

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

**SUO MOTU RECALL**  
( *IN EXECUTION APPLICATION NO. 16/DB/2022* )

Rahul Channa & others.

.....Petitioners-executioners

**vs.**

1. State of Uttarakhand through Secretary, Department of Energy, Secretariat, Dehradun.
2. Uttarakhand Power Corporation Ltd. Gabar Singh, Urja Bhawan, Dehradun, through its Managing Director.
3. Director (H.R.), Uttarakhand Power Corporation Ltd., Gabar Singh, Urja Bhawan, Dehradun

.....Respondents.

Present: Sri L.K.Maithani, Counsel, for the petitioners-executioners.  
Sri V.P.Devrani, A.P.O., for the respondent no.1.  
Sri S.K.Jain, Advocate, for Respondents No. 2 & 3

**JUDGMENT**

**DATED: JULY 22, 2022**

**Justice U.C.Dhyani (Oral)**

It has come to the notice of the Tribunal that in Execution Application No.16/DB/2022, Rahul Channa and others vs. State and others, the petitioners have concealed some material facts, which have bearing on the merits of the execution application.

2. Those concealments are-

(i) In Claim Petition No. 01/NB/DB/2017, Rahul Channa & others vs. State and others, there were 38 respondents. Respondents No. 1 to 5 were

official respondents and Respondents No. 6 to 38 were private respondents. They were duly represented by their respective Counsel when the claim petition was decided by a Coordinate Bench of this Tribunal on 22.05.2019, as follows:

“The petition is disposed of with the direction that the petitioners may submit the copy of their objections before the department and its committee, constituted for settling the seniority, within a period of 15 days and the respondent department will decide their seniority finally, after considering the objections of the petitioners in accordance with the provisions of law, as expeditiously as possible and without finally settling the seniority of the Assistant Engineers, next promotional exercise should not be undertaken.”

The execution application was filed only with three official respondents. The names of the private respondents did not figure in the execution application. Resultantly, the Tribunal passed an innocuous order on 24.05.2022, as follows:

“ .....

5. It is the submission of Ld. Counsel for the petitioners-executioners that a copy of judgment dated 22.05.2019 was served along with the objections of petitioners in the office of Respondent No.2, on 04.06.2019. Approximately three years have elapsed since the copy of the judgment was served upon respondents, but till date compliance of the order of the Tribunal has not been done by the authority(ies) concerned.

6. It is the submission of learned counsel for the petitioners/executioners that casual approach on the part of the respondent no.2 should not be tolerated and strict action should be initiated against him. Earlier, on 17.05.2022 there was no representation before the Tribunal, for respondents no. 2 & 3, despite notices to them.

7. Considering the facts of the case, this Tribunal directs the Respondents No.2 & 3 to comply with the order dated 22.05.2019, passed by this Tribunal in Claim Petition No. 01/NB/DB/2017, Rahul Channa & others vs. State & others, if the same has not been complied with so far, without further loss of time, failing which the concerned respondents may be liable to face appropriate action under the relevant law governing the field.

8. Petitioners/ executioners are directed to place copies of this order before the Respondents No.2 & 3 by 03.06.2022, to remind that a duty was cast upon said authorities to do something, which has not been done. The same requires to be done now, without unreasonable delay.

9. Execution application is, accordingly, disposed of at the admission stage.

.....”

(ii) Petitioners have also concealed the facts that they have filed WPSB No. 476/2019, Rahul Channa & others vs. State and others before Hon’ble High Court against the judgment and order dated 22.05.2019,

passed by this Tribunal in Claim Petition No.01/NB/DB/2017, Rahul Channa & others vs. State and others. Petitioners filed stay application No. 13897/2019, praying for stay of order of the Tribunal. Such application was disposed of by Hon'ble Court vide order dated 10.12.2020.

3. The Tribunal would not have passed such an order, had it been in its notice that the petitioners have not arrayed private respondents [ which were parties in claim petition] in execution application. Order dated 24.05.2022 was passed as a result of concealment of material facts, in the execution application by the petitioners. The execution application, therefore, suffers from two vices, *viz*,

(a) Non-joinder of necessary parties and

(b) Non-disclosure of necessary facts/ concealment of material facts.

4. Had complete facts been brought before the Tribunal by the petitioners in execution application No. 16/DB/2022, the Tribunal would not have passed such an order on 24.05.2022 and, therefore, such order should be recalled in the interest of justice.

5. Order dated 24.05.2022, passed in Execution Application No. 16/DB/2022, Rahul Channa and others vs. State and others is hereby recalled.

**(RAJEEV GUPTA)**  
VICE CHAIRMAN (A)

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: JULY 22, 2022*  
*DEHRADUN*

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