

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

**WRIT PETITION NO 1501(S/S) OF 2019  
[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 57/NB/SB/2023]**

1. Naveen Chandra Upreti aged about 57 years, s/o Late Sri Chandra Ballabh Upreti, presently posted as Foreman, Provincial Division, Public Works Department, Nainital.
2. Harish Chandra Bhagat aged about 59 years, s/o Late Sri Bachi Ram Bhagat, presently posted as Foreman, N.H. Division, Public Works Department, Haldwani, Nainital.
3. Brij Lal aged about 59 years, s/o Late Sri Chani Ram, presently posted as Foreman, Temporary Division, Public Works Department, Bhowali, District Nainital

**.....Petitioners**

**VS.**

1. State of Uttarakhand through Additional Chief Secretary, Government of Uttarakhand, Dehradun.
2. Principal Secretary, Public Works Department, Government of Uttarakhand, Dehradun.
3. Secretary Finance, Government of Uttarakhand, Dehradun.
4. Engineer-in-Chief and Head of the Department, Public Works Department, Uttarakhand, Dehradun.
5. Chief Engineer Level-1, Kumaon Region, Haldwani, District Nainital.
6. Executive Engineer, Temporary Division, Public Works Department, Bhowali, District Nainital.
7. Executive Engineer/ Nodal Officer, Provincial Division, Public Works Department, Nainital.
8. Executive Engineer, National Highway Division, Public Works Department, Haldwani, District Nainital.

**.....Respondents.**

(virtually)

Present: Sri Harendra Belwal, Advocate, for the petitioners.  
Sri Kishore Kumar, A.P.O., for Respondents.

**JUDGMENT**

**DATED: OCTOBER 08, 2024.**

**Justice U.C.Dhyani (Oral)**

Hon'ble High Court of Uttarakhand at Nainital, passed an order, in WPSS No. 1501/2019 , Naveen Chandra Upreti and others vs. State of Uttarakhand through Additional Chief Secretary, Dehradun and others, on 22.03.2023, as follows:

*“Petitioners are public servant. They have approached this Court, seeking the following reliefs:*

*“i) Issue a writ, order or direction in the nature of certiorari quashing the impugned order no.676/III(1)19-04(33) /2018 dated 02.05.2019 (Annexure No.02), passed/issued by Additional Chief Secretary, Government of Uttarakhand, Dehradun.*

*ii) Issue a writ, order or direction in the nature of mandamus commanding the competent authority to revised/ upgraded the pay scale to the petitioners in pursuance of the recommended made by Engineer-In-Chief, P.W.D. Dehradun, Uttarakhand.*

*iii) Issue a writ, order or direction in the nature of mandamus commanding the respondents to release the arrears of salary to the petitioners of the revised/ upgraded the pay scale.”*

*Since petitioners are Government Servants serving under the State, therefore, the remedy of approaching Public Services Tribunal, constituted under U.P. Public Services (Tribunal) Act, 1976, is available to them.*

*In such view of matter, this Court refrains from interfering in the matter and disposes of the writ petition, with liberty to petitioners to approach the Tribunal.*

*Registry is directed to transmit the complete record of the present writ petition to the Tribunal forthwith.”*

2. Writ Petition No. 1501 (S/S) of 2019 is, accordingly, reclassified and renumbered as Claim Petition No. 57/NB/SB/2023. Since the reference in this Tribunal shall be of the writ petition filed before the Hon'ble High Court, but shall be dealt with as claim petition, therefore, the claim petition shall be referred to as 'petition' and petitioner shall be referred to as 'petitioner', in the body of the judgment.

3. Petition is supported by the affidavit of Sri Naveen Chandra Upreti, petitioner no. 1. Relevant documents have been filed along with the petition.

4. Petition has been contested on behalf of respondents. Sri Anand Ballabh Kandpal, the then Executive Engineer, Temporary Division, Public Works Department, Bhowali, Nainital, has filed Counter Affidavit on behalf of Respondent No. 6.

5. In para 11 of the C.A., it has been stated that the representations regarding up-gradation of pay given by the petitioners as well as Government Vehicle Drivers, Union of P.W.D. and recommendations made by the department have been thoroughly examined and considered. In so far as the enhancement in the grade pay of Amin, Work Supervisor, Electrician and Wireman is concerned, it was enhanced considering the nature of work, work conditions and responsibilities of the work etc. The nature of work, work conditions and responsibilities of the work of the roller drivers is different, as such parity, as claimed by the petitioners is not sustainable. The claim of the petitioners for up-gradation in grade pay of roller drivers was also considered by the Pay Anomaly Committee/ Pay Discrepancy Committee and was rejected by the said committee. Petitioners' claim of parity with the employees of State of U.P. is not tenable in the eyes of law. As the payment of salary (grade pay) applicable to the employees of one State cannot be applied for the employees of the another State.

6. Counter Affidavits, on similar lines, have also been filed by Sri Dev Singh Basnal, Executive Engineer/ Nodal Officer, Provincial Division, Public Works Department, Nainital, on behalf of Respondent No.7 and Sri Sunil Kumar, Executive Engineer, National Highway Division, Public Works Department, Haldwani, District Nainital, on behalf of Respondent No. 8.

7. It is a case in which revised up-graded pay scale was recommended by Engineer-in-Chief, P.W.D., Dehradun to the petitioners, but the Government (in P.W.D.) did not find favour with

those re commendations and rejected the representations of the petitioners *vide* Office Memorandum dated 02.05.2019 (Annexure: 2), which is under challenge in present petition.

7.1 Before filing present petition, petitioners, along with others, filed writ petition being WPSS No. 768/2018, which was disposed of by the Hon'ble Court *vide* (order) dated 20.03.2019, which order reads as under:

“.....Petitioners are serving as Roller Foreman in Public Works Department. They are getting pay scale of `5200-20200 with grade pay of `1900, while according to them, they are entitled to grade pay of `2800 in terms of the Government policy. According to the petitioners, their case for higher grade pay of `2800 has been recommended by Chief Engineer, Level-1 to the Additional Secretary, P.W.D., Dehradun *vide* letter dated 06.10.2014. Learned counsel for the petitioners confines his prayer and submits that State Government be directed to take a decision on the recommendation made by Chief Engineer, Level-1.

Prayer made is innocuous, therefore, is worth accepting.

**Accordingly, writ petition is disposed of with a direction to Additional Secretary, P.W.D., Dehradun to consider petitioners' claim in the light of the recommendation dated 06.10.2014 and take appropriate decision, in accordance with law, within a period of eight weeks from the date of production of certified copy of this order.”**

*[Emphasis supplied]*

8. It is the submission of Ld. Counsel for the petitioners that Respondent No.1 has not considered the recommendations of Engineer-in-Chief, P.W.D., in right earnest, while issuing the impugned Office Memorandum dated 02.05.2019 (Annexure: 2).

9. It is the submission of Ld. A.P.O. that salary applicable to the employees of one State cannot be made applicable to the employees of another State. Considering the financial condition of the State of Uttarakhand, the State Government rejected the representations of the petitioners for up-gradation of grade pay. The representations of the petitioners were examined and considered as per Rules, Government Orders and directions of “Pay Discrepancy Committee” by the competent authority. It was decided that up-gradation of grade pay of Roller Foreman from Rs.1900/- to Rs.2800/-

is not possible. Considering the nature of work, work conditions and responsibilities of the post, the grade pay of Work Supervisor, Amin, Electrician and Wireman was enhanced by the Govt. Claim of the petitioners for parity with those employees is not sustainable.

10. In reply, Ld. Counsel for the petitioners submitted that considering the nature of work, work conditions and responsibilities of the post, the grade pay of Work Supervisor, Amin, Electrician and Wireman was enhanced by the Govt. Petitioners seek parity with those employees. Petitioners also claim parity with the employees of the State of U.P. The petitioners, who are working as Roller Drivers in the department, are entitled to parity with those employees who are similarly situated and doing similar work. It is also the submission of Ld. Counsel for the petitioner that petitioners' case was recommended by the Engineer-in-Chief, P.W.D., Dehradun on 06.10.2014 (Annexure: 8).

11. Ld. Counsel for the petitioners further submitted that the respondents be directed to reconsider the case of the petitioners in the light of the letter dated 06.10.2014, recommending the case of the Assistant Mechanic, Fitter, Roller Foreman and Mechanic for enhanced grade pay of petitioners like the employees of the State of U.P., to which Ld. A.P.O. replied that the same has been dealt with by the Additional Secretary of the respondent department in Para 4-(C) of the Office Order dated 02.05.2019 (Annexure: 2) and there is no need to reconsider the same. In reply, Ld. Counsel for the petitioner submitted that the order was passed on 02.05.2019 and financial condition of the State of Uttarakhand has improved in the last five years, therefore, the respondent department should be directed to reconsider the proposal for enhancement of grade pay of the petitioners by Engineer-in-Chief, P.W.D., Dehradun, recommended on 06.10.2014.

12. Considering the totality of the facts which have been mentioned and discussed above, the Tribunal visualizes no harm if the

respondent department is requested to re-visit and re-consider the proposal after hearing the petitioners, in accordance with law.

13. Petition is disposed of by making a request to Respondent No.1 to kindly re-look into the matter, inconvenient although it may appear to be, considering the hardship faced by the petitioners, keeping in view the recommendations of the Engineer-in-Chief, P.W.D., Dehradun *vide* letter dated 06.10.2014, for seeking parity with the similarly situated employees of the State of Uttarakhand and U.P.

14. Efforts should be made to provide substantial justice to a suitor, instead of looking for technical justice.

15. While issuing the above mentioned directions, the Tribunal is fortified by the order dated 20.03.2019 of the Hon'ble High Court of Uttarakhand, passed in WPSS No. 768/2018, Naveen Chandra Upreti & others vs. State of Uttarakhand and others.

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: OCTOBER 08, 2024*  
*DEHRADUN*

VM