

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

CLAIM PETITION NO. 28/SB/2024

Sri Prabodh Kumar Ghildiyal.

.....Petitioner

vs.

1. State of Uttarakhand through its Secretary, Home, Secretariat, Uttarakhand, Dehradun.
2. Director General of Police, Uttarakhand Police Headquarter, Dehradun, Uttarakhand.
3. Inspector General, PAC Uttar Pradesh, Mahanagar, Lucknow-220006.

.....Respondents

Present: Dr. N.K.Pant, Advocate, for the petitioner.(online)
Sri V.P.Devrani, A.P.O., for the Respondent No.1.

JUDGMENT

DATED: APRIL 09, 2024

Justice U.C.Dhyani (Oral)

Although the petitioner has prayed for various reliefs in present claim petition, but when Ld. A.P.O. objected that those reliefs can only be granted by the Tribunal at Lucknow, Dr. N.K.Pant, Ld. Counsel for the petitioner submitted that a direction may kindly be given to Inspector General of Police (Personnel) Uttarakhand, for taking a reasoned decision, on letter dated 06.02.2024 written by I.G. Police, P.A.C., U.P., Lucknow to I.G. Police (Personnel), Uttarakhand, Dehradun, to which Ld. A.P.O. has no objection.

2. Ld. Counsel for the parties submitted that such an order may be passed by Single Bench of the Tribunal.

3. Inspector General of Police, P.A.C., U.P., Lucknow, has passed the impugned order dated 06.02.2024 on the request of Inspector General of Police (Personnel), Uttarakhand, in compliance of the decision taken by the Tribunal in Claim Petition No. 45/DB/2021, Sri Prabodh Kumar Ghildiyal vs. State of Uttarakhand and others, on 07.07.2023. Relevant paragraphs of such decision are reproduced herein below for convenience:

“21. The Tribunal has also observed above that the State of Uttar Pradesh has not been arrayed as party respondent in present claim petition. Anyway it is a trite law that the claim petition should not be dismissed for mis-joinder or non-joinder of necessary parties. We would have thought of arraying State of U.P. as necessary party but we are afraid that Tribunal in Uttarakhand would not have been in a position to give any direction to the authorities in the State of U.P., as has been held by the Hon’ble Supreme Court in Civil Appeal No. 3984/2012, State of Uttarakhand and another vs. Umakant Joshi and other connected civil appeals and by Hon’ble High Court of Uttarakhand in WPSB No. 102/2017, Dr. Kamaljeet Singh and another vs. State of Uttarakhand and others; and WPSB No. 71/2013, State of U.P. and another vs. Vinod Kumar Bahuguna.

22. At this stage of dictation, learned Counsel for the petitioner made an innocuous prayer that petitioner’s name may be sent by Uttarakhand PHQ to U.P. PHQ for considering his promotion in the manner similarly situated persons like Sri Pradeep Madhukar Godbole and Sri Anil Kumar Sharma were given promotion by U.P. PHQ. The Tribunal thinks that such innocuous prayer of the learned Counsel for the petitioner should be accepted inasmuch as it is a trite law that similarly placed persons should be treated similarly and not differently. If Sri Pradeep Madhukar Godbole and Sri Anil Kumar Sharma were given such benefits, the petitioner should also be given such benefit. In that case, the petitioner would be entitled to the benefit, not on the basis of notification dated 04.04.2006 but on the basis of parity, which was given to Sri Godbole and Sri Sharma. It is stated by learned Counsel for the petitioner that Sri Godbole and Sri Sharma were also working in the State of Uttarakhand, but were the employees of the Uttar Pradesh when they were given the benefit by the State of U.P., while working in the State of Uttarakhand. If that is the position, the petitioner has certainly been able to make out a case for consideration by the State of U.P. It has been mentioned by the petitioner in para 4(j) of the claim petition that Sri Pradeep Madhukar Godbole (serial no. 27) and Sri Anil Kumar Sharma (serial no. 36) working in the State of Uttarakhand, opted for erstwhile State of U.P., and got notional promotion from 31.12.2007 and 04.01.2008 respectively. Petitioner was allocated State of Uttarakhand only on 22.11.2014 (corrected on 05.11.2014). While the names of Sri Godbole and Sri Sharma were considered for service benefits, the petitioner was not considered for such benefits.

23. The claim petition is, accordingly, disposed of by making a request to Uttarakhand PHQ to send a reference to U.P. PHQ (and Secretary, Home, State of Uttar Pradesh), to consider the name of the petitioner for promotion in the cadre of State of U.P. w.e.f 04.04.2006, as he was the employee of the State of U.P. on such date. If such decision is taken by the State of U.P. in favour of the petitioner, his counterparts in the State of Uttarakhand should honour the same and grant service benefits to the petitioner provided others in the cadre of Uttarakhand Police are not adversely affected. No orders as to costs.”

4. Ms. Vimmi Sachdeva Raman, I.G. Police (Personnel), Uttarakhand wrote a letter to Addl. Director General of Police, PHQ, U.P. on 29.09.2023 (Copy: Annexure- A 1) for doing the needful in terms of the judgment and order dated 07.07.2023 of the Tribunal. I.G. Police, P.A.C., U.P. Lucknow, replied to the same by writing a letter to I.G. Police (Personnel), Uttarakhand on 06.02.2024 (Annexure: A-2) that the petitioner was an optee for State of Uttarakhand, he was allocated State of Uttarakhand, he was not eligible to appear in the selection process conducted by State of U.P., therefore, P.A.C. Headquarter, U.P., Lucknow, has nothing to do with the matter.

5. The substance of the letter dated 06.02.2024 (Annexure: A-2) is that no action is required to be taken by P.A.C. Headquarter, U.P., and decision, if any, has to be taken only by the Police authorities of the State of Uttarakhand.

6. It is in this backdrop, Ld. Counsel for the petitioner submitted that a direction be given to I.G. Police (Personnel), Uttarakhand, to take a decision on letter dated 06.02.2024, (Annexure: A-2) of I.G. Police, P.A.C., U.P., Lucknow.

7. Such innocuous prayer is worth accepting. A request should be made to Inspector General of Police (Personnel), Uttarakhand, to take a reasoned decision on the same.

8. The claim petition is disposed of, at the admission stage, with the consent of Ld. counsel for the parties, by making a request to Inspector General of Police (Personnel), Uttarakhand, to take an appropriate decision on letter dated 06.02.2024, (Annexure: A-2) of I.G. Police, P.A.C., U.P., Lucknow, as per law, within four months of presentation of certified copy of this order. No order as to costs.

9. Rival contentions are left open.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: APRIL 09, 2024.
DEHRADUN