J)

1. The order passed on the representations of the petitioner on 05.12.2006 and thereafter, order passed on revision of the petitioner dated 30.07.2010 are under challenge in this petition.

2. The fact relevant for disposal of this petition is that Uttarakhand Transport Corporation consists of three wings namely, Administrative, Traffic and Workshop. The Clerks working in Administrative wings are known as Office Assistant Grade- I and II. Clerks working in Traffic wings are known as J.C /B.C. and Senior Clerks.

3. The petitioner was initially appointed on compassionate ground as J.C/B.C. in the year 1992. Soon after her appointment, she was attached with the office of Regional Manager and continued to work there in the capacity of Office Assistant Grade-II, which is on administrative wing. The petitioner claims the designation of Office Assistant Grade-II, on the basis of parity of some employees namely, Ajit Singh, Ram Lal Painuli and Vinay Kumar. The petitioner asserts that she is a similarly situated employee, therefore, she moved application to award a designation to her as Office Assistant Grade-II, but the same was dismissed vide the impugned order, revision against this order was also dismissed. It has further been stated that the working atmosphere in the wing of Traffic and workshop is also not congenial for the woman.

4. The petition has been opposed on behalf of the respondents and it has been stated that her prayer for change of post was rejected by the then Regional Manager, Dehradun on 28.4.1998 and the appeal against this order was also dismissed, even the revision made before the Chairman was also dismissed. The examples cited by the petitioner of Ajit Singh, Ram Lal and Vinay Kumar are not applicable in the case of the petitioner as they are not similarly situated persons. Moreover, their

designations have been changed in compliance of the order of the Court. It is further stated that the petitioner is not working as Office Assistant Grade-II, so the petition is devoid of merit and is liable to be dismissed.

5. A rejoinder affidavit and some other documents have been filed on behalf of the petitioner.

6. We have heard both the parties and perused the record carefully.

7. The only question involved in this petition is whether the service of any employee can be changed from one wing to another wing. In this regard, it has been contended on behalf of the respondents that its' not possible and at present, there is only one source of recruitment of the Office Assistant Grade-II i.e. by way of promotion of the Conductors. In support of this contention, an affidavit of Sri C.P. Kapoor has been filed and a copy of Office Memorandum dated 07.12.2001 (R-2) has been filed. On the other hand, it has been contended that this Office Memorandum is not applicable in the present case as it is related to the promotion of Conductors only. Considering the rival contentions of the parties, it becomes clear that some regulations are in force for regulating the services of the employees of the Uttar Pradesh State Road Transport Corporation other than the Officers, 1981, which does not bar the change of wing. It will also be pertinent to mention here that there is no difference of pay of the cadre of Office Astd. Grade-II and the J.C./ B.C.

8. It has been contended on behalf of the petitioner that wing of some of the employees have been changed by the directions

of the Court. We have gone through the facts of these employees, but that is not applicable to the present case.

9. However, considering the fact that in the present case the petitioner is a woman and has been remained attached for a long time in the administrative wing and it is also not clear as to whether the atmosphere in the workshop is congenial or not for women employees, we think it proper to direct the respondents to consider the case of the petitioner sympathetically, either to change her wing or to keep her attached in the administrative wing keeping in view her difficulties. The petition deserves to be disposed of accordingly.

ORDER

The petition is disposed of with the above direction, which should be complied with within three months. No order as to costs.

Sd/-

D.K.KOTIA
VICE CHAIRMAN (A)

Sd/-

V.K.MAHESHWARI
VICE CHAIRMAN (J)

DATE: NOVEMBER 06, 2013
DEHRADUN

KNP