

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

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

Claim Petition No. 114/DB/2021

Mahadev Prasad Uniyal, s/o Sri Shambhu Prasad Uniyal, r/o 14
Bigha, Muni Ki Reti, Rishikesh, District Tehri Garhwal.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Tourism, Government of Uttarakhand, Dehradun.
2. Managing Director, Garhwal Mandal Vikas Nigam Ltd., 74/1 Rajpur Road, Dehradun.
3. General Manager (Tourism), Garhwal Mandal Vikas Nigam Ltd., 74/1 Rajpur Road, Dehradun.

..... Respondents

Present : Sri Krishna Kumar Verma, Advocate, for the Petitioner
Sri V.P. Devrani, A.P.O., for the Respondent No. 1
Sri V.D. Joshi & Sri S.K. Jain, Advocates,
for Respondents No. 2 & 3

Judgement

Dated: 01st April, 2022

Mr. Rajeev Gupta (Oral)

Present claim petition has been filed seeking following reliefs:

“(i) To quash/ set aside the impugned order dated 01.12.2020 (Annexure-1) passed by respondent no. 2.

(ii) To direct the respondents not to make promotion of those 11 employees whose cadre was changed vide order dated 05.12.2016 (Annexure-5) during pendency of present claim petition.

(iii) To direct the respondents to change the cadre of claimant and he may be merged in tourism cadre w.e.f. 05.12.2016.

(iv) Any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. Brief facts as mentioned in the claim petition are as follows:

The petitioner was initially appointed on daily wages/contractual basis in Garhwal Mandal Vikas Nigam Limited (for short, 'GMVN') as Guide and *vide* order dated 30.10.2013, the respondents regularized the service of the claimant on the post of Office Assistant Grade-3 along with 93 other employees. Respondent GMVN, *vide* order dated 05.12.2016, changed the cadre of 11 employees out of the 93 employees to tourism cadre but the petitioner's various representations for change of cadre to tourism have not been accepted, though he possesses the eligibility for the same.

Vide impugned order dated 01.12.2020, the representation of the claimant has been rejected on flimsy grounds that after appointment there is no provision for change of cadre and no G.O. for the same is available according to office records.

Hence, the claim petition.

3. Counter affidavit has been filed on behalf of respondent no. 2 and 3 mainly stating that the cadre change of certain employees, *vide* order dated 05.12.2016, was done following the guidelines of office order dated 26.06.2008 and the employees, who possessed the desired qualification for tourism cadre, were considered at that time. The meeting of the committee constituted for cadre change was again convened. The name of the petitioner was also in consideration in this meeting. At that time because of non-availability of two members of this committee, the committee was re-constituted, which held its meeting on 14.11.2019. Keeping in view the decision, dated 02.12.2014, of Hon'ble High Court of Uttarakhand in Writ Petition No. 972/2010, Vijay Bhatt vs. Garhwal

Mandal Vikas Nigam Limited and others and that other similar claim petitions are pending before this Tribunal, the committee has postponed this policy matter.

4. A perusal of Annexure No. 8, which is a copy of the office note of GMVN, also reveals the same reason as is stated in the counter affidavit for not taking further action on the representations for change of cadre.

5. The Tribunal, however, observes that in the impugned order dated 01.12.2020 (Annexure No. 1), the GMVN states that there is no provision for cadre change and for the same, no G.O. is available.

6. The Tribunal also observes that the abovementioned order of Hon'ble High Court does not stop the consideration for the change of cadre of the petitioner and other employees and pendency of certain similar claim petitions before this Tribunal is also no ground for the GMVN for not taking action in this regard.

7. In view of the above, we hereby set aside the impugned order dated 01.12.2020 (Annexure No. 1) and direct the Board of Directors of GMVN to consider the representation of the petitioner for change of cadre in accordance with the same provisions which were considered for the change of cadre of 11 employees in 2016. This exercise may be completed within 3 months henceforth. The Tribunal also directs that promotions may be made in the tourism cadre of similarly situated employees only after the representation of the petitioner has been duly considered by the Board of Directors of GMVN.

8. The claim petition is accordingly disposed of. No order as to costs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: 01st April, 2022
DEHRADUN
RS