

Dated: 03.05.2023

(virtual)

Present: Sri D.S. Mehta, Advocate, for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents no. 1 and 2
Dr. N.K. Pant, Advocate, for respondents no. 3 to 17

Heard arguments of learned Counsel for the parties at some length.

Clarification is sought on the following points:

- (i) What are the criteria for deciding the seniority after PTC training for directly recruited platoon commanders. Is it based only on the marks obtained in the PTC training or is it based on the seniority as determined in the selection process before the PTC training or is it based on both ?
- (ii) What were the marks obtained by the petitioner and the private respondents in the initial selection process and what was their relative seniority according to those marks?
- (iii) If the marks obtained in the PTC training by the petitioner are higher then why are they being kept at a lower position in the seniority list?

Parties may file information available with them on these points by way of affidavit by 25.05.2023.

List on 25.05.2023.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

Dated: 24.03.2023

Present: Sri Uttam Singh, Advocate, for the petitioners
Sri V.P. Devrani, A.P.O. for the respondents no. 1

Present claim petition has been filed by the petitioners, as per the liberty granted to them by Hon'ble High Court of Uttarakhand on 13.03.2023 in WPSB No. 646/2022, which order reads as below:

“When the writ petition was heard by this Court on 23.11.2022, the following order was passed :

“Mr. Sandep Tiwari, learned counsel for the petitioner.

Mr. Pradeep Joshi, learned Additional Chief Standing Counsel for the State-respondent nos. 1 to 4.

The petitioner is an association of public servants / officers serving in the department of Horticulture and Food Processing. They have preferred the present writ petition to assail certain government orders, as being discriminatory. They have also assailed the seniority list dated 11.10.2022, issued by respondent No. 2.

It appears to us that the claims made by the petitioner on behalf of public servants, can be raised before the Uttarakhand Public Services Tribunal constituted under the Uttar Pradesh Public Services (Tribunal) Act, 1976.

The submission of learned counsel for the petitioner is that, since the petitioner is an association, the petitioner association cannot maintain the claim petition before the said Tribunal, as only a person who is, or has been a public servant, can maintain a claim petition and the association, by itself, is not a person, who could be described as a public servant.

Prima facie, we have difficulty in accepting this line of argument.

Learned counsel for the petitioner seeks an adjournment to place before us case law in this regard.

At his request, list this case on 29.11.2022.”

2) Learned counsel for the petitioner has placed reliance on the following orders delivered by the Uttarakhand Public Services Tribunal, Bench - Nainital :

(a) Claim Petition No. 84/NB/DB/2020, Public Works Department Regular Work Charge Employee Union, Uttarakhand through its President, Sri Satish Chandra Vs State of Uttarakhand and another, decided on 15.12.2020.

(b) Claim Petition No. 146/NB/SB/2022, Uttarakhand Van Beat / Van Arakshi Sangh, Uttarakhand, Derhadun, through its President Sri Harsh Vardhan Gariya Vs State of Uttarakhand and others, decided on 28.11.2022.

3) We have perused these orders. We are of the view that the Tribunal is absolutely wrong in holding that a claim petition cannot be maintained on behalf of an association of persons,

who, otherwise, are entitled to maintain their claim petition before the Tribunal. Merely because they have organized themselves by forming an association to pursue their common cause, it does not mean that the Tribunal loses its jurisdiction to deal with the claim filed before the Tribunal by the association. At the same time, it would be necessary that, apart from the association, some individuals, who may be office bearers of the association, are also impleaded as party claimants along with the association.

4) We, accordingly, dismiss this petition with liberty to the petitioner to approach the Tribunal along with its office bearers.”

Following reliefs have been sought in present claim petition:

“(i) To quash the impugned order dated 07.01.2022 passed by respondent no. 1 being Annexure No.-1.

(ii) To quash the impugned order dated 01.02.2022 passed by respondent no.2 being Annexure No.-2.

(iii) To quash the impugned order dated 11.10.2022 issued by respondent no. 2 being Annexure No.-3.

(iv) To issue an order or direction to respondent to restore the Horticulture Development Branch as per Government Order dated 03.11.2016.

(v) Issue any order or further, order or direction which this Hon’ble Tribunal may deem fit and proper in the circumstances of the case.

(vi) To award the cost of petition in favour of the petitioner and against the respondents.”

Heard.

Admit.

Learned A.P.O. accepts notice on behalf of respondent no. 1. He seeks and is granted 8 weeks’ time to file C.A./ W.S.

In addition issue notices to official respondents no. 2, 3 and 4, as also private respondents no. 5 to 25, for which steps shall be taken by the petitioners within a week. Notices shall be returnable on or before 23.05.2023, on which date the respondents may file their C.A.s/W.S.s.

Interim relief is pressed by Sri Uttam Singh, learned Counsel for the petitioners.

Learned A.P.O. seeks at least 14 days’ time to file objections to the interim relief, in view of Section 5(5-A)(b) of the U.P. Public Services (Tribunal) Act, 1976.

Issue notices to respondents on interim relief. Steps shall be taken by the petitioners within 3 days. Respondents may file their objections on or before 18.04.2023.

List on 18.04.2023 for hearing on interim relief and objections thereon.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
[virtually from Nainital]
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 12.04.2023

Present: Sri S.C. Virmani (online) and Sri S.K. Jain, Advocates,
for the petitioner no. 1
Sri Amar Murti Shukla, Advocate, for petitioner no. 2
(online)
Sri V.P. Devrani, A.P.O. and Sri Kishore Kumar, A.P.O.
(online)
for the respondents
Sri Subhash Upadhyay, Advocate, for Ms. Latika Singh
and Sri Vijay Deorari (online)

Sri S.K. Jain, learned Counsel for Ms. Priyanka Singh (petitioner no. 1 in claim petition no. 67/NB/DB/2022, submitted that copies of the application filed on 06.04.2023 have been supplied to Sri Kishore Kumar, Sri V.P. Devrani, Sri Subhash Upadhyay and Sri Amar Murti Shukla, learned Counsel for Sri Deepak Purohit (petitioner of claim petition no. 91/DB/2022).

Sri S.K. Jain has filed a ruling and synopsis of arguments. Sri S.K. Jain is requested to supply the copies of this ruling and synopsis of arguments also to learned Counsel for the parties whose names have been indicated above.

Division Bench is not available.

List on the date already fixed.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 26.09.2023

(virtual)

Present: Sri B.B. Naithani, Advocate, for the petitioner
Sri V.P. Devrani, A.P.O., for the respondents

On 01.08.2023, the Tribunal passed the order as follows:

“Separate objections have been filed by Ld. A.P.O. on behalf of Respondent No.2 and Respondent No.5. Such objections are taken on record. Copies of the same have been supplied to Ld. Counsel for the petitioner.

In the written objections thus filed, it has been mentioned that provisional pension to the petitioner has been resumed. Ld. Counsel for the petitioner admitted that the provisional pension to the petitioner has been resumed.

Ld. Counsel for the petitioner further submitted that the petitioner is seeking stay of recovery from him. He has retired from service on 31.11.2006. He was Senior Supply Inspector and holding charge of District Supply Officer, Chamoli.

Ld. Counsel for the parties stated that they will cooperate the Tribunal in deciding the claim petition for which the respondents are ready to file C.A./W.S. on 13.09.2023. R.A. thereto shall be filed by Ld. Counsel for the petitioner by 22.09.2023 and the claim petition shall be finally heard on 25.09.2023.

Considering the peculiar facts of the case, it is directed as an interim measure that no recovery shall be made from the petitioner from his retiral dues (Pension) till 25.09.2023, on which date the claim petition shall be heard finally.

Interim relief application thus stands disposed of.

List on 25.09.2023 for final hearing.”

On 25.09.2023, the Tribunal recorded the following order:

“C.A./W.S. on behalf of Respondents No. 2 & 3 and Respondents No. 4 & 6 has already been filed. Today, Ld. A.P.O. has filed C.A./W.S. on behalf of Respondent No.5. C.As./W.Ss. thus filed are taken on record.

Although the petition is listed for final hearing, but Ld. Counsel for the petitioner wants to file R.A. to the C.A. filed on behalf of respondents. Therefore, the petition cannot be heard finally, instead the Tribunal will hear the parties on interim relief, for which Ld. Counsel for the petitioner seeks time.

List on 26.09.2023 for hearing on interim relief and objections thereon, on the request of Ld. Counsel for the petitioner.”

Interim order was, therefore, passed on 01.08.2023, which was effective till 25.09.2023, on which the claim petition was

proposed to be heard finally but could not be heard inasmuch as the petitioner wants to file R.A. to the C.A. filed on behalf of the respondents. Division Bench will not be available in immediate future, therefore, the Bench heard learned Counsel for the parties on interim relief application which is vehemently opposed by Sri V.P. Devrani, learned A.P.O. Learned A.P.O. submitted that it is a case of embezzlement and therefore the decision rendered by Hon'ble Apex Court in State of Punjab & others vs. Rafiq Mashi, 2015(4) SCC 334, shall not be applicable to the petitioner.

Learned Counsel for the petitioner on the other hand took the Bench through the facts of the case and grounds taken in support of reliefs in the petition. The Tribunal does not think it necessary to reproduce those grounds, for they are part of record.

Impugned order has been issued on 09.01.2023 (Annexure: A1). A sum of Rs. 8,05,375.20/- has been directed to be recovered from the pension/ remaining dues of the petitioner. An action has been taken pursuant to the enquiry report dated 14.08.2012 of enquiry officer/ Regional Food Controller, Kumaon Region, Haldwani, who submitted the documents to the Govt. to take final decision. Uttarakhand Public Service Commission gave consent for doing so. Petitioner is retired Senior Supply Inspector and in-charge District Supply Officer, Chamoli. He retired on 30.11.2006

after attaining the age of superannuation. Incident allegedly took place between 29.11.2005 and 20.09.2006. The allegation, according to letter dated 28.11.2006 (Annexure: A3/1) sent by Regional Senior Finance Officer (Food) to District Supply Officer, Chamoli, was that during the year 2005-06, food grains sent from Base Godown, Haldwani, were not received till 20.09.2006 in Tharali Godown. It has been mentioned in such letter dated 28.11.2006 that non-receipt of food grains in Tharali Godown within a year of November, 2005, is indicative of the fact that it is embezzlement. In this way, a case of 2005-06 was enquired into

and the enquiry report was submitted on 14.08.2022 to the Govt., who has taken the impugned action after taking consent of Public Service Commission on 09.01.2023, which is under challenge in present claim petition. As has been stated above, petitioner retired on 30.11.2006.

Learned Counsel for the petitioner placed the copy of Civil Service Regulations to indicate that present case of the petitioner is not covered by Rule 351-A of Civil Service Regulations, which reads as below:

“351-A The Governor reserves to himself the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if the pensioner is found in departmental or judicial proceedings to have been guilty of grave mis-conduct, or to have caused pecuniary loss to government by misconduct or negligence, during his service, including service rendered on re-employment after retirement:

Provided that—

- (a) such departmental proceedings, if not instituted while the officer was on duty either before retirement or during re-employment-
 - (i) shall not be instituted save with the sanction of the Governor,
 - (ii)
 - (iii)

Explanation- For the purpose of this article-

- (a) departmental proceedings shall be deemed to have been instituted when the charges framed against the pensioner are issued to him, or, if the officer has been placed under suspension from an earlier date, on such date; and

.....”

In reply, learned A.P.O. submitted that the petitioner has caused pecuniary loss to the Govt. and therefore, the impugned recovery order has rightly been passed against the petitioner.

All the above noted submissions will be considered by the Tribunal at the time of final hearing of the claim petition. The Tribunal has *vide* its order dated 01.08.2023 issued interim order, which in the peculiar facts of the case requires to be extended for a period of three months, whereafter an effort shall be made to hear the claim petition finally. Interim order dated 01.08.2023 is therefore extended till 22.12.2023.

List on 20.10.2023 for filing R.A.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 07.07.2023

Present: Sri Abhishek Chamoli, Advocate, for the petitioner
Sri V.P. Devrani, A.P.O., for the respondents

Petitioner, Sri Brahampal Singh, is also present in person.

It is the submission of learned A.P.O. that petitioner has been paid gratuity on the basis of service rendered by him in work charge establishment *w.e.f.* 1997 to 2009 in view of the judgement rendered by Hon'ble Apex Court in Civil Appeal 6798/ 2019 and SLP No. 4371/2011, Prem Singh vs. State of U.P. and others; and subsequent G.O. dated 04.02.2020. Petitioner became regular employee in the year 2009 and retired in 2015. Thus the entire retiral dues including gratuity, leave encashment etc. from 1997 to 2015 have been released in favour of the petitioner.

So far as the service rendered in muster roll is concerned, it is the submission of learned A.P.O. that there is no entry in the service book to suggest that the petitioner has worked in muster roll establishment as muster roll employee from 1975 to 25.04.1993. Learned A.P.O. further submitted that the petitioner worked as daily wagger employee from 25.04.1993 to 15.07.1997, as per service record.

It is the submission of learned Counsel for the petitioner that the petitioner worked as Work Supervisor from 1975 to 1997 in muster roll establishment. Thereafter, in 1997, the petitioner was promoted to work charge establishment. The petitioner was not paid 106 days' leave encashment after calculating his service in work charge establishment and thereafter gratuity for the period from 1975 to 1997 was not included while releasing the retiral dues. Thus, learned Counsel for the petitioner prayed that the service rendered by the petitioner from 1975 to 1997 as muster roll employee should be included with work charge and regular service for the purpose of calculation of gratuity. Although petitioner has been paid leave encashment for 194 days but the remaining leave encashment of 106

days rendered under work charge establishment has not been paid to him. Service of work charge should be counted with regular service for calculation of leave encashment of remaining 106 days.

In reply, learned A.P.O. submitted that leave encashment is admissible only on the basis of substantive service rendered by the employee.

In para 6 of the counter affidavit filed by Sri Harshit Kumar, Executive Engineer, Infrastructure Division, Dakpatthar, Dehradun, it has been stated that there is no record available regarding muster roll services rendered by the petitioner. Moreover, there is no entry in the service book regarding the same.

Learned Counsel for the petitioner, therefore, offered to file documents to show that the petitioner has rendered services under muster roll from 1975 to 1997. It is admitted to the respondents that the petitioner has served under daily wage establishment from 1993 to 1997 as semi skilled beldar.

Petitioner is, therefore, directed to file documents in support of his claim that he has worked under muster roll establishment from 1975 to 1997 along with rejoinder affidavit. The same may be done by 28.07.2023.

List on 28.07.2023.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 16.06.2023

(virtual)

Present Sri Dharmendra Barthwal, Advocate, for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

Hon'ble High Court of Uttarakhand has been pleased to passed an order on 12.06.2023 in WPSB No. 281 of 2021, Khushal Singh Rawat vs. State of Uttarakhand and others, which (order) reads as under:

“Urgency application (IA No.03 of 2023) is taken up and disposed of

2. The matter is taken up on board.

3. The relief sought by the petitioner in the present writ petition squarely falls for consideration within the jurisdiction of the Uttarakhand Public Services Tribunal, since the petitioner was a public servant.

4. Since the writ petition has remained pending since the year 2021, and the counter-affidavit has been filed by respondent no.4, we direct the Registry to transmit the record of the present writ petition to the Tribunal, at its Nainital Bench, forthwith to be registered as a claim petition.

5. We request the Tribunal to expedite the hearing of the present petition considering the fact that the petitioner is a retired person.

6. The writ petition is disposed of accordingly.”

The original record of the writ petition has been transferred to this Tribunal *vide* letter no. 9472 UHC/ Service Section (S/B)/ PST/ Nainital dated 15.06.2023 of the Deputy Registrar

(Judicial) of the Hon'ble High Court of Uttarakhand. The same has been registered as 90/NB/DB/2023.

List on 27.06.2023 on the request of learned Counsel for the petitioner.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 03.11.2023

Present: Ms. Neetu Singh, Advocate, for the petitioner (online)
Sri V.P. Devrani, A.P.O., for the respondents

List on 22.12.2023 on the request of learned Counsel for the
petitioner.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 08.08.2023

Present: Sri Abhishek Chamoli, Advocate, for the petitioner
Sri V.P. Devrani, A.P.O. for the respondents

Heard arguments of learned Counsel for the parties at some length.

This Tribunal desires clarifications on the following points:

- (i) The pay grade of the post of Deputy Commissioner was revised to Rs. 8700/- in 2010. At that time, the principals of E.T.C. were also eligible to be promoted on the post of Deputy Commissioner and as such Deputy Commissioner was a promotional post for the petitioner as well. In compliance of the Finance Department G.O. dated 06.11.2013, the petitioner should have been sanctioned the grade pay of the post of Deputy Commissioner, which was Rs. 7600/- earlier but revised to Rs. 8700/- *vide* G.O. No. 572 dated 03.05.2010 as mentioned in para 4 of the impugned order dated 26.10.2020 (Annexure No. 13 to the petition). However, para 4 of this order states that the 3rd A.C.P. of the petitioner was due on 01.09.2008 and it was

given to him with grade pay of Rs. 7600/-, which was the then grade pay of promotional post of Deputy Commissioner. When this grade pay had been modified to Rs. 8700/- *vide* G.O. dated 03.05.2010, this modified grade pay should have been sanctioned to the petitioner as 3rd A.C.P. *w.e.f.* 01.11.2013 according to the G.O. dated 06.11.2013. The respondent-department may clarify through an affidavit why the same was not done.

- (ii) *Vide* G.O. dated 02.01.2017, Sri G.S. Khati and A.K. Rajput were given grade pay of Rs. 8700/- *w.e.f.* 11.08.2015 or from the date of taking over charge. This was done to remove the pay anomaly of the posts of

Deputy Commissioner. This implies that if the posts of Deputy Commissioner for the training cadre had been available earlier, their grade pay would have been revised to Rs. 8700/- *w.e.f.* 2010 itself. The claim of the petitioner cannot be denied on the ground that this grade pay revision of Rs. 8700/- has been done in 2015. Therefore, the argument taken in para 7 of the counter affidavit filed on behalf of respondent no. 2 that Sri G.S. Khati and Sri A.K. Rajput were promoted *vide* order dated 11.08.2015 on the post of Deputy Commissioner in grade pay Rs. 7600/-, which was subsequently revised to Rs. 8700/- and hence the grade pay of Rs. 8700/- cannot be made applicable to the petitioner does not hold ground. The respondent-department may also submit clarification on this point also.

- (iii) During arguments, learned A.P.O. submitted that on the posts of grade pay Rs. 8700/- and above, promotions are made on the basis of merit and such posts are excluded from consideration for the purpose of A.C.P. *vide* G.O. dated 28.11.2017. The contention of learned Counsel for the petitioner is that according to the Service Rules of 1991, which are still applicable to the training cadre the criteria for promotion to the post of Deputy Commissioner is seniority subject to rejection of unfit. Learned A.P.O. submits that this criterion was applicable when the grade pay of the post of Deputy Commissioner was Rs. 7600/- and when the grade pay of the

post was revised to Rs. 8700/-, the criterion has been changed to seniority-cum-merit in the year 2011 itself. Parties may submit their averments in the form of affidavits on this point also.

List on 06.09.2023 for clarifications/ affidavits as above.

Let a copy of this order be supplied to learned A.P.O. for onward submission to respondent-department.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 10.06.2024

Present : Sri M.C. Pant (online), Sri Abhishek Chamoli and
Sri Abhishek Pant, Advocates, for the petitioner
Sri V.P. Devrani, A.P.O. for the State Respondents

Learned Counsel for the petitioner submitted that the petitioner does not want to file R.A. Opportunity to file R.A. is, therefore, closed.

List on 11.06.2024 for final hearing.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 14.08.2024

(virtual)

Present : Sri B.D. Upadhyaya, Senior Advocate, assisted by
Sri Tushar Upadhyay, Advocate, for the petitioner
Sri Kishore Kumar, A.P.O. for the State respondents

List on 23.08.2024 on the request of learned Counsel for the
petitioner.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 16.07.2024

Present: Sri B.B. Naithani, Advocate, for the petitioners
Sri V.P. Devrani, A.P.O. for the respondent no. 1
Sri Manish K. Singh, Advocate, for respondent no. 2 & 3

Objections against the amendment application and supplementary affidavit have been filed on behalf of respondents no. 2 and 3 by Sri Manish Kumar Singh, Advocate. Such objections are taken on record.

Sri B.B. Naithani, learned Counsel for the petitioners submitted that he will file reply to the objections. He may do so on or before 14.08.2024. The date has been fixed on the request of Sri B.B. Naithani, learned Counsel for the petitioners.

List on 14.08.2024 for further orders.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 22.08.2024

(virtual)

Present : Sri S.S. Yadav, Advocate, for the petitioner
Sri Kishore Kumar, A.P.O. for the State respondents
Sri N.S. Pundir, Advocate, for respondents no. 3 & 4

List on 28.08.2024 for hearing, on the request of learned
Counsel for the respondents no. 3 & 4.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 21.02.2023

Present: Ms. Shruti Joshi, Advocate, for the petitioner (online)
Sri V.P. Devrani, A.P.O. for the respondent no. 1

Ld. A.P.O. objected to the maintainability of the claim petition on the ground of delay.

The delay in filing the claim petition is covered by the judgment of Hon'ble Supreme Court dated 10.01.2022, passed on Misc. Application No. 21 of 2022 in *Suo Motu* Writ Petition (CIVIL) No(s).03/2020, on account of pandemic Covid-19.

Para 5 of the judgment is quoted hereinbelow for convenience:

“5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:

I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of

Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.”.

The delay, if any, in filing the claim petition is, therefore, condoned.

Admit.

Learned A.P.O. accepts notice on behalf of respondent No. 1. He seeks and is granted 6 weeks' time to file C.A./W.S.

In addition, issue notices to respondents no. 2 to 4 for filing C.A./W.S by registered post acknowledgement due. Steps shall be taken by the petitioner within three days. Notices shall be returnable on 18.04.2023.

List on 18.04.2023 for filing C.A./ W.S.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 20.10.2023

Present: Sri P.C. Gautam, petitioner along with
Sri M.S. Rawat, Advocate, for the petitioner (online)
Sri V.P. Devrani, A.P.O., is assistance of the Tribunal
Dr. N.K. Pant, Advocate, for Uttarakhand Pey Jal
Sansadhan Evam Vikas Nigam

Dr. N.K. Pant, learned Counsel for Uttarakhand Pey Jal Sansadhan Evam Vikas Nigam informed learned A.P.O., in his whatsapp, that a sum of Rs. 10 lakhs has been paid to Sri P.C. Gautam, petitioner. When Dr. Pant was contacted on his mobile phone, he submitted that he is away in Nainital.

He seeks and is granted time upto 30.10.2023 to file replies on behalf of alleged contemnor.

List on 30.10.2023.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 31.10.2023

Present: Sri Abhishek Chamoli, Advocate for the petitioner
Sri V.P. Devrani, A.P.O., for the respondents

Claim Petition No. 96/SB/2021, Manoj Sirola vs. State of Uttarakhand and others, was decided by this Tribunal *vide* order dated 01.03.2023.

Last two paragraphs of the aforesaid judgement are reproduced herein below for convenience:

“9. Without prejudice to rival contentions, the claim petition is disposed of by giving liberty to the petitioner to submit an application for revision to the Authority next in rank above by which his appeal has been rejected, within four weeks from today. The delay in filing such application is condoned in the interest of justice [Section 5 of the Limitation Act, 1963 applies to the applications also].

10. If such revision is filed by the petitioner, within the aforesaid period, the competent authority shall decide the same without unreasonable delay, in accordance with law. No order as to costs.”

It is the submission of Sri Abhishek Chamoli, learned Counsel for the petitioner, that the application for revision to the competent authority was given late and therefore, the revisional authority returned the application, which is causing great inconvenience to the petitioner. Learned Counsel for the petitioner submitted that there were some unavoidable circumstances due to which the revision could not be filed on time although the delay in filing such application was condoned by the Tribunal in the interest of justice.

The Tribunal had directed that if the revision is filed by the petitioner within 4 weeks (from 01.03.2023), the competent authority shall decide the same, in accordance with law.

Learned A.P.O. has no objection, if the time to file the revision is extended.

Considering the hardship faced by the petitioner and also in the interest of justice, it is directed that if the revision is filed by the petitioner within 4 weeks from today, the competent authority shall entertain the same and dispose it of, after giving opportunity of hearing to the petitioner, as per law. The same shall be done without unreasonable delay.

The miscellaneous application thus stands disposed of.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated:20.12.2023

Present : Sri Girish Uniyal, *Pairokar* (son-in-law) of
Sri V.D. Raturi, Petitioner
Sri V.P. Devrani, A.P.O., for the respondents no. 1, 4 & 5
Sri Rajesh Sharma, Advocate, for respondent no. 3 (online)

Earlier, detailed counter affidavit was filed on behalf of respondent no. 3 by Sri Rajesh Sharma, Advocate. Affidavit was filed by Ms. Sahil Sangwan, Deputy Accountant General/ Funds in the Office of Accountant General (A & E)-II, U.P., Allahabad. Calculation sheet is enclosed with such C.A.

Copy of such detailed counter affidavit was supplied to the petitioner, who sought time to file response to it.

Today, Sri Girish Uniyal, son-in-law of the petitioner, who has been doing *pairvi* on behalf of the petitioner in this petition, appeared before the Bench. He submitted that the petitioner is satisfied with the calculation forwarded by Accountant General (A & E)-II, U.P., Allahabad (respondent no. 3). Sri Uniyal submitted that the petitioner has nothing to say further in the matter, he is satisfied with the calculation sheet given by respondent no. 3, therefore, the petition may be closed.

No fruitful purpose would be served by keeping the petition pending, as the petitioner himself is satisfied with the papers submitted on behalf of the respondents. The petition is, accordingly, closed.

Dated:19.02.2024

Present : Sri V.P. Devrani, A.P.O., for the review applicants
Sri M.C. Pant, Sri Abhishek Chamoli and Sri Abhishek Pant,
Advocates, for the petitioner (respondent herein) (*online*)

Present review application has been filed by learned A.P.O.
on behalf of review applicants (State of Uttarakhand) for reviewing
the Tribunal's order dated 08.02.2024, passed in claim petition no.
09/SB/2024, Sahdev Singh Rana vs. State of Uttarakhand and others.

Let a copy of the review application be supplied to learned
Counsel for the petitioner (respondent herein).

List on 20.02.2024, as fresh.

Dated:19.07.2024

Present : Sri B.B. Naithani, Advocate, for the petitioner
Sri V.P. Devrani, A.P.O. for the respondents

List on 27.08.2024 for hearing, on the joint request of learned
Counsel for the parties.

Interim order dated 01.08.2023 shall continue till the next
date of listing.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated:18.07.2024

Present : Sri Abhishek Chamoli, Advocate, for the Petitioner
Sri V.P. Devrani, A.P.O., for the respondents

List on 13.08.2024 for hearing, on the joint request of learned
Counsel for parties.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated:27.08.2024

Sri Kishore Kumar, A.P.O. on behalf of respondents no. 1 to 3 is present online.

List on 12.09.2024, on the request of Sri Anand Bharadwaj, Joint Director, Secondary Education, Uttarakhand, who is present online.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 04.06.2024

Present: Sri L.K. Maithani, Advocate, for the petitioner
Sri V.P. Devrani, A.P.O. for the respondents no. 1, 2 & 4
(online)

Learned Counsel for the petitioner seeks and is granted further time upto 01.07.2024 to file R.A.

The claim petition shall be fixed for final hearing no sooner the R.A. is filed by the petitioner.

List on 01.07.2024 for further orders.

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated:15.12.2023

Present : Dr. N.K. Pant, Advocate, for the petitioner (online)
Sri V.P. Devrani, A.P.O. for the respondent no. 1
Notices not issued to other respondents

Petitioner has filed present claim petition, *inter alia*, for quashing the impugned order dated 06.04.2021, passed by the Managing Director, Uttarakhand State Cooperative Federation, Dehradun. He also seeks the direction to the respondents to permit the petitioner to work as Ayurvedacharya at UMPL Unit, Halduchaur, Haldwani, for the remaining period of the contractual appointment.

2. Petitioner approached Hon'ble High Court of Uttarakhand, who was pleased to pass an order in WPSB No. 220 of 2021 on 29.08.2023,as follows:

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL
THE HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI
AND
THE HON'BLE SRI JUSTICE RAKESH THAPLIYAL
WRIT PETITION (S/B) NO. 220 OF 2021
29TH AUGUST, 2023

Between:

Rahul Bhatt Petitioner

and

Uttarakhand State Cooperative

Federation & others Respondents

Counsel for the petitioner : Mr. Vinay Kumar, learned counsel

Counsel for the respondents : Mr. Subhash Updahyay, learned
counsel for respondents

The Court made the following:

JUDGMENT: (per Hon'ble The Chief Justice Sri Vipin Sanghi)

“Mr. Kumar states that since the respondents have pointed out that the petitioner has alternative remedy by way of arbitration, he seeks leave to withdraw this petition with liberty to invoke the said remedy.

2) The writ petition is, accordingly, dismissed as withdrawn with liberty as prayed for.

3) It goes without saying that the competent authority/ Tribunal shall consider the fact that this petition has remained pending from the date of its filing till today, while considering any issue of limitation.

4) Stay application (IA No. 01 of 2021) also stands disposed of.”

[emphasis supplied]

3. Sri V.P. Devrani, learned A.P.O. submitted that the petitioner was given liberty to invoke the alternate remedy by way of

arbitration. Learned A.P.O. also submitted that the word 'Tribunal' in para 3 of the order of Hon'ble High Court denotes Arbitral Tribunal or at the most Cooperative Tribunal, but, certainly, not the Public Services Tribunal.

4. Learned Counsel for the petitioner, therefore, seeks to withdraw present claim petition with liberty to invoke/ seek appropriate remedy before the appropriate forum.

5. The claim petition is, accordingly, dismissed as withdrawn with liberty as above.

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 28.08.2024

(virtual)

Present : Sri Bhagwat Mehra, Advocate, for the petitioner
Sri Kishore Kumar, A.P.O. for the State respondents
Sri Rajesh Sharma, Advocate, for respondent no. 5

List on 02.09.2024.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 02.01.2023

(Virtual)

Present : Sri Kishore Kumar, A.P.O. for the respondents

Learned Counsel for the petitioner has been contacted on his given M. No. 9411320921, but the same is responded as switched-off.

In the interest of justice, list on 24.02.2023 for hearing.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

BK

Dated: 12.10.2022

(through audio conferencing)

Present: Sri S.K. Mittal, Advocate, for the appellant-promoter
Sri Eshwarya Bangwal, Advocate,
for the respondent-homebuyer.

Division Bench is not available today as Member (A)
is on leave.

List on 10.11.2022 for hearing.

(RAJENDRA SINGH)
MEMBER (J)

RS

Dated: 20.12.2022

Present: Sri Alekh Nirala, Advocate, for the appellant-homebuyer

Learned Counsel for the appellant-homebuyer submitted that similar appeal, Misc. Application No. 17/2022 (Appeal No. 11 of 2022), has been filed before this Appellate Tribunal being aggrieved against order dated 08.09.2022, passed by Real Estate Regulatory Authority (for short, 'RERA') in complaint no. 10/2019, Harish Kumar Rai vs. M/s Omaxe Ltd. and others, whereby RERA has dismissed the complaint on the ground that it has no jurisdiction to entertain the complaint.

Learned Counsel for the appellant-homebuyer further submitted that 13.01.2023 has been fixed in the said appeal and present miscellaneous application may be taken up for admission on the same date.

Agreeing to the request of learned Counsel for the appellant-homebuyer, let present miscellaneous application be also listed on 13.01.2023 for hearing on admission.

(RAJEEV GUPTA)
MEMBER (A)
(online)

RS

(JUSTICE U.C. DHYANI)
CHAIRPERSON

Dated: 20.12.2022

Present: Sri Alekh Nirala, Advocate, for the appellant-homebuyer

A caveat has been filed by Sri Shashank Saun, Advocate on behalf of respondent no. 4/ caveator.

Sri Alekh Nirala, learned Counsel for the appellant-homebuyer stated that the appellant shall serve the notice upon the caveator within 2 weeks and the appeal may be listed on 13.01.2023 for further orders.

Agreeing to the request of Sri Alekh Nirala, learned Counsel for the appellant-homebuyer, list on 13.01.2023 for hearing on admission/ further orders.

(RAJEEV GUPTA)
MEMBER (A)
(online)

RS

(JUSTICE U.C. DHYANI)
CHAIRPERSON

Dated: 06.01.2023

Present: Sri Umesh Babu Mishra, Advocate, for the petitioner
Sri V.P. Devrani, A.P.O., for the respondents no. 1 and 2

List on 27.02.2023 on the request of Sri Dinesh Gahtori,
learned Counsel for the petitioner.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 22.12.2022

While preparing for judgement, on perusal of the record, it is found necessary to know as to who was responsible for the delay, after the Occupancy Certificate/ Completion Certificate was obtained on 25.04.2018, upto handing over of the possession on 04.09.2019.

Parties may produce necessary documents in support of their contentions in this regard on 11.01.2023 when the matter shall be heard again.

List on 11.01.2023.

The court assistant may inform this order to learned Counsel for the parties.

(RAJEEV GUPTA)
MEMBER (A)
RS

(RAJENDRA SINGH)
MEMBER (J)

Dated: 28.11.2022

Present: Sri Kushal Gulati, Advocate,
for the respondent-promoter

There is no representation for the appellant-homebuyer even in the revised call.

Sri Kushal Gulati has filed vakalatnama on behalf of respondent-promoter. Such vakalatnama is taken on record.

Let xerox copy/ scanned copy of the RERA file be summoned.

List on 05.01.2023 for further orders.

(RAJEEV GUPTA)
MEMBER (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRPERSON

Dated: 09.11.2022

Present: Sri Vikrant Gambhir, Advocate
for the appellant-promoter

Present RERA appeal has been filed by the appellant/ promoter being aggrieved against the order dated 28.09.2022, passed by Uttarakhand Real Estate Regulatory Authority (for short, 'RERA') in Complaint No. 40 of 2022.

Sub-Section (5) of Section 43 of Real Estate (Regulation and Development) Act, 2016, reads as below:

“(5) Any person aggrieved by any direction or decision or order made by the Authority or by an adjudicating officer under this Act may prefer an appeal before the Appellate Tribunal having jurisdiction over the matter:

Provided that where a promoter files an appeal with the Appellate Tribunal, it shall not be entertained, without the promoter first having deposited with the Appellate Tribunal at least thirty per cent. of the penalty, or such higher percentage as may be determined by the Appellate Tribunal, or the total amount to be paid to the allottee including interest and compensation imposed on him, if any, or with both, as the case may be, before the said appeal is heard.”

The appellant is, therefore, required to show its *bona fide* before the appeal is entertained, by depositing 50 % of the cost and penalty indicated in the operative portion of the impugned order within a week.

List on 17.11.2022.

(RAJEEV GUPTA)
MEMBER (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRPERSON

Present: Sri Ravindra Dubey, Appellant-Homebuyer

This is in continuation to Tribunal's order dated 09.11.2022. The appellant has shown its *bonafide* by depositing a Bank Draft of Rs. 30,000/- in favour of this Tribunal, in compliance of the aforesaid order.

Present appeal has been filed by the appellant-promoter being aggrieved against the impugned order dated 28.09.2022, passed by the Uttarakhand Real Estate Regulatory Authority (for

short, RERA) in Complaint No. 40/2022. The appeal has been filed within time.

Heard.

Admit.

Summon photocopy/ scanned copy of the RERA file. Summoning of original record is not required in view of the decision rendered by Hon'ble Apex Court in *Criminal Appeal Nos. 1375-1376 of 2013, Asian Resurfacing of Road Agency Pvt. Ltd. and oths. vs. Central Bureau of Investigation*, which applies equally to Civil appeals as well as Criminal appeals.

Issue notice to respondent. Steps may be taken within three days. Notice shall be returnable on or before 19.12.2022.

A prayer for interim relief has been made by the Ld. Counsel for the appellant. After hearing Ld. Counsel for the appellant and having gone through limited record brought on record in the instant appeal, it is directed that since the appellant has already deposited a sum of Rs. 30,000/- in favour of this Tribunal and has shown its *bonafide*, therefore, the balance shall not be realized from the appellant, by adopting coercive measures, till further orders.

List on 19.12.2022.

Let a copy of this order be sent to RERA for information and necessary action, in terms of *Sub Section (4) of Section 44 of Act, 2016, (No. 16/2016)*.

(RAJEEV GUPTA)
MEMBER (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRPERSON

Dated: 18.11.2022

(through audio conferencing)

Present: Sri Alekh Nirala, Advocate for the appellant-homebuyer
Sri Sahil Gulati, Advocate, for respondent no. 1

Since Hon'ble Member (J) is on leave, therefore,
Appeal No. 13 of 2021, be listed on 13.12.2022 for final
hearing.

(RAJEEV GUPTA)
MEMBER (A)

RS

Dated: 23.12.2022

Present: Sri Aditya Pratap Singh, holding brief of
Sri Shivam Nagaliya, Advocate,
for the appellant-promoter

An application has been moved by learned Counsel for the appellant-promoter stating that the director, along with his mother, is seriously ill and both are hospitalized and therefore some more time may be given to deposit the money in the Tribunal.

Appellant-Promoter is granted the last opportunity upto 12.01.2023, in the interest of justice, for ensuring

compliance of Section 43(5) of the Real Estate (Regulation and Development) Act, 2016.

List on 12.01.2023.

(RAJEEV GUPTA)
MEMBER (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRPERSON

Dated: 23.12.2022

Present: Sri Saghar Mehdi, Advocate,
for the appellant-homebuyer (online)

Heard and perused the impugned order.

Issue notices to the respondents through registered post acknowledgment due, on admission. Learned Counsel for the appellant-promoter shall take steps within a week. Notices shall be returnable on or before 13.02.2023.

List on 13.02.2023 for hearing on admission.

(RAJEEV GUPTA)
MEMBER (A)

(JUSTICE U.C. DHYANI)
CHAIRPERSON

RS

Dated: 24.11.2022

Present : Sri Harish Adhikari, Advocate, brief holder of
Sri N. K. Papnoi, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents No. 1 & 3
Sri Prem Kaushal, Advocate for the respondents No. 2, 4 & 5

Heard.

Admit.

Respondents seek one month's time to file C.A./W.S.

Allowed.

List on 23.12.2022 for further orders.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

BK

Dated: 17.11.2022

Present: Sri Rajkumar Verma, Appellant-Homebuyer

It has been informed by the respondents that their Counsel are not coming to the Court today on account of lawyer's strike. Learned Counsel for the appellant-homebuyer is also not coming.

List on 08.12.2022 for hearing.

(RAJEEV GUPTA)

MEMBER (A)

RS

(RAJENDRA SINGH)

MEMBER (J)

Dated: 22.09.2022

While preparing for judgement, the need is felt for clarification on certain points.

List for the same on 23.09.2022.

(RAJEEV GUPTA)
MEMBER (A)
RS

(RAJENDRA SINGH)
MEMBER (J)

Dated: 04.11.2022

Present: Sri Saifullah, Advocate, for the appellant-promoter
Sri Vinay Mehtani, respondent-homebuyer (online)

Learned Counsel for the appellant-promoter submitted that they agree to the reply received under RTI by the respondents and have nothing to file further in the matter.

Regarding the cost of Rs. 2000/- imposed on the appellant vide this Tribunal's order dated 08.07.2022, the learned Counsel for the appellant undertakes to get the same paid to the respondent online by tomorrow.

Hearing is concluded judgement is reserved

(RAJEEV GUPTA)

MEMBER (A)

RS

(RAJENDRA SINGH)

MEMBER (J)

Dated: 27.08.2022

Present: Sri S.K. Mittal, Advocate,
for the Applicant/ Appellant

Misc. Application No. 15 of 2021 was dismissed *vide* this Tribunal's order dated 28.06.2021.

Since the appellant had failed to comply with the mandatory requirement as directed by this Tribunal on 22.04.2021 to show its bonafide, before the appeal is entertained, by depositing 50 % of the amount indicated in the operative portion of the impugned order of learned Authority below, the appeal was closed. Against this order, the applicant/ appellant filed RERA Appeal No. 09/2021 in the Hon'ble High Court of Uttarakhand.

The Hon'ble High Court of Uttarakhand, *vide* its judgement dated 05.07.2022, has quashed the order dated 28.06.2021 of this Tribunal and has remitted the matter back to this Tribunal to re-decide the application of the appellant for seeking exemption from deposit under proviso to Sub-Section (5) of Section 43 of the Act of 2016, in the light of the judgement rendered in RERA Appeal No. 08 of 2020, Resizone Buildwell Pvt. Ltd. vs. Santan Singh, as decided by the Hon'ble High Court on 12.10.2020. In that appeal, the Hon'ble High Court had allowed the appellant to deposit 30 % of the total liability, which has been harnessed by RERA on the appellant.

The appellant (applicant herein) has filed an application dated 12.08.2022, annexing the certified copy of the order dated 05.07.2022 of the Hon'ble High Court and stating that it is ready to deposit 30 % of the amount indicated in the operative portion of the impugned order of the learned Authority below.

In compliance of the order of the Hon'ble High Court, the appellant is required to show its bonafide, before its appeal is entertained, by depositing 30 % of the amount indicated in the operative portion of the impugned order of the learned Authority below, within a period of four weeks.

List on 30.09.2022 for further orders.

(RAJEEV GUPTA)
MEMBER (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRPERSON

Dated: 22.07.2022

Present: None for the appellant
Sri Deepak Dobhal, Brief Holder of
Sri Aman Rab, Advocate, for respondent no. 1
Sri Uttam Pursora, Brief Holder of
Sri Vibhore Maheshwari, Advocate for respondent no. 2

An adjournment application has been moved on behalf
of the respondents no. 1 and 2. Allowed

(RAJEEV GUPTA)

MEMBER (A)

RS

(RAJENDRA SINGH)

MEMBER (J)

Dated: 08.07.2022

Present: Sri L.K. Maithani, Advocate, for the petitioner.
Sri V.P. Devrani, A.P.O., for the respondents

Learned A.P.O. perused the relevant record about the preliminary enquiry, conducted against the petitioner, which shows that the petitioner was not given the opportunity to cross-examine other witnesses and also there is no request from her side for the same.

Heard further arguments of learned Counsel for the parties.

Hearing is concluded. Judgement is reserved.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

RS

Dated: 26.11.2022

(Virtual)

Present : Sri Bhagwat Mehra, in brief of Sri K. K. Harbola,
Advocate for the petitioners
Sri Kishore Kumar, A.P.O. for the respondents No. 1 & 2
Sri Ashish Joshi, Advocate for respondent No. 3
Sri Ganesh Kandpal, Advocate for the Intervenor

Learned A.P.O. has filed C.A./W.S. on behalf of respondent No. 1. The same is taken on record.

Learned Counsel for the respondent No. 3 has also filed C.A./W.S. The same is also taken on record.

Learned Counsel for the petitioners seeks and is granted four weeks' time to file R.A. against the C.A./W.S. filed on behalf of the respondents No. 1 to 3.

List on 05.01.2023 for further orders.

Learned A.P.O. submits that as per instructions from the department, no promotional exercise is going on, as on date.

(JUSTICE U.C. DHYANI)
CHAIRMAN

BK

Dated: 10.01.2023

(virtual)

Present: Sri Ghanshyam Joshi, Advocate, for the petitioner
Sri Kishore Kumar, A.P.O., for the State/ respondents
Sri Ajayveer Pundir, Advocate, for respondent no. 3

Sri Ravinder Saini, Law Officer, BRIDCUL and Sri Anup Kumar, General Manager, H.R., BRIDCUL are present in the Court.

Sri Saini and Sri Kumar have placed a copy of amended L.P.C. dated 07.01.2023, which has been sent to them by the petitioner on e-mail. Such copy is taken on record. They have submitted that the amended L.P.C. should be signed either by Cane Commissioner or Finance Officer, Cane Department. They also submitted that the petitioner be directed to supply copy of letter dated 11.08.2020, reference of which has been given by the Executive Engineer, Cane Department, in L.P.C.

The officers present here further stated that BRIDCUL will process the issue of arrears of the petitioner and will send the same to the Govt. in P.W.D. for vetting and if the same is cleared by the Govt., BRIDCUL will release the admissible arrears to the petitioner. Sri Ghanshyam Joshi, learned Counsel for the petitioner has no objection to the same.

After recording the statements of the officers of the respondent-department, who are present in person and which is not opposed by learned Counsel for the petitioner, it will be of no use keeping present petition pending.

The same is accordingly closed with the consent of the parties.

Liberty is, however, granted to the petitioner to make a mention, if the arrears are not paid to the petitioner within reasonable time.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 16.08.2023

Present: Sri Vinay Kumar, Advocate, for the petitioner (online)
Sri V.P. Devrani, A.P.O., for the respondents

Heard learned Counsel for the parties at some length.

Learned Counsel for the petitioner seeks and is granted two weeks' time to file R.A.

List on 04.09.2023 for filing R.A./ remaining arguments.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 12.12.2022

Present: Dr. Bipin Bihari, Petitioner along with
Ms. Anupama Gautam and Sri A.S. Bisht. Advocates,
for the petitioner
Sri V.P. Devrani, A.P.O., for the respondents

Heard submissions of learned Counsel for the parties at
length.

Hearing is concluded.

List on 09.01.2023 for dictation of judgement.

Rulings, if any, may be filed by then.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 21.09.2022

Present: Sri Prashant Khanna, Advocate, for the petitioners. (online)
Sri V.P. Devrani, A.P.O., for the respondents no. 1 and 2.
Dr. N.K. Pant, Advocaye, for the respondents 4 to 8.
Col. H.S. Sharma, Advocate, for respondent no. 3. (online)

Hearing is adjourned to 19.10.2022 on the request of learned
Counsel for the petitioner.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 20.12.2022

(virtual)

Present: Sri Saghar Mehdi, Advocate, for the appellant-homebuyer

There appears to be some delay in filing the appeal.

Issue notices to respondents on delay condonation, by registered post acknowledgement due. Steps shall be taken by the petitioner within three days. Notices shall be returnable on 02.01.2023.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

RS

Dated: 28.11.2022

(virtual)

Present: Sri Mohd. Matloob, Advocate, for the petitioner
Sri Kishore Kumar, A.P.O., for the respondents no. 1 & 3
Sri Deep Chandra Joshi, Advocate for the respondent no. 2

Respondents seek 15 days' further time to file C.A./ W.S.

Allowed.

Last opportunity is granted to the respondents to file C.A./
W.S.

List on 15.12.2022 for filing C.A./ W.S.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

RS

Dated: 21.10.2022

(Virtual)

Present: Sri Rajesh S. Nagarkoti, Advocate, for the petitioner
Sri Kishore Kumar, A.P.O., for the respondents

Heard submissions of Sri Rajesh S. Nagarkoti, learned Counsel for the petitioner and Sri Kishore Kumar, learned A.P.O., at some length.

Arguments shall continue on 07.11.2022

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 20.03.2023

Present: Sri L.K. Maithani, Advocate, for the petitioner
Sri V.P. Devrani, A.P.O., for respondent no. 1
Sri S.K. Jain, Advocate, for respondents no. 2 and 3

Sri S.K. Jain, learned Counsel for the respondents no. 2 and 3 submitted that he had talks with Sri I.P. Gairola, who is looking after the case of Sri B.M. Bhatt, in which 06.03.2023 was fixed for hearing but the same was declared as holiday in the Hon'ble High Court. The case is likely to be taken up in the month of June. He seeks adjournment, which is granted in the interest of justice.

List on 22.05.2023 for hearing.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
[virtually from Nainital]
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 02.01.2023

Present: Sri Abhishek Chamoli and Sri V.P. Sharma, Advocates
for the petitioner
Sri V.P. Devrani, A.P.O., for the respondents

Learned Counsel for the petitioner submitted that the petitioner does not want to file R.A. and the claim petition may be heard finally. Sri V.P. Devrani, learned A.P.O. has no objection.

Let learned Counsel for the parties advance their arguments.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 18.08.2022

Present: Sri A.K. Goel, Petitioner (online)
Sri V.P. Devrani, A.P.O., for the Respondents

Hearing on admission is adjourned to 24.08.2022 on the request of the petitioner.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 26.05.2022

Present: Sri Vaibhav Jain, Advocate, for the Review Applicant
Sri L.K. Maithani and Sri R.C. Raturi, Advocates,
for the petitioners (respondents herein)
Sri V.P. Devrani, A.P.O., for the Respondent No. 3

Sri L.K. Maithani, learned Counsel for the petitioners
(respondents herein), seeks and is granted further time upto
20.06.2022 to file objections to the review application.

List on 20.06.2022 for further orders.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 08.08.2022

Present: Sri Arjun Singh Bisht, for Smt. Anupama Gautam, Advocate,
for the petitioner (online).
Sri V.P. Devrani, A.P.O., for the respondents no. 1 and 3.
Sri S.M. Joshi, Advocate, for respondent no. 2 (online)

Further arguments could not be held as the learned Counsel for the petitioner was busy with some other case in the Court of District Judge, Dehradun.

Clarification and production of relevant documents are requested from the parties on the following points:

- (1) Copy of the application of the petitioner for appointment in Uttarakhand Seeds and Tarai Development Corporation Ltd., which has been forwarded vide letter dated 17.05.2004 of respondent no. 3 (Annexure A-9).
- (2) Para 4(g) of the claim petition reads as below:
“That vide letter no. 4643/do-34/2008-09 dated 12.01.2009, the petitioner was called upon by the respondent no. 3 that in case he wants to return to the parent department, then he will have to deposit his Pensionary Encashment and leave encashment otherwise his lien will be recalled. The petitioner, enquired the amount and extent of deposit vide his letter dated 23.05.2009,

but no reply was ever received by the petitioner. Thereafter vide letter dated 06.08.2009, the petitioner was called upon to give his joining in the department to avoid the calling off of his lien, by respondent no. 3. The petitioner then put up his joining and apprised the department of his personal compulsions and requested for extension of his lien. The respondent no. 3 though did not reply but the seniority of the petitioner remained intact in his parent department of horticulture and food processing and his lien continued with respondent no. 2.”

The Tribunal would like to know whether the petitioner joined the Horticulture Department according to above or not and what was the correspondence made by him in this regard after the letter dated 06.08.2009 was issued to him to avoid the calling off of his lien. The Tribunal would also like to know from the respondent no. 3 why the reply was not sent to the

petitioner’s letter dated 23.05.2009 vide which the petitioner enquired about the amount of his pensionary and leave contributions.

(3) Para 4 (h) of the claim petition reads as under:

“That then again in 2014, the petitioner requested for his repatriation in the department and the respondent no. 2, vide letter dated 03.06.2014 issued the certificate to the petitioner, confirming his lien in with the respondent no. 2.”

The Tribunal would like to see the letter which the petitioner sent requesting his repatriation to the department.

(4) The impugned office memorandum dated 29.04.2017 of respondent no. 3 (Annexure A-2) states that vide letter dated 17.05.2004, the petitioner was sent on deputation who was provided appointment by letter dated 26.10.2004 of respondent no.2 through direct recruitment. According to this office memorandum, the lien of the petitioner has been abolished with the immediate effect in the Horticulture Department. Horticulture Department had placed him in their seniority list of 2014 meaning thereby that the department was accepting his lien to have continued till that time. After 2014, was some correspondence initiated by the department of Horticulture

with the petitioner about his lien or did respondent no. 3 issue him a notice to join the department failing which his lien with the department will be terminated?

Information/ Documents regarding the above be produced by the parties on or before 05.09.2022.

List on 05.09.2022 for further orders/ arguments.

RAJEEV GUPTA
VICE CHAIRMAN (A)
RS

JUSTICE U.C. DHYANI
CHAIRMAN

Dated: 28.11.2022

(virtual)

Present: Sri K.K. Tiwari, Advocate, for the petitioner
Sri Kishore Kumar, A.P.O., for the respondents/ State
Sri Shobhit Saharia, Advocate, for respondents no. 6 to 22

Sri Shobhit Saharia, Advocate, submitted that he has no instructions from his clients.

Let administrative notices be issued to these respondents returnable by 06.01.2023.

List on 06.01.2023 for further orders.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 05.07.2024

The claim petition is dismissed as withdrawn in terms of the signed order.

The signed order is placed on the file.

(By order of the Court)

Dated: 24.05.2022

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(By order of the Court)

Dated: 21.04.2022

Present : Sri V.P. Sharma and Sri Abhishek Chamoli,
Advocates, for the petitioner
Sri V.P. Devrani, A.P.O., for the Respondents

The claim petition is restored to its original number today by separate order.

Both the parties are ready to argue the case.

Heard learned Counsel for the parties.

Judgement is pronounced in the open Court. Operative portion of the judgement is as follows:

“33. The claim petition is dismissed, as barred by limitation. No order as to costs.

34. It is made clear that the Tribunal has not expressed any opinion on the merits of the case.”

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 27.08.2024

The claim petition is disposed of in terms of the signed order.

The signed order is placed on the file.

(By order of the Court)

Dated: 20.10.2022

Present: Sri Sanjay, Holding brief of,
Eshwarya Bangwal, Advocate,
for the appellant-homebuyer

An application has been moved on behalf of the appellant that the appellant mistakenly could not take steps on the respondent on its amended address, therefore, time may be granted to the appellant to take steps for service of notice upon the respondent during the course of the day.

Application is allowed in the interest of justice. Steps may be taken by the appellant by 21.10.2022, for service of notice upon the respondent. Notice shall be returnable on 22.11.2022.

List on 22.11.2022 for further orders.

(JUSTICE U.C. DHYANI)
CHAIRPERSON

RS

Dated: 03.01.2022

(Through audio conferencing)

Present: Sri Harimohan Bhatia, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

Learned A.P.O. seeks and is granted three weeks' further time
to file Supplementary affidavit to the R.A. filed by the petitioner.

List on 24.01.2022.

(JUSTICE U.C. DHYANI)
CHAIRMAN

BK

Dated: 24.12.2021

(Through audio conferencing)

Present: Sri Bhagwat Mehra, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

Learned A.P.O. seeks and is granted four weeks' time to file
C.A./W.S.

List on 22.02.2022 for further orders.

(RAJEEV GUPTA)
Vice Chairman (A)
BK

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 24.12.2021

(Through audio conferencing)

Present : Sri Yogesh Pant, Advocate for the petitioner.

Sri Kishore Kumar, A.P.O. for the respondents.

Mrs. Seema Sah, Advocate for the respondent No. 4

Learned Counsel for the respondent No. 4 seeks and is granted two weeks' time to file reply against the supplementary rejoinder affidavit filed on behalf of the petitioner.

List on 14.01.2022 for hearing.

**(RAJEEV GUPTA)
DHYANI)**

Vice Chairman (A)

BK

(JUSTICE U.C.

CHAIRMAN

Dated: 15.03.2022

Present: Sri Shashank Pandey, Advocate, for the Petitioner
Sri. V.P. Devrani, A.P.O. in assistance of the Tribunal

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 28.11.2022

Present: Sri Abhishek Chamoli, in brief of
Sri M.C. Pant, Advocate, for the petitioner
Sri V.P. Devrani, A.P.O. for the respondents no. 1 and 2

Written arguments have been filed by learned Counsel for the petitioner. A copy of the same has been supplied to learned A.P.O., who seeks and is granted time upto 05.12.2022 to go through the same and make his oral submission, in reply.

List on 05.12.2022.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 20.12.2021

Present: Dr. N.K. pant , Advocate for the Petitioner
Sri. V.P. Devrani, A.P.O. for the Respondents

Put up on 06.01.2022 alongwith Claim Petition No. 08/DB/2020, S.K. Tiwari & others vs. State of Uttarakhand & others.

(RAJEEV GUPTA)
Vice Chairman (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 27.05.2022

Present: Sri A.K. Goel, Petitioner,
along with L.K. Maithani, Advocate, for the Petitioner
Sri. V.P. Devrani, A.P.O. for the Respondents

Heard learned Counsel for the parties at length.

Hearing is concluded. Judgement is pronounced in the open Court. Operative portion of the judgement is as follows:

“23. On the basis of the above discussion and as observed in para 15 of this order that special adverse entry could not have been given to the petitioner by way of punishment, the impugned punishment order dated 07.08.2020 and the order dated 27.01.2021 by which the representation/revision against the

punishment order was rejected, are liable to be set aside and are, accordingly, set aside, leaving it open to the respondents to proceed afresh against the petitioner, in accordance with law.”

(RAJEEV GUPTA)
Vice Chairman (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 26.05.2022

This is in continuation to the Tribunal’s earlier order passed today in the morning.

It is pointed out that the incident relates to district Chamoli and not district Rudraprayag, where petitioner is presently posted. SSP, district Chamoli, is necessary and proper party, which requires to be impleaded in the claim petition.

Petitioner is, therefore, directed to implead Senior Superintendent of Police, district Chamoli, as party-respondent no. 5, after moving an application for the same.

Thereafter, petitioner is also directed to take steps for service of notice upon SSP, district Chamoli. Such notice shall be returnable on or before 24.06.2022, the date already fixed in the morning. CA/WS may be filed on behalf of the respondents by such date.

List on 24.06.2022 for further orders.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 21.11.2022

Present: Mrs. Monika Pant, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

Hearing is adjourned to 21.12.2022, on the request of the
learned Counsel for the petitioner.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

BK

Dated: 03.01.2023

Present: Sri B.B. Naithani, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondent No. 1

Heard.

Admit.

Learned A.P.O. accepts notice on behalf of respondent No. 1. He seeks and is granted 6 weeks' time to file C.A./W.S.

In addition, issue notices to respondents No. 2 to 5 for filing C.A./W.S. Steps shall be taken by the petitioner within a week, by registered post acknowledgement due. Notices shall be returnable on or before 10.05.2023.

List on 13.02.2023 for filing C.A.-W.S./ further orders.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

BK

Dated: 11.05.2023

Present: Sri V.D. Raturi, Advocate for the petitioner
Sri V.P. Devrani, A.P.O. for the respondents No. 1, 4 & 5
Sri Rajesh Sharma, Advocate, for respondent no. 3 (online)

Copies of documents filed by the petitioner in the hearing on 13.03.2023 were also given by the petitioner to Sri Kuldeep Bahuguna, legal assistant, Directorate, Agriculture, Uttarakhand, Dehradun.

Learned A.P.O., after talking to Sri Kuldeep Bahuguna, informed that a letter has been sent to State of U.P. by the Director, Agriculture, Uttarakhand, Dehradun, for settlement of the issue.

Copy of the letter thus sent to the State of U.P. be filed along with an affidavit before the next date for hearing and efforts be made by the Directorate, Agriculture, Uttarakhand, Dehradun for speedy resolution of the issue.

List on 13.06.2023 for hearing.

Let a copy of this order be issued to learned A.P.O. for onward submission to the respondent department.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 05.01.2023

Present: Sri D.S. Mehta, Advocate, for the petitioner (virtual)
Sri V.P. Devrani, A.P.O. for the respondents

Heard learned Counsel for the parties.

The Tribunal observes that in the order dated 01.07.2019 of Hon'ble High Court in WPSB No. 242 of 2019, the respondent-State was directed to complete the disciplinary enquiry initiated against the petitioner and to pass final orders in accordance with law, with utmost expedition and, in any event, within three months from the date of production of certified copy of the order.

From the counter affidavit dated 16.09.2020, in the present case, filed on behalf of respondent no. 2, it appears that the enquiry was pending at the level of State Govt. at that time after submission of enquiry report on which Govt. had made certain queries from Directorate of Secondary Education and which information had been sent to the Govt. *vide* letter dated 13.09.2019 of the Director and the matter was under consideration before the State Govt.

The Tribunal desires to know the current status of the disciplinary proceedings initiated against the petitioner and if the proceedings are still pending, the reasons for the same. Such

information be provided in an affidavit of respondent no. 1 by 15.02.2023.

Let a copy of this order be given to learned A.P.O. for onward transmission to respondent no. 1.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN

Dated: 24.01.2023

Present: Sri V.P. Devrani, A.P.O. for the respondents

Sri C.K. Sharma, learned Counsel for the petitioner, could not be contacted on his given mobile number.

List on 27.01.2023 for hearing.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 20.01.2023

List on 23.01.2023.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 23.01.2023

Present: Sri V.P. Devrani, A.P.O. for the respondents

Smt. Neetu Singh, learned Counsel for the petitioners could not be contacted on her given mobile number despite several attempts.

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 23.11.2022 in WPSS No. 730/2018, Om Pal Singh and others vs. State of Uttarakhand and others, which reads as under:

“The present Writ Petition has been filed under Article 226 of the Constitution of India with the following reliefs:-

(i) Issue a writ, order or direction in the nature of certiorari quashing the impugned seniority list and advertisement (contained as annexure no.4 and 5 to this writ petition).

(ii) Issue a writ, order or direction in the nature of mandamus directing the respondents to give the promotion from the post of Assistant Teacher to the post of Head Teacher Government Upper Primary School along with all consequential benefit.

(iii) Issue a writ, order or direction in the nature of mandamus directing the respondents to implement the earlier seniority list of the petitioners as per the Uttarakhand Government Elementary Education (Teacher) Service Rules, 2012.

2. Heard Mrs. Neetu Singh, learned counsel for the petitioners and Mr. N.S. Pundir, learned Deputy Advocate General assisted by Mrs. Indu Sharma, learned Brief Holder for the State.

3. Mr. N.S. Pundir, learned Deputy Advocate General for the State, submitted that the present matter relates to the conditions of service of public servants, therefore, the petitioners have alternate efficacious remedy to raise their grievances before the Uttarakhand Public Services Tribunal.

4. Mrs. Neetu Singh, the learned counsel for the petitioner, agrees to transfer the present matter to the Uttarakhand Public Services Tribunal.

5. As the disputes raised in the present writ petition can be effectively adjudicated by the Uttarakhand Public Services

Tribunal, with the consent of both the parties, the complete record along with the writ petition, after retaining the copies thereof, is being transmitted to the Uttarakhand Public Services Tribunal for hearing the writ petition as a claim petition in accordance with law.

6. The Uttarakhand Public Services Tribunal is also requested to consider entertaining the present matter as a claim petition taking into consideration this fact that the present matter has been pending for past four years.

7. The present Writ Petition (S/S No. 730 of 2018) stands disposed of accordingly.”

The original record of the writ petition has been transferred to this Tribunal vide Letter No. 17747/UHC/Service Section(S/S)/PST/Nainital dated 16.12.2022 of the Deputy Registrar (Judicial) of the Hon’ble High Court. The same has been registered as Claim Petition No. 14/DB/2023.

List on 28.02.2023 for hearing.

(JUSTICE U.C. DHYANI)
CHAIRMAN

RS

Dated: 29.03.2023

Present: Sri Shubhang Dobhal, Advocate, for the petitioner (online)
Sri V.P. Devrani, A.P.O. for the respondents

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 14.03.2023 in WPSS No. 743 of 2021, Keshav Prasad Raturi vs. State of Uttarakhand and others, which reads as under:

“Mr. Mayank Joshi, Advocate, i/b Mr. Aditya Singh, Advocate for the petitioner.

Mr. P.C. Rawat, Additional CSC, for the State/respondents.

Petitioner was serving as Deputy Ranger in Forest Department. Disciplinary proceedings were initiated against him for certain charges and upon conclusion of disciplinary proceedings, a punishment order was passed against him. Petitioner challenged the punishment order in appeal. His appeal has also been dismissed. Challenging the order passed by the disciplinary authority and also the appellate authority, petitioner has filed this writ petition.

Since petitioner is a public servant, as defined under Section 2(b) of U.P. Public Service (Tribunals) Act, 1976, (as is

applicable to the State of Uttarakhand), therefore, he has remedy of approaching the Tribunal constituted under the aforesaid Act.

Accordingly, writ petition is dismissed on the ground of alternative remedy.

Registry is directed to relegate the record of this case to the Public Services Tribunal, Dehradun.”

The original record of the writ petition has been transferred to this Tribunal vide Letter No. 4011/UHC/Service Section-II/PST/ Nainital dated 22.03.2023 of the Registrar (Judicial) of the Hon’ble High Court. The same has been registered as Claim Petition No. 65/DB/2023.

List on 10.04.2023 on the request of learned Counsel for the petitioner.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
RS

(JUSTICE U.C. DHYANI)
CHAIRMAN