

**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. 116/NB/DB/2023**

1. Ganesh (Male), aged about 46 years, S/o Dhakan Lal, R/o Kichha Sugar Factory Ltd., Kichha, District Udham Singh Nagar, Uttarakhand -263148.

2. Dinesh Pal (Male), aged about 39 years, S/o Salig Ram, R/o Kichha Sugar Factory Ltd., Kichha, District Udham Singh Nagar, Uttarakhand-263148.

.....**Petitioners**

Vs.

1- State of Uttarakhand through its Secretary Cane, Secretariat, Dehradun.

2-Uttarakhand State Sugar Federation, Dehradun.

3-Kichha Sugar Company Ltd., through its Manager, Kichha, District Udham Singh Nagar, Uttarakhand -263148.

4-Executive Director, Kichha Sugar Company Ltd., Kichha, District Udham Singh Nagar, Uttarakhand -263148.

.....**Respondents**

Present: Sri Kishore Rai, Advocate for the petitioners  
Sri Kishore Kumar, A.P.O. for the respondent no. 1  
Sri T.A.Khan, Senior Advocate, assisted by  
Sri Vinay Bhatt, Advocate for the respondents no. 2 to 4

**JUDGMENT**

**DATED: FEBRUARY 13, 2025**

Present claim petition has been filed for the following reliefs:

*I. Issue an order or direction for quashing of the order dated 02.03.2023 (contained as Annexure No.1 to the claim petition) passed by respondent no.4.*

*II. Issue an order or direction by directing the respondents to pay minimum pay scale to the petitioners as given to similarly situated employees in the respondent no.3*

*department in view of the judgment passed by this Hon'ble Court vide its order dated 29.12.2020 in WPSS No.946/2018 "Rajesh Kushwah vs. State of Uttarakhand and others" and also consider the case of the petitioners for regularization as the petitioners are working in the respondent no.3 department against the vacant post.*

*III. Issue any suitable writ, order or direction, which this Hon'ble court may deem fit and proper on the basis of the facts and circumstances of the case."*

2. Brief facts of the case are as follows:

2.1 The petitioner No.1 joined the services of Respondent No.3 in the year 1995 and the Petitioner No.2 Joined the Services of the Respondent No.3 in the year 2001 on the vacant post of plantation labour on daily wages basis and till date the petitioners are continuously working with Respondent No.3 without any hindrances and served more than 27 years by Petitioner No.1 and 21 years by the Petitioner No.2. The Respondent No.3 is completely State Government owned factory and control of the said factory is with the State Government i.e. with the Respondent No. 1 and 2.

2.2 At the time of joining with the respondent No.3, the Petitioner No.1 in September 1997 got the salary of Rs. 735/- per Month and after about 20 years of services with the respondent no.3, his salary was increased from Rs.735/- to Rs. 7516/- and after statutory deduction of Rs. 658/-, he was getting Rs.6923/- per month. In the same line at the time of joining with the respondent No.3, the Petitioner No.2 in December 2002 got the Salary of Rs.735/-per month and after about 15 years of services with the respondent no.3, his salary was increased from Rs.735/- to Rs. 8360/- and after statutory deduction of Rs.703/- he is getting Rs.7657/-per month.

2.3 The petitioners made representations for payment of regular pay as other equal employee are drawing and also for regularization on the sanctioned vacant post of Plantation Labour on 25.04.2018. Identical controversy has come before this Hon'ble Court, in writ petition bearing no. WPSS No.946 of 2018 wherein this Hon'ble Court vide its judgment dated 29.12.2020, allowed minimum of salary as other regular employees working with the respondent Sugar

Company are getting keeping in view the spirit contained in the judgment rendered by the Hon'ble Supreme Court in Jagjit Singh's case".

2.4 The aforesaid judgment as mentioned in the preceding paragraph has been challenged by the respondent no.3 by preferring Special Appeal No.53 of 2021 "Uttarakhand Co-operative Sugar Mills Federation and another vs. Rajesh Kushwah and others" and the Hon'ble Division Bench upheld the judgment passed by the Hon'ble Single Judge, vide its order dated 23.02.2021. The respondent no.3 has preferred a special leave petition before the Hon'ble Apex Court that too has also dismissed by the Hon'ble Apex Court vide its order dated 28.03.2022.

2.5 The petitioner earlier approached Hon'ble High Court of Uttarakhand, Nainital by way of filing a writ petition bearing WPSS No.2371 of 2022 "Ganesh Ram and another vs. State of Uttarakhand and others" for grant of minimum pay scale and the Hon'ble Court has pleased to pass an order dated 19.12.2022 by directing the respondents to decide the representation of the petitioners and same has been rejected by respondent no.4 vide order dated 02.03.2023.

3. C.A./W.S. has been filed on behalf of the respondents no. 2 to 4 stating therein that the petitioner was never employed on regular basis in the Sugar Mill. He was rather a daily wager engaged from time to time as and when the need of labourers was required in the plantation of the sugar mill, which is a separate land, where the agriculture activities are being done. In compliance of the decision taken by the government vide order dated 27-04-2018, the Sugar Mill of the answering respondent has engaged the daily wagers not directly but through outsourcing agency.

In the light of the government order dated 27-04-2018, the petitioners along with other Labourers were being engaged as per requirement through outsource agency namely Madhya Uttar Pradesh Suraksha Guards, Shramik Utthan and Punarwas Sahkari Shram Samvida Samiti Ltd.and which is at present being known as

"Purvi Uttar Pradesh Suraksha Guards, Shramik Utthan and Punarwas Sahkari Shram Samvida Samiti Ltd. Thus, they are not entitled to have any parity in their pay scales with the regular employees nor they are entitled to claim their regularization.

4. R.A. has been filed on behalf of the petitioners reiterating the averments made in the claim petition.

5. We have heard learned Counsel for the parties and perused the record.

6. Learned Counsel for the respondents argued that under the U.P. Public Services (Tribunal) Act, 1976 (as applicable in State of Uttarakhand), reference of claim to Tribunal can only be made by a Person, who is or has been a "public servant" and is aggrieved by an order, pertaining to a service matter, within the jurisdiction of the Tribunal.

7. As per Section 4 of the Uttar Pradesh Public Services (Tribunal) Act, 1976 (as applicable in State of Uttarakhand), a person who is or has been a "Public Servant" and is aggrieved by an order pertaining to a service matter within the jurisdiction of the Tribunal, may make a reference of a claim to the Tribunal for redressal of his grievance. Section 4 of the Act reads as under:

**"4. Reference of claim to Tribunal.-** (1) Subject to the other provisions of this Act, a person who is or has been a public servant and is aggrieved by an order pertaining to a service matter within the jurisdiction of the Tribunal, may make a reference of claim to the Tribunal for the redressal of his grievance. Explanation: For the purpose of this sub-section "order" means an order or omission or in-action of the State Government or a local authority or any other Corporation or Company referred to in clause (b) of section 2 or of an officer, committee or other body or agency of the State Government of such local authority or Corporation or company: Provided that no reference shall, subject to the terms of any contract, be made in respect of a claim arising out of the transfer of a public servant; Provided further that in the case of the death of a public servant, his legal representative, and where there are two or more such representatives, all of them jointly, may make a reference to the Tribunal for payment of salary, allowances, gratuity, provident fund, pension and other

pecuniary benefits relating to service due to such public servant.”

Who is a “Public Servant” for the purpose of the meaning of the Act, is defined in Section 2 clause (b) of the Act, which reads as under:

*“2(b) “public servant” means every person in the service or pay of-*  
*(i) the State Government; or*  
*(ii) a local authority not being Cantonment Board; or*  
*(iii) any other corporation owned or controlled by the State Government (including any company as defined in Section 3 of the Companies Act, 1956 in which not less than fifty per cent of paid up share capital is held by the State Government) but does not include-*  
*(1) a person in the pay or service of any other company; or*  
*(2) a member of the All India Service or other Central Services.”*

8. On the basis of the above, the petitioners are not covered under the definition of a ‘public servant’ and cannot approach to this Tribunal. Hence, the Tribunal is of the view that the petition is not maintainable before this Tribunal.

9. Accordingly, the claim petition is dismissed. The petitioners may approach appropriate forum for redressal of their grievances.

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

**(RAJENDRA SINGH)**  
 VICE CHAIRMAN (J)

*DATED: FEBRUARY 13, 2025*  
*DEHRADUN.*  
*KNP*