

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

Present: Hon'ble Mr. Justice U.C. Dhyani

----- Chairman

Hon'ble Mr. A.S. Rawat

----- Vice Chairman (A)

**CLAIM PETITION NO. 40/DB/2022**

Sri Purshottam Dutt Nautiyal, aged about 57 years, s/o late Sri Ishwari Dutt Nautiyal, presently posted as Personal Officer, Dehradun Circle, Rural Construction Department, District Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Rural Construction, Government of Uttarakhand, Dehradun.
2. Chief Engineer, Level-1, Department of Rural Construction, Uttarakhand, Dehradun.

..... Respondents

Present: Sri Uttam Singh, Advocate, for the petitioner  
Sri V.P. Devrani, A.P.O. for the respondents

**JUDGEMENT**

**Dated: 23<sup>rd</sup> December, 2024**

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

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

“(i) Issue a writ, order or direction calling for the records and quashing the communication dated 03.12.2020 issued by the Secretary, Rural Construction Department, Uttarakhand Dehradun (Annexure No. 1 to the Claim Petition), whereby the

claim of the Claimant for consideration for promotion on the post of Chief Personal Officer has been rejected on the ground that the services rendered by the Claimant on the post of Jr. Assistant cannot be calculated for the purpose of determination of the qualifying service for promotion on the post of Chief Personal Officer.

(ii) Issue a writ, order or direction directing the respondents to treat the services rendered by the Claimant on regular basis on the post of Jr. Assistant in the department from 30.04.1991 to 04.02.2005 as a qualifying service for being considered for promotion on the post of Chief Personal Officer.

(iii) To award the cost of the petition or to pass such order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. Petitioner filed a writ petition being WPSS No. 365/2022 before the Hon'ble High Court. Hon'ble Court was pleased to dispose of the writ petition *vide* order dated 05.03.2022 as follows:

“Mr. Vinay Kumar, Advocate, for the petitioner.

Mrs. Anjali Bhargava, Addl. CSC, for the State.

Petitioner before this Court, has put a challenge to an order, which has been passed by the Secretary, Rural Construction Department, State of Uttarakhand, as back on 03.12.2020, whereby, the petitioner's claim for being promoted as Chief Personal Officer, has been rejected on the ground, that the services rendered by the petitioner as a Junior Assistant, cannot be included in the criterion of determination of eligibility criteria for being considered for promotion.

Since there is a belated challenge to the orders, which also requires a factual appreciation with regard to the implications of Rule 3(d) and Rule 4(1) of the Determination of Qualifying Services Rules, 2018, this Court is of the view that it would be apt, that the petitioner may be directed to approach before the Public Services Tribunal, for the redressal of his grievance and if he does so within a period of one month from the date of receipt of the certified copy of this judgment, the learned Tribunal will not dismiss the claim petition of the petitioner on account of the limitation, but would rather adjudicate the controversy on its own merits.

Subject to above observations, the writ petition stands disposed of.”

3. The short question, which arises for consideration of the Tribunal is, whether the service rendered by the petitioner as Junior

Assistant should be included in the criteria of determination of eligibility for being considered for promotion to the post of Chief Personal Officer or not?

4. Petitioner relies on the Uttar Pradesh Rural Engineering Services Department Clerical Cadre Service Rules, 1986 (for short, 'Rules of 1986'), to submit that the post of Stenographer is included in the clerical cadre, therefore, petitioner should be given benefit of qualifying service by including the service rendered by him as Junior Assistant in the department.

5. According to Sri Uttam Singh, learned Counsel for the petitioner, the petitioner has rendered service as Junior Assistant and he is entitled to promotion on the post of Chief Personal Officer, therefore, the service rendered by him as Junior Assistant should be included while considering his promotion to the post of Chief Personal Officer.

6. The respondent department has rejected the representation of the petitioner *vide* order dated 03.12.2020 (Annexure No. 1) by saying that the petitioner does not fulfil the criteria of qualifying service, therefore, he is not entitled to such benefit. A reference of the Uttarakhand Determination of Eligibility Period for the Promotion of Personal Assistant Category Posts under State Rules, 2018 (for short, 'Rules of 2018'), which have been amended in the year 2024, has been given in the same.

7. In the Rules of 2018, it has been mentioned that the posts of Chief Personal Officer will be filled from among those Stenographers, who have completed 25 years of service. In the said Rules, it has also been mentioned that a post will be filled up from among those persons, who have completed minimum one year of service as Personal Officer. The Tribunal observes that the petitioner has not completed such qualifying service.

8. In the Rules of 1986, although clerical staff and Stenographers are included in the Group 'C' cadre, but in the note appended at the end of such Rules, it has clearly been mentioned that if someone has been transferred from some other department to Rural Works Department (R.W.D.), then his services shall be counted for the purpose of promotion but in the instant case, the petitioner has not been transferred from any other department but, he served in the same department i.e. RWD firstly as Junior Assistant, and thereafter, as Stenographer. The fact of the matter is that he has rendered his service only in RWD and he has not come from any other department so as to attract the note appended at the end of the Rules of 1986. The petitioner is not entitled to any relief.

9. Learned Counsel for the petitioner drew attention of the Tribunal towards letter dated 28.01.2005, written by Superintending Engineer, Rural Engineering Services Department, Garhwal Circle, Pauri to Executive Engineer, Rural Engineering Services Department, Uttarkashi Circle, to submit that the petitioner has been working as Stenographer for more than two years, although he was posted as Junior Assistant, therefore, he is entitled to the benefit of such letter. Learned A.P.O. submitted that the petitioner did not serve as Stenographer in the substantive post, he might have worked temporarily as Stenographer, as additional charge.

10. Even if it be conceded for the sake of arguments, that the petitioner was working as Stenographer in addition to his work as Junior Assistant for more than two years (say three years), even then he does not fulfil the criteria of 25 years of qualifying service, as provided in the Rules of 2018. In any case, the petitioner is not entitled to the relief claimed in the petition.

11. The claim petition thus fails and is dismissed.

12. This will, however, not preclude the petitioner from making any representation to the respondent department, if he thinks, on discovery of some new facts and supporting document(s), that he is

entitled to the relief claimed in this petition. If such representation is filed by the petitioner, the respondents are directed to consider the same, in accordance with law.

13. In the circumstances, there shall be no order as to costs.

**(A.S. RAWAT)**  
VICE CHAIRMAN (A)

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

*DATE: 23<sup>rd</sup> December, 2024*  
*DEHRADUN*  
*RS*