

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

CLAIM PETITION NO. 40/SB/2024

1. Dharmendra Singh Bhandari, aged about 46 years, s/o Sri Prithvi Singh, Village Development Officer, Doiwala, Dehradun, Uttarakhand.
2. Kirtan Singh Botola, aged about 45 years, s/o Sri Saman Singh, Village Development Officer, Doiwala, Dehradun, Uttarakhand.
3. Mahesh Chand Buriyal, aged about 44 years, s/o Sri Indra Lal, Village Development Officer, Ukhimath, Rudraprayag, Uttarakhand.
4. Bhanu Prasad Thapliyal, aged about 46 years, s/o Sri Devanand, Village Development Officer, Jakhnidhar, Tehri Garhwal, Uttarakhand

.....Petitioners

vs.

1. State of Uttarakhand through Secretary Rural Development Department, Dehradun.
2. Commissioner, Rural Development Department, Pauri, Uttarakhand.
3. District Development Officer, Rural Development Department, Rudraprayag/ Chamoli.

.....Respondents

Present: Dr. N.K.Pant, Advocate, for the petitioners.(online)
Sri V.P. Devrani, A.P.O. for the State Respondents.

JUDGMENT

DATED: MAY 29, 2024

Justice U.C.Dhyani (Oral)

By means of present claim petition, petitioners seek the following reliefs:

“(1) Issue an order or direction calling for the record and quashing the amended order dated NIL/01/2024 as per which the respondent no 2 has set aside its own order dated 20.02.2023 after a lapse of one year.

(ii) Issue an order or direction calling for the record and quashing the circular/ letter bearing no 2644 dated 15.02.2024 issued by respondent no 2.

(ii) Issue an order or direction calling for the record to the respondents to fix the seniority of the Village Development Officers of District Rudraprayag to that of the Village Development Officers District Uttarkashi as well as District Chamoli as they have undergone the training on same dates i.e. 01.07.1999 27.07.1999.

(iv) Issue any suitable order or direction which this Hon'ble Trib may deem fit and proper in the circumstances of the case.

(V) Award the cost of claim petition to the Petitioner.”

2. Dr. N.K.Pant, Ld. Counsel for the petitioners assailed the impugned amended order dated 15.02.2024, issued by the Commissioner, Rural Development, Uttarakhand (Annexure: A-12), *inter alia*, on the ground that order dated 20.02.2023 (Annexure: A-11), issued by the selfsame authority, was cancelled without affording opportunity of hearing to the petitioners. According to Ld. Counsel for the petitioners, whereas opportunity of hearing was given to the petitioners while issuing the order dated 20.02.2023 (Annexure: A-11), no opportunity of personal hearing was given while cancelling and issuing the amended order on 15.02.2024 (Annexure: A-12).

3. Ld. Counsel for the petitioners drew attention of the Court towards Section 5(1)(a) of the Uttar Pradesh Public Services (Tribunal) Act, 1976 (as applicable to Uttarakhand), to submit that the Tribunal shall be guided by the principles of natural justice, therefore, the Commissioner, Rural Development, Uttarakhand, Respondent No.2, should be directed to afford opportunity of personal hearing to the petitioners before passing any order. In reply, Sri V.P.Devrani, Ld. A.P.O. submitted that opportunity of hearing was given to the petitioners, although opportunity of personal hearing was not given to them while issuing the impugned order dated 15.02.2024 (Annexure: A-12). Ld. A.P.O. also submitted that no prejudice has been caused to the petitioners even if the opportunity of personal hearing was not given to them.

4. The Tribunal is of the view that once an order was passed after giving opportunity of personal hearing to the petitioners, accruing certain legal rights in their favour, the same should not be cancelled without affording proper opportunity of hearing to them. Order dated 15.02.2024 (Annexure: A-12) appears to have been passed in violation of principles of natural justice.

5. Ld. Counsel for the petitioners further submitted that promotional exercise for promotion against the vacant posts of Assistant Block Development Officer for selection year 2023-24 be stayed till a fresh decision is taken by Respondent No.2, to which Ld. A.P.O. submitted that in a similar matter in Claim Petition No. 13/DB/2020, Mahabir Vikram Singh vs. State of Uttarakhand and others, the Tribunal *vide* order 29.06.2021 has directed that:

“.....The Tribunal, in the aforesaid circumstances, would have put stay on DPC, but for the reason that the stay might hamper future prospects of those who are eligible to be considered for promotion to the posts of Assistant Block Development Officer, is not passing such order.

It is, however, directed, at this stage, that promotion to the post of Assistant Block Development Officer shall be subject to final decision of present claim petition.”

6. The Tribunal, in the circumstances, does not feel it proper to stay the ongoing promotional exercise for promotion against the vacant posts of Assistant Block Development Officer for selection year 2023-24, till fresh decision is taken by Respondent No.2 in the matter. Otherwise also, as per Section 5 (5-A) of the Uttar Pradesh Public Services (Tribunal) Act, 1976 (as applicable to Uttarakhand), no interim order (whether by way of injunction or stay or in any other manner) shall be passed by the Tribunal on or in any proceedings relating to any reference unless-

(a) copies of such reference and application for interim order, along with all documents in support of the plea for such interim order are furnished to the party against whom such petition is filed, and

(b) at least fourteen days, time is given to such party to file a reply and opportunity is given to it to be heard in the matter.

7. Ld. Counsel for the parties submitted that if the Court observes that opportunity of personal hearing ought to have been given to the petitioners before issuing the impugned order dated 15.02.2024 and a direction is given to Respondent No.2 to afford them a proper opportunity of hearing, the same may be given by Single Bench of the Tribunal.

8. **The claim petition is disposed of, at the admission stage, with the consent of Ld. counsel for the parties, by directing Respondent No.2, to afford opportunity of personal hearing to the petitioners, as per law, if the respondents have any inclination or there is anything in their mind which might culminate into cancellation of order dated 20.02.2023 (Annexure: A-11). Amended order dated 15.02.2024 (Annexure: A-12) shall abide by fresh decision thus taken by Respondent No.2. No order as to costs.**

9. Rival contentions are left open.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MAY 29, 2024.
DEHRADUN

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