

**BEFORE THE UTTARAKHAND PUBLIC SERVICES
TRIBUNAL, BENCH AT NAINITAL**

Present : Sri V. K. Maheshwari

----- Vice Chairman (J)

&

Sri U.D. Chaube

----- Member (A)

CLAIM PETITION NO. 26/N.B./2011

Nanda Ballabh Paladiya, S/o Sri Tara Dutt Paladiya,
Office Assistant Grade-I, Uttarakhand Transport Corporation,
Ranikhet, District Almora.

.....Petitioner

VERSUS

1. State of Uttarkahand through Principal Secretary, Transport Department, Dehradun,
2. Uttarakhand Transport Corporation through Managing Director, 117, Indira Nagar, Dehradun,
3. Divisional Manager, Uttarakhand Transport Corporation, Nainital,
4. Deputy Manager, Personnel, Uttarakhand Transport Corporation, Head Office, Dehradun,
5. Bachchi Singh, Uttarakhand Transport Corporation Kathgodam, District Nainital,
7. Baldev Singh, Uttarakhand Transport Corporation Kathgodam, District Nainital,

.....Respondents

Present: Sri A.N. Sharma, Advocate for the petitioner.
Sri V.P. Devrani, A.P.O for the respondent no. 1
Mrs. Seema Sah, Advocate for the respondent nos. 2 to 4
None for the respondent nos. 5 & 6

JUDGMENT

DATE: April 03, 2014

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

The petitioner has challenged the seniority list dated 11.5.2011
(Annx A-2).

2. The facts in brief are that the petitioner had joined the Uttarakhand Transport Corporation on the post of Conductor on 9.11.1976 and was promoted firstly to the post of Office Assistant Grade-II and thereafter, to the post of Office Assistant Grade-I. It is further stated that the private respondent nos. 5 & 6 Mr. Bachchi Singh and Baldev Singh had also initially joined on the post of Conductor and they were also promoted to the post of Office Assistant Grade-II and thereafter Grade-I. The petitioner was senior to the private respondents, in the seniority list of Conductors, and of Office Assistant Grade II, issued by the respondents 2 to 4, the petitioner was correctly shown senior to the private respondent no. 5 Bachchi Singh and respondent no. 6 Baldev Singh, but after promotion to the post of Office Assistant Grade-I, the seniority of the petitioner has been disturbed and the petitioner has been placed below the private respondent nos. 5 & 6. The seniority list is Annexure A-2 which is under challenge and is illegal and de-hors the rules. The seniority of the petitioner should have been

maintained as per the initial cadre, therefore, the petitioner has requested for setting-aside the impugned seniority-list.

5. Petition has been opposed on behalf of the respondent nos. 2, 3, 4, 5 & 6 and it has been stated that the seniority of the petitioner to the post of Office Assistant Grade-1 had been fixed according to rules. It is further stated that the private respondent nos. 5 Bachchi Singh was promoted in Sports quota. It is further stated that showing the petitioner below the private respondent nos. 5 & 6 is not intended to show Bachchi Singh and Baldev Singh senior to the petitioner. Thus, the petition is stated to be devoid of merits and is liable to be dismissed.

6. Rejoinder affidavit has also been filed on behalf of the petitioner and facts stated in the claim petition have been reiterated.

7. We have heard Mr. A.N. Sharma, Advocate for the petitioner, Mr. V.P. Devrani, A.P.O. for the respondent no. 1 and Mrs. Seema Sah, Advocate for the respondent nos. 2 to 4 and perused the record available on record carefully.

8. It is admitted that the petitioner as well as the private respondent nos. 5 & 6 had joined the Uttarakhand Transport Corporation to the post of Conductor. Thereafter, a seniority list of the Conductor was issued on 30.6.1987. In that seniority list the petitioner was at Serial No. 207 private respondent no. 5 Bacchi Singh at Serial No. 211 while the private respondent no. 6 Baldev Singh was at Serial No. 294, a copy of the

seniority list has been filed by the petitioner which is Annexure A-3. Thus, the petitioner was clearly senior to the private respondent nos. 5 to 6.

9. After the promotion to the post of Office Assistant Grade-II, a new seniority list was issued and the petitioner was placed at Serial No. 22 while the private respondent nos. 5 & 6 were placed at Serial Nos. 23 and 25 respectively. The seniority list has also been filed on behalf of the petitioner which is Annexure-A 4. Thus, it becomes clear that in the seniority list of initial cadre and after first promotion the petitioner was senior to the private respondent nos. 5 & 6 and there is no dispute regarding these seniority lists.

10. After the second promotion to the post of Office Assistant Grade-I, the petitioner has been placed at Serial No. 27 while the private respondent nos. 5 & 6 have been placed at Serial Nos. 25 & 26. While the private respondent nos. 5 & 6 have been given seniority as against the petitioner is not clear, as per the rules 31 (2) (ii) of Uttar Pradesh State Road Transport Corporation Employees (apart from officers) Service Rules, 1981, the seniority of the officials shall be maintained as per the initial cadre. The above rule is quoted below:-

"31 (2) किसी श्रेणी के पदों में ज्येष्ठता ऐसी लगातार सेवा के दिनांक से अवधारित की जाएगी जिसके पश्चात् नियमित नियुक्ति हो गयी हो और यदि एक से अधिक व्यक्ति एक ही दिनांक को नियुक्त किये जाएँ तो उस कम से, जिसमें उनके नाम नियुक्ति के आदेश में रखे गये हों, अवधारित की जायेगी:

परन्तु—

(एक) सीधे भर्ती किये गये व्यक्तियों की परस्पर ज्येष्ठता वहीं होगी जो चयन के समय अवधारित हो और योग्यता सूची में उल्लिखित हो,

(दो) पदोन्नति द्वारा नियुक्त किये गये व्यक्तियों की परस्पर ज्येष्ठता वहीं होगी जो उस पद पर रही हो, जिससे उन्हें पदोन्नत किया गया हो,

(तीन) जहाँ नियुक्तियों एक ही श्रणी में एक ही दिनांक को पदोन्नति और सीधी भर्ती दोनों ही प्रकार से की जाए वहाँ ज्येष्ठता विनियम 23 के अनुसार व्यक्तियों के नामों को कमबद्ध करके अवधारित की जायेगी:

परन्तु यह और कि ऐसे कर्मचारियों की जो राज्य सरकार के कर्मचारी रहे हों, और जिन्होंने निगम के सेवा के लिए विकल्प किया हो, परस्पर ज्येष्ठता वहीं होगी जो राज्य सरकार के अधीन उनके मूल विभाग में रहीं हो या रही होती।”

Thus, according to abovementioned rules which is applicable to the parties even after the promotion the initial seniority of the litigating parties has to be maintained which is not done in the present case.

11. Apart from it, it is also clear that the respondent nos. 4 to 6 are not themselves clear as to why the private respondents have been placed senior to the petitioner rather they seem to be confused and para-9 of their counter it pertinent to be quoted which is quoted below:-

“9. That in para no. 4 (4) of the claim petition, it is stated that Sri Bachchi Singh Adhikari is promoted from Sports Quota, which is true, in respect of rest of the para it is stated that showing the petitioner below than Sri Bachchi Singh Adhikari and Sri Baldev Singh Office Assistant Grade-I in the seniority list is not intended to show Sri Bachchi Singh Adhikari/Sri Baldev Singh senior than the petitioner. The serial/place, as shown/placed in the seniority list to these three personnels in which inter-se seniority of these three personnels is shown/fixed according to the date of birth because

all these three personnel were appointed/promoted from their initial post to the post of Office Assistant-II on the same date i.e. 08.01.1991”

Thus, from the above facts, it becomes clear that in the initial cadre of Conductors the petitioner was senior to the private respondent nos. 5 & 6. This seniority is to be maintained even after the second promotion. The respondents have disturbed this seniority in the impugned seniority list which needs correction and thus the petition deserves to be allowed.

ORDER

The petition is allowed. The private respondent nos. 2 to 4 are directed to correct the impugned seniority list within a period of two months and place the petitioner above the private respondent nos. 5 & 6 according to the initial seniority list of Conductors. No orders as to costs.

Sd/-

U.D. CHAUBE
MEMBER (A)

Sd/-

V.K.MAHESHWARI
VICE CHAIRMAN (J)

DATE: April 03, 2014

B.K.