

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

Present: Hon'ble Mr. Rajendra Singh,

.....Vice Chairman (J)

Hon'ble Mr. A.S.Rawat,

.....Vice Chairman (A)

CLAIM PETITION NO. 60/NB/DB/2023

Shally Manral, aged about 32 years, w/o Ayush Bisht, r/o presently posted as Additional Sub Inspector, at Police Line Rudrapur, District Udham Singh Nagar.

.....**Petitioner**

Vs.

1. State of Uttarakhand through its Secretary, Home, Secretariat, Dehradun.
2. Director General of Police, Police Headquarter, 12, Subhash Road, Dehradun.
3. Inspector General of Police (Personnel), O/o Police Headquarter, Dehradun.

.....**Respondents**

(Virtually)

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

JUDGMENT

DATED: OCTOBER 11, 2024

Per: Sri A.S.Rawat, Chairman (A)

By means of present claim petition, the petitioner seeks the following reliefs:

- (1) *Issue an order or direction to quash the impugned order dated 24.03.2023 passed by Respondent no. 3 (Annexure No. 1).*

(II) Issue a writ, order or direction to the respondents to consider the case of the petitioner for out of turn promotion on the post of Sub Inspector in view of Rule 7(2) (Kha) of Skilled Players of Uttarakhand Police Out of Turn Promotion Rules, 2016 (Uttarakhand Police Ke Kshul Khiladiyo Ki Bina Pari Padonniti Prakiya Niyamawali, 2016) as the petitioner secured 02 Silver Medals in National Games vsz: National Judo Championship 2013-14 held at Una Himanchal Pradesh from 09th to 12th February 2014 and 35th National Games Kerla 2015 held on 31st January to 14th February 2015 and also direct to grant the notional promotion on the post of Sub-Inspector from 2017 till the date of actual promotion of the petitioner on the post of Sub-Inspector with other consequential benefits.

(III) And/or pass any further writ, order or direction which this Hon'ble Court may deem fit in the circumstances of the case.

(IV) Award the Cost of the petition.

2. The facts of the case in brief are as follows:

2.1 The petitioner was initially appointed as Constable Police Department in 2011 under the sport quota, as she is the National Level Judo Athlete. She joined on the post of Constable under the said quota prescribed under the law on 25.11.2011. After induction in the Police Department as a Constable, the petitioner was permitted by the department to participate in the games/championships organized/recognized by the Indian Olympic Association/All India Police Sports Association and the petitioner won the following medals in different championships:

- I. Senior National Judo Championship 2012 held at Bhubaneswar, Orissa from 27th to 30th December 2012 and secured 3rd Position (Bronze Medal).
- II. 62 All India Police Wrestling Cluster 2013 held at Ranchi, Jharkhand in December 2013 and secured 1st Position (Gold Medal).

- III. National Judo Championship 2013-14 held at Una, Himanchal Pradesh from 9th to 12th February 2014 and secured 2nd Position (Silver Medal).
- IV. 63rd All India Police Wrestling Cluster held at New Delhi from 1st to 5th March 2015 and secured 3rd Position (Bronze Medal).
- V. 64th All India Police Wrestling Cluster 2015 held at Madhuban, Karnal, Haryana from 7th to 11th December 2015 and secured 1st Position (Gold Medal).
- VI. 35th National Games, Kerla 2015 held at Kerla from 31st January to 14th February 2015 and secured 2nd Position (Silver Medal).
- VII.1st All India Police Judo Cluster Championship 2016 held at Kolkata, West Bengal from 3rd January to 7th January 2017 and secured 3rd Position (Bronze Medal).

2.2 The petitioner is serving in the Uttarakhand Police as Head Constable and presently posted at Police Line, Rudrapur (Udham Singh Nagar). Apart from her duties in the Police Department, the petitioner is also one of the skilled players and she is playing Judo Game at different level in different championships/National Games. On 03.09.2016, the Government of Uttarakhand published the 2016 Rules which provides the out of turn promotion and on the basis of these medals the petitioner was promoted on the post of Head Constable in the year 2017, in view of Rule 7(1) of 2016 Rules, as the respondent recognized the petitioner's Gold Medal secured in 64th All India Police Cluster 2015 held at Madhuban, Karnal Haryana from 7th to 11th December 2015.

2.3 The petitioner is challenging the inaction on the part of the respondents, whereby the respondents failed to consider the case of the petitioner for out of turn promotion on the post of Sub-Inspector in view of the Rules framed and notified on 03.09.2016, namely Skilled Players of Uttarakhand Police Out of Turn Promotion Rules,

2016 (Uttarakhand Police Ke Kshul khiladiyo Ki Bina Pari Padonniti Prakirya Niyamawali, 2016).

2.4 As per the 2016 Rules, the skilled player means that the Male/Female of Uttarakhand Police who participated at International Level games organized by International Olympic Association/Recognized games and at National Level games organized by Indian Olympic Association/Recognized games. It further provides that games means Olympic/Asian/Common Wealth/All India Police Games Association recognized games. But the petitioner was not satisfied of her out of turn promotion on the basis of Rule 7(1) on the post of Head Constable because the Rule 7(2) provides otherwise. The Rule 7(2) provides for out of turn promotion on the post of Sub Inspector as per the Rule 7(2) if the incumbent who is working in the Police Department and played in any National Games and secured 02 Medals in which 01 Gold/Silver Medal or secured 03 Bronze Medal then the incumbent will be considered for promotion on the post of Sub Inspector. It is also provided that the aforesaid Medal will be secured by the incumbent in 01 year or in continuous 03 years.

2.5 The petitioner secured the Silver Medal in National Judo Championship 2013-14 held at Una, Himanchal Pradesh from 09th to 12th February 2014 and in 35th National Games Kerla 2015 from 31st January to 14th February 2015 and the petitioner secured the 2nd Position (Silver Medal), it fulfilled the criteria for consideration of promotion of the petitioner on the post of Sub Inspector in view of Rule 7(2)(Kha) as the said rules provides for consideration for promotion on the post of Sub Inspector.

2.6 The respondents failed to recognize the aforesaid 02 Silver Medals which were secured by the petitioner in National Games in view of Rule 7(2) of 2016 Rules and the respondents only recognized the 01 Medal of the petitioner which was secured by the petitioner in 64th All India Police Wrestling Cluster, 2015 where the petitioner secured the 1st Position (Gold Medal). The respondents did

the manifest error in law and illegality for not considering the petitioner's 02 Silver Medals which were secured by the petitioner in the National Games.

2.7 In the case of one Kamla Bisht who is also serving in the Police Department she also secured the 02 Silver Medals in Boxing 1st in 16th Senior (Elite) Women National Boxing Championship 2015 held at Guwahati, Assam on 27.10.2015 and 2nd Silver Medal in 1st Elite Women National Boxing Championship 2016 held at Haridwar from 19 to 24 November 2016 and therefore Miss. Kamla Bisht was considered for out of turn promotion on the post of Sub Inspector in view of Rule 7(2) of 2016 Rules. It is also relevant to submit here that the respondents recognized the 02 Silver Medals of Ms. Kamla Bisht secured in the Women Boxing Championship but they failed to recognize the 02 Silver Medals of the petitioner 01st in National Judo Championship held in Una Himanchal Pradesh and 02nd in 35th National Games Kerla and the respondents on one hand promoted Ms. Kamla Bisht on the post of Sub Inspector on the other hand they failed to consider the 02 Silver Medals of the petitioner for consideration out of turn promotion on the post of Sub Inspector.

2.8 Similarly, not only in the case of Ms. Kamla Bisht but also in the case of Ms. Sneha Tadiyal the respondents considered 03 Bronze Medals of Ms. Sneha Tadiyal for out of turn promotion on the post of Sub Inspector in view of Rule 7(2) of 2016 Rules. Not considering the case of the petitioner for out of turn promotion on the post of Sub Inspector in view of Rule 7(2) of 2016 Rules is clear cut discrimination by the respondents and is violative of not only the 2016 Rules as well as violative of Article 14 of Constitution of India.

2.9 Before filing the present claim petition, the petitioner filed the writ petition before the Hon'ble High Court and the Hon'ble Court vide its Judgment dated 18.11.2022, the Hon'ble Court was pleased to dispose of the writ petition filed by the petitioner permitting petitioner to make representation, for her out of turn promotion

through proper channel, to the competent authority with further direction that if the petitioner makes such representation within two weeks from the date of order, the competent authority shall take decision thereupon within four months thereafter. It is also relevant to mention here that while passing the order dated 18.11.2022 the Hon'ble High Court also granted liberty to the petitioner to approach the competent judicial forum, if the decision goes against her.

2.10 After Judgment and order dated 18.11.2022 the petitioner moved the representation to the competent authority in compliance of the order passed by the Hon'ble High Court. While passing the impugned order the Respondent No.3 failed to consider intention of 2016 Rules but the respondent relied upon the email Dated 06.12.2022 sent by Judo Federation of India in response to the letter sent by respondent to the federation. The respondent authority tried to dilute the issue and passed the order against the mandate of 2016 Rules which are very clear. By sending email to the respondent authority by Judo Federation of India cannot change the dates and year of National Judo Championship Games which actually held from 09.02.2014 to 12.02.2014 and as per the admission of the such dates itself it was held in Calander Year 2014 at Una Him Himachal Pradesh in which the petitioner secured 2nd Position (Silver Medal) and thereafter in 35th National Games held in Kerala from 31st a January to 14th February 2015 the Petitioner again secured 2nd Position (Silver Medal).

2.11 The official respondents treating the 35th National Games held in Kerala from 31st January to 14th February 2015 in Calendar Year 2015 and on other hand very surprisingly they are treating the National Judo Championship held in Una Himachal Pradesh from 9th February 2014 to 12nd February 2014 in Calendar Year 2013 only on the basis of email written by Judo Federation of India and trying deprive the petitioner for her actual out of turn promotion on the post of Sub- Inspector. The petitioner is fulfilling all the criteria for her out of turn promotion as per Rule 7(2) (Kha) of 2016 Rules as she

secured the 02 Silver Medals in 02 continuous calendar years and as such the impugned order is bad in law and liable to be set aside.

3. C.A./W.S. has been filed on behalf of the respondents stating therein that the Uttarakhand Government's notification number-1169/ XX-1/2016-1 (36) 2004 dated 03-09-2016, overriding all the existing rules and government orders relating to grant of out of turn promotion to skilled players of Uttarakhand Police, "The Uttarakhand Police Skilled Player Out of Turn Promotion Proceeding Rules, 2016" have been promulgated for promotion and regularization of skilled players of Uttarakhand Police. Rule 8 of the said Rules provides that "Examination of all matters of out of turn promotion of skilled player shall be done by committee constituted by Director General of Police for this purposes for giving out of turn promotion meeting of such selection committee shall be organized twice in month of February and August which shall present its recommendation to Director General of Police Uttarakhand at the end of month of February and August. For out of turn promotion cognizance of only last 3 years achievement shall be taken by committee of employee as a skilled player." It is further submitted that the Rule 7 of the said Rules of 2016 provides for Qualification for promotion of skilled player.

It has further been submitted that since the selection committee meeting was organized for promotion under the said Rules of 2016 for skilled players of Uttarakhand Police, a provision has been made to do this twice a year in the months of February and August and in the same sequence, a provision has been made to take into cognizance only the achievements of the personnel as skilled players of the last 03 years. As per the provisions contained in the said Rules of 2016, in the meeting of the Selection Committee held in the year 2017 (dated 27.02.2017) for out turn promotion, the Selection Committee, as per Rules, considered only the sports achievements / medals earned by the skilled players in the last 03 years (year 2014, 2015, 2016). Petitioner Shaili Manral had requested to recognize the silver medal she won in the year 2013-14

in the National Judo Championship held in 2013-14 from 09.02.2014 to 12.02.2014 at Una for out of turn promotion. It has also been clarified by the Judo Federation of India, New Delhi that in the context of calendar year, the said competition should be considered to have been held in the year 2013. Therefore, considering the silver medal won by the petitioner in the said competition as of the year 2013, the petitioner was found ineligible for out of turn promotion to the post of Sub-Inspector and the representation sent by the petitioner was disposed of in compliance of the order of the Hon'ble High Court. Smt. Shaili Manral, has also requested that the Silver Medal earned by her in the National Judo Championship held from 09.02.2014 to 12.02.2014 in the year 2013-2014 be considered as the medal of the year 2014 and as per the provision mentioned in Para 7(2) of the Uttarakhand Police Skilled Players Out Turn Promotion Proceeding Rules, 2016. In this regard, it is to be clarified that the petitioner has been granted promotion to the post of Head Constable of Uttarakhand Police on the basis of medals earned by her in three consecutive years from 2014 to 2016 as per the eligibility criteria mentioned in clause 7 (1) of the Uttarakhand Police Out of Turn Promotion Rules, 2016 vide order No. DG-7-20-2017, the promotion from constable to head constable has been granted on 15-03-2017. From the explanation/ clarification given in the e-mail letter of Judo Federation of India, New Delhi, regarding the silver medal earned by the petitioner in the National Judo Championship Competition held from 09.02.2014 to 12.02.2014 in the year 2013-2014, it is clear that the silver medal earned by the petitioner in the National Judo Championship Competition held from 09.02.2014 to 12.02.2014 is of the year 2013, hence, the petitioner cannot be given out of turn promotion to the post of sub- inspector as per the provision mentioned in clause 7(2) of the "Uttarakhand Police Skilled Players Out of Turn Promotion Proceeding Rules, 2016". Hence the petitioner is not entitled to get any relief the petition deserves to be dismissed.

4. R.A. has been filed on behalf of the petitioner, in which, the petitioner has denied the contention of the CA/WS and has reiterated the averments of the claim petition.

5. Learned petitioner submitted that the Govt of Uttarakhand has issued a notification of "Out of turn promotion for the skilled sports persons Rules, 2016" on 03/09/2016. The Rule 7(2)(Kha) provides for out of turn promotion to the post of sub inspector if the incumbent is working in the Police department and played any National Games ,secured 02 Gold/ Silver medals or 03 Bronze medals. It also provides that the above medals are secured by the incumbent in one year or in continuous 03 years. The petitioner secured Silver medal in the National Judo Championship held in Una, Himachal Pradesh from 9th to 12th February 2014 and in the 35th National Games, Kerala 2015 held from 31st January to 14th February 2015 and secured 2nd position (Silver medal). This fulfills the criteria as per Rule 7(2) (kha) for out of turn promotion to the post of sub -inspector. The respondents acknowledged one silver medal which petitioner won in National Games 2015, Kerala held from 31st January to 14th February 2015 and was not considered for out of turn promotion to post of sub inspector. Instead petitioner was given out of turn promotion to the post of Head Constable based on the performance of 2014, 2015 and 2016 as per the Rule 7(1).

6. The respondents considered the silver medal won by the petitioner in 2013-14 (Held in Una from 9th to 12th February 2014) as the Medal won in the year 2013. This medal has not been counted for the promotion. Whereas the petitioner has been awarded a cash prize of Rs 15000/- by the department on the occasion of 15th Foundation Day of Uttarakhand State for her performance in the year 2014 at Una, Himachal Pradesh. The learned Counsel for the petitioner further pleaded that the performance of the petitioner during the period from 9th to 12th February 2014 cannot be considered for the year 2013 as the performance year is 2014.

7. The learned APO has submitted that the Judo Federation of India, New Delhi clarified that the Senior National Judo Championship held from 9th to 14th February 2014 at Una will be considered of the year 2013-14 financial year wise and for the year 2013 calendar year wise as it was the event of the year 2013. Accordingly, the committee considered this performance pertaining to the year 2013. As the silver medal was won by the petitioner in the calendar year 2013, she was not considered for out of turn promotion to the post of sub inspector.

8. On the basis of the arguments and the documents submitted by the learned pleaders from both the sides, it was found that Rule 7(2) (kha) provides for securing medal in the year or in the consecutive years for three years, but it does not mention the event of which year. The committee constituted by the DG Police Uttarakhand while recommending the players considered their performance for the last three years. The reply of the Police department on the representation of the petitioner and the minutes of the meeting of the committee mentions that the petitioner has won one silver medal during last three years, due to which she was not considered for out of turn promotion to the post of sub- inspector. The committee did not consider that silver medal won by the petitioner in the National Judo Championship 2013-14 held at Una, Himachal Pradesh from 9th to 12th February 2014 citing that the event was of the calendar year 2013.

9. As the rule provides for performance in the year and does not mention the event of a particular year, so the medal was won by the petitioner in the Calendar year 2014 or the financial year 2013-14.

10. Rule 7(2) (Kha) of *The Uttarakhand Police Ke Kushal Khiladiyon Ki Binapari Padonnati Prakriya Niyamawali- 2016* defines the recruitment year as the 12 months of the calendar year starting from the 1st July of the calendar year. The promotion is done twice in

the year, in the month of February and August accordingly. The financial year wise performance to be considered for these out of turn promotions as in case of the regular promotions.

11. In view of above provision, we are of the opinion that the petitioner is seeking promotion for the post of Sub-Inspector under the provisions of Rule 7(2)(Kha) of the The Uttarakhand Police Skilled Player Out of Turn Promotion Proceeding Rules, 2016. It is revealed here that the petitioner secured Silver Medal in the National Judo Championship held at Una, Himachal Pradesh from 9th -12 February 2014 to be considered for the year 2013-14 and in the 35th National Games, Kerala from 31st January to 14 the February 2015 for the year 2014-15. This makes her tally of two silver medals during the financial year 2013-14 and 2014-15 which makes her eligible for out of turn promotion as per the aforesaid Rule. The impugned order dated 24.03.2023 denying her promotion is liable to be set aside and the petitioner is entitled to get promotion. Hence, the claim petition is liable to be allowed.

ORDER

The claim petition is allowed and the impugned order dated 24.03.2023 is hereby set aside. The respondents are directed to consider the petitioner for Out of Turn promotion on the post of Sub-Inspector. No order as to costs.

RAJENDRA SINGH
VICE CHAIRMAN (J)

A.S.RAWAT
VICE CHAIRMAN (A)

DATED: OCTOBER 11, 2024
DEHRADUN
KNP