

**CLAIM PETITION NO. 16/NB/DB/2024**

**NAGENDRA CHANDRA ARYA  
VS.  
STATE OF UTTARAKHAND & OTHERS**

Dated: 26.09.2024

Present: Sri Bhagwat Mehra, Advocate for the petitioner  
Sri Kishore Kumar, A.P.O. for the respondent no. 1  
Sri S.S.Chauhan & Sri Siddhant Manral, Advocates  
for respondents no. 2 & 3  
Sri M.C.Pant, Advocate for respondents no. 4, 5, 6 & 7

Heard of admission.

The present claim petition has been filed by the petitioner for the following reliefs:

- (i) To issue order or direction appropriate in nature and set aside the impugned order dated 26.12.2023 (Annexure No.1) and restrain the respondent no.2 & 3 to consider the case of the private respondents for promotion under 8.33 quota on the ground that they have not completed their degree within 10 years of their appointment which is enshrined in the Regulation no.5(1)(a)(2) of the Regulations of 2011 and on the ground that the private respondents obtained the degree as Regulation Student which is not permissible in departmental rules as the private respondents have not taken study leave, thus the registration of the private respondents is also liable to be cancelled and appropriate action be taken against them, after calling the entire records.
- (ii) To issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case."

The respondents no. 2 & 3 have filed objections stating therein that the petitioner falls under the 50% quota of promotion and not under 8.33% quota whereas, private respondent fall under the 8.33% quota, and they had obtained prior permission to pursue their B.Tech degree from the respondent department. The petitioner in no manner is affected in case promotion under 8.33% quota are carried out and no right of the petitioner is affected in this case. Similarly, objections have also been filed on behalf of respondents no. 4 to 7. They have also stated that the cause of action arose on 05.06.2024, then how the cause of action arises on subsequent date when the specific challenge to the order dated 26.12.2023, which is passed prior to the date of cause of action as mentioned by the petitioner. However, subsequently, the DPC was held and promotions were made on 19.09.2024 and the respondents along with other persons have joined on their respective posts of Assistant Engineer (Civil) on 20.09.2024, hence the present petition has become infructuous and liable to be dismissed.

Learned Counsel for the petitioner has alleged in the petition that the respondents are not eligible to be considered under 8.33% quota as they have completed their degrees as regular students and also not within 10 years. This is in contravention of the Regulation 5(1)(a)(2) of the Regulations of 2011.

It is submitted on behalf of the respondents that no DPC was held on 26.12.2023, to consider the promotion under 8.33% quota, but later on, the department held the DPC and promoted six(6) persons under 8.33% quota and the promotion order has been issued. The respondents who have been mentioned by the petitioner are among five persons, who are private respondents no. 4 to 7 in this claim petition.

In view of the above, it is admitted that vide impugned order dated 26.12.2023, no promotional exercise was carried out by the department, so the relief of the petitioner for setting aside the order dated 26.12.2023 has become infructuous.

It is further admitted that in the subsequent DPC, the promotions were made on 19.09.2024 and the private respondents along with other persons have joined on their respective posts of Assistant Engineer (Civil) on 20.09.2024, therefore, the remaining portion of the relief claimed by the petitioner has also become infructuous.

Accordingly, the claim petition is disposed of at the admission stage. No order as to costs.

A.S.RAWAT  
VICE CHAIRMAN(A)

RAJENDRA SINGH  
VICE CHAIRMAN(J)

KNP