

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

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

**WRIT PETITION (S/B) NO. 237 of 2021**

[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 74/NB/DB/2022]

Manoj Singh Bisht, aged about 38 years, s/o Shri Bhim Singh Bisht, r/o Shiv Puram Talla Himmatpur, P.O. Haripur Nayak, District Nainital, Uttarakhand, presently posted as Additional Assistant Engineer, Uttarakhand Jal Sansthan, Dehradun.

.....Petitioner

**Vs**

1. State of Uttarakhand through Secretary, Pey Jal, Govt. of Uttarakhand, Dehradun.
2. Chief General Manager, Uttarakhand Jal Sansthan, Jal Bhawan, B-Block, Nehru Colony, Dehradun.
3. Uttarakhand Public Service Commission through its Secretary, Office at Gurukul Kangari, Haridwar.

.....Respondents

Present: Sri Sumit Bajaj & Sri Saurabh Pandey, Advocates, for the Petitioner  
Sri Kishore Kumar, A.P.O. for the respondents No. 1 & 2  
Sri Ashish Joshi, Advocate for Respondent no. 3

**JUDGMENT**

**DATED: FEBRUARY 23, 2023**

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

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 07.09.2022 in WPSB no. 237 of 2021, Manoj Singh Bisht vs. State of Uttarakhand and others, which reads as under:

*"The relief sought in the present writ petition is as follows:-*

*"a) Issue a writ, order or direction in the nature of mandamus directing the respondents to grant promotion to the petitioner under the degree quota as per rule 6(3)(c) of the service rules 2011."*

*2. The petitioner is a government servant. The subject matter of the Writ Petition squarely falls within the jurisdiction of the Uttarakhand Public Services Tribunal.*

*3. Considering the fact that the petition has been pending since the year 2021, we transfer the record of present writ petition to the Tribunal for registration and consideration as a claim petition.*

*4. The Registry is directed to transmit the record without any delay.*

*5. The writ petition is disposed of accordingly.*

*6. In sequel thereto, all pending applications stand disposed of.*

2. The original record of the writ petition has been transferred to this Tribunal vide Letter No.12983/UHC/Service (S/B) 2022 dated 13.09.2022 of the Deputy Registrar (Judicial) of the Hon'ble High Court. The same has been registered as Claim Petition No. 74/NB/DB/2022. Since the reference in this Tribunal shall be of the writ petition filed before the Hon'ble High Court, but shall be dealt with as claim petition, therefore, the claim petition shall be referred to as 'petition' and petitioner shall be referred to as 'petitioner', in the body of the judgment.

3. The amendment was moved by the petitioner in the Hon'ble High Court, which was allowed vide order dated 07.07.2021. Accordingly, the amended petition has been filed by the petitioner. In the amended petition, the petitioner has sought the following reliefs:

*"a) Issue a writ, order or direction in the nature of mandamus directing the respondents to grant promotion to the petitioner under the degree quota as per rule 6(3)(c) of the service rules 2011.*

*a)(1) Issue a writ order or direction in the nature of Certiorari calling for records and quashing the communication/action dated 04.06.2020 (Annexure-5 to the writ petition) by which the name of the petitioner has been removed/excluded from the eligibility list prepared for the purposes of making promotion from the post of Junior Engineer to the post of Assistant Engineer.*

*a)(2) Issue a writ order or direction in the nature of mandamus commanding and directing the respondents to include the name of the petitioner in the eligibility list of promotion from the post of Junior Engineer to the post of Assistant Engineer and further be pleased to direct the official respondents to hold the review DPC to consider the case of the petitioner for promotion from the post of Junior Engineer to the post of Assistant Engineer under 7.33 quota as provided under Rule 6(3) (c) of the Service Rules 2011.*

*b) Issue any other order or direction which this Hon'ble Court may deem fit and proper in view of facts and circumstances of the case.*

*c) Award cost of the petition."*

4. A Supplementary Affidavit dated 11.12.2022 has been filed on behalf of the petitioner. Learned Counsel for the parties submitted that the Counter Affidavit is not required, in the view of the averments contained in the

Supplementary Affidavit. The paragraphs no. 2 and 3 of the Supplementary Affidavit are reproduced as below:

*"2. That the petitioner also filed a claim petition before the Hon'ble Uttarakhand Public Services Tribunal at Dehradun which was numbered as Claim Petition No 10/DB/2021 and the Hon'ble Tribunal vide Order dated 10 February 2021 disposed the claim petition with a direction to respondent No 1 to get the clarificatory order or amendment to the rules issued within a period of two months from the date of production of certified copy of order and further directed that the promotional exercise shall be subject to such decision of the government.*

*3. That now the department has forward the proposed amendment in the existing rule to the government by a memorandum dated 01-11-2021 after filing the present petition which was further transferred to this Hon'ble court and same is pending for the consideration before the respondent and in same the prior requisition has been abolished and hence the case of the applicant is covered by this amendment rules and the letter dated 01-11-2021 is annexed herewith and marked as Annexure No. SA-1 to this affidavit."*

5. Learned Counsel for the petitioner submitted that the department has forwarded the proposed amendment in the existing rules to the Govt., by a memorandum dated 01.11.2021, copy of which has been enclosed with the Supplementary Affidavit. He prayed that a direction may kindly be given to respondent no. 1 to take decision on the same, at the earliest, in accordance with law. Ld. A.P.O. has no objection to such innocuous prayer of Ld. Counsel for the petitioner.

6. Without prejudice to rival contentions, the petition is disposed of, by directing the respondent no. 1 to take decision on the proposed amendment in the existing rules, as forwarded by the department to the Govt. by a memorandum dated 01.11.2021, at the earliest, preferably within a period of 12 weeks from the date of production of certified copy of this order. No order as to costs.

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

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

DATED: FEBRUARY 23, 2023  
DEHRADUN.  
KNP