

**UTTARAKHAND PUBLIC SERVICES TRIBUNAL DEHRADUN
BENCH AT NAINITAL**

Claim Petition No. 33/N.B./2009

1. Navin Chandra Pandey,
S/o Sri Harish Chandra Pandey
R/o Lohaghat, P/O Lohaghat,
District Champawat.

2. Vipin Chandra Joshi,
S/o Sri Rewadhar Joshi,
R/o Near Bus Station Berinag,
District Bageshwar.

3. Bishan Ram,
S/o Sri Tika Ram,
R/o Village Dungri, P/O Barechheena,
District Almora.

4. Kamal Singh Bisht,
S/o Sri Madan Singh Bisht,
R/o Village and Post Bajwar,
District Almora.

..... Petitioners

Versus

1. State of Uttaranchal through
Secretary, Ministry of Tourism,
Uttarakhand, Dehradun.
2. Managing Director,
Kumaon Mandal Vikash Nigam Ltd.,
Nainital.
3. Managing Director,
Kumaon Anusuchit Jan Jati Vikash Nigam Ltd.,
Nainital.
4. General Manager,
Kumaon Anusuchit Jan Jati Vikash Nigam Ltd.,
Nainital.

..... Respondents

Coram: Hon'ble Justice J. C. S. Rawat

..... Chairman

&

Hon'ble U. D. Chaube

..... Member (A)

Present: Sri A. D. Tripathi, Advocate for the petitioners.
Sri V.P. Devrani, A.P.O. for the respondent no. 1
None for the respondent nos. 2 to 4.

ORDER**DATE: 15-05-2013****Justice J. C. S. Rawat (Oral)**

This claim petition has been filed for seeking the following relief:-

- “(i) To quash the order dated 20-11-08 passed by respondent No. 1 contained in (Annexure no. 1) to this petition.
- (ii) To direct the respondent to pay the minimum of pay scale as has been paid to similarly situated employees of the nigram from 1-9-2007, with all consequential benefits including seniority of the post.
- (iii) To direct the respondent to absorb the rest of the employee of Jan Jati Nigram in the KMVN as it is a sister unit of the Kumaon Mandal Vikas Nigram.
- (iv) To pay the entire arrear of salary of the petitioner from September 2007 till dated.
- (v) Any other equitable reliefs as this Hon’ble Tribunal may deem fit and proper in the circumstances of the case.
- (vi) Cost of the petition may be awarded in favour of the petitioner.

2. We have heard the learned counsel for the parties.

3. Learned counsel for the petitioners has stated in his petition that Kumaon Anusuchit Jan Jati Vikas Nigram Ltd., Nainital is a Government organization and directly controlled by the State Government of Uttarakhand, through its Managing Director, as such, this petition has been preferred against the respondents. The petitioners are admittedly Class III employees in the aforesaid Nigram and they were appointed on different dates from 1987 to

1991. It was further alleged in this petition that the services of the petitioners were considered to be regularized by the Board of Directors of Kumaon Anusuchit Jan Jati Vikas Nigam Ltd. Nainital (hereinafter called the “Nigam”) and resolved in its 54 meetings held on January 19, 1994 to regularize the services of the daily wage on a consolidated salary. Thereafter, only the services of two co-employees Smt. Leela Rawat and Sri Vikram Singh Rana were regularized and they had been given pay scale according to their status. Pursuant to the resolution, rest of the employees have not been regularized by the respondents. In spite of repeated representations, the respondents have not paid any heed to the request of the petitioners, so this petition has been preferred by the petitioners.

4. This petition is contested on various grounds and respondents have denied all the allegations made in the petition. The respondents have also pleaded that this petition is not maintainable. Ultimately, the respondents have pleaded that the petition be dismissed

5. During the course of argument, Mr. A. D. Tripathi has conceded that except relief No. 3 out of all the relief mentioned above have been considered and have been granted by the respondents to the petitioners, so with regard to the above relief Nos. 1, 2, 4, 5 & 6 the petition of the petitioners has become infructuous.

6. The learned counsel appearing for the petitioners contended that the services of the petitioners had not been absorbed in Kumaon Mandal Vikas Nigam Ltd., Nainital, as Kumaon Anusuchit Jan Jati Vikash Nigam Ltd. is its sister concern and Nigam works and functions under the authority of the Kumaon Mandal Vikas Nigam Ltd. It was further contended that the petitioners have been treated as retrenched employees, even then the

respondents have not absorbed them in the Kumaon Mandal Vikas Nigam Ltd. It was further contended that in spite of repeated requests, the said prayer has not been allowed by the respondents to the petitioners.

7. At this stage, the learned counsel for the petitioners contended that now he wants to file a fresh petition for the relief No. 3 before the competent Labour Court where jurisdiction of this matter lies. He further prays that he may be granted a liberty to file a fresh petition on the same cause of action (indicating to the above relief No. 3 of this claim petition) before the competent authority. He further prays that delay in filing the petition may be condoned when the petition is filed before the competent court. The petition is dismissed as withdrawn with the above liberty. The competent authority may consider the pendency of the petition before this court, while condoning the delay. No order as to costs.

Sd/-

U. D. Chaube
Member (A)

Sd/-

Justice J. C. S. Rawat
Chairman

Date: - **15-05-2013**