

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

Present: Hon'ble Mr. Rajendra Singh

----- Vice-Chairman (J)

Hon'ble Capt. Alok Shekhar Tiwari

-----Member (A)

WRIT PETITION NO 60 (S/B) OF 2021

[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 67/NB/DB/2022]

1. Priyanka Singh, aged about 38 years, w/o Sri Bhupendra Kumar Singh, presently working as In-charge Chief Agriculture Officer, Almora.
2. Vinod Kumar Sharma, aged about 36 years, s/o Sri Ramesh Chandra Sharma, presently posted as Agriculture & Soil Conservation Officer, Badechhina, Almora.

.....Petitioners

WITH

WRIT PETITION NO 93 (S/B) OF 2021

[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 91/DB/2022]

Deepak Purohit aged about 36 years s/o Shri Rakesh Chandra Purohit, presently posted as Agriculture & Soil Conservation Officer, Chakrata, Dehradun.

.....Petitioner

Versus

1. The State of Uttarakhand through Secretary, Ministry of Agriculture and Farmer Welfare, Uttarakhand Govt., State Secretariat, Dehradun.
2. Secretary, Personnel Department, Uttarakhand Govt., State Secretariat, Dehradun.
3. Director, Agriculture Department, Uttarakhand, Dehradun.
4. Ms. Latika Singh, w/o Shri Vinay Chandra, Street no. 11, Rajendra Nagar, Dehradun, presently posted as Officiating Chief Agriculture Officer, Dehradun.
5. Vijay Deorari, s/o Shri B.D. Deorari, r/o VI/4, Officers Colony, Roshnabad, Haridwar, presently posted as Officiating Chief Agriculture Officer, Haridwar.

.....Respondents

IN

CLAIM PETITION NO. 67/NB/DB/2022

Present: Sri S.C. Virmani and Sri S. K. Jain, Advocates, for Petitioner no. 1 &
Sri Amar Murti Shukla, Advocate, for Petitioner no. 2.
Sri Kishore Kumar, A. P. O., for Respondents no. 1 to 3
Sri M.C.Pant, Advocate for respondents no. 4 & 5

IN

CLAIM PETITION NO. 91/DB/2022

Present: Sri Amar Murti Shukla, Advocate, for the Petitioner
Sri V. P. Devrani, A.P.O., for Respondents No. 1 to 3
Sri M.C. Pant, Advocate for respondents no. 4 & 5

JUDGMENT**DATED: MARCH 06TH, 2025**

PER: Hon'ble Mr. Rajendra Singh, Vice Chairman (J)
Hon'ble Capt. Alok Shekhar Tiwari, Member (A)

1. These claim petitions (nos. 67/NB/DB/2022 & 91/DB/2022) were decided by a common judgment by the Bench comprising Hon'ble Chairman and Sri Rajeev Gupta, the then Vice Chairman (A) vide judgment dated 31.08.2022, with the following directions:

“25. In view of the aforesaid, this Tribunal comes to the conclusion that the present petition is squarely covered by the decisions rendered by Hon'ble Supreme Court in Y.V. Rangaiah and others vs. J.Sreenivasa Rao and others ; State of Rajasthan vs. R. Dayal and others; State of Punjab and others vs. Arun Kumar Aggarwal and others; B.L.Gupta and another vs. M.C.D. (supra) and other decisions quoted in the body of this judgment, therefore, the petition should be decided in terms of the aforesaid decisions.

26. We, accordingly, dispose of the petitions by directing the respondents to consider promotion of the petitioners, if they are found suitable, as per the Rules prevalent before the amendment that came into force on 10.12.2021. In the circumstances, no order as to costs.”

2. Thereafter, on behalf of the respondents filed Review Petition no. 04/NB/DB/2022 (in Claim Petition no. 67/NB/DB/2022) & Review Petition no. 01/DB/2023 (in Claim Petition 91/DB/2022), to review the aforesaid judgment, which was allowed by the same Bench comprising of Hon'ble Chairman and Sri Rajeev Gupta, the

then Vice Chairman (A) vide order dated 13.01.2023. Paragraphs 11 and 12 of the judgment in review are as follows:

“11. To put it straight, the Tribunal’s order dated 31.08.2022 was solely based on the decision rendered by Hon’ble Apex Court in Y.V. Rangaiah (supra), which was followed by the Courts in catena of decisions, which fact has been mentioned by Hon’ble Apex Court in State of Himachal Pradesh vs. Raj Kumar and others (supra) and since Y.V. Rangaiah’s decision (supra) had expressly been overruled in State of Himachal Pradesh vs. Raj Kumar and others (supra), even before our rendering the judgement-under-review, it is definitely an error apparent on the face of record and therefore Tribunal’s order dated 31.08.2022 needs to be reviewed.

12. Review Applications No. Rev-01/DB/2023, Rev04/NB/DB/2022 and Rev-02/NB/DB/2022 are allowed. The judgement-order under review is set aside. Petitions no. 67/NB/DB/2022 and 91/DB/2022 are restored to their original number and shall be heard on merits on 28.02.2023.”

3. The Hon’ble Chairman transferred these petitions to this Bench vide order dated 11.10.2024, for final hearing.

4. By means of petition number 67/NB/DB/2022, Priyanka Singh and another vs. State of Uttarakhand others and petition number 91/DB/2022, Deepak Purohit vs. State of Uttarakhand and others, the petitioners seek the following reliefs:

a) Issue a writ, order or direction in the nature of mandamus directing and holding that suspending the promotional exercise for the post of Deputy Director/ Chief Agriculture Officer after initiation thereof in the name of amending the service rules in vogue so as to benefit the selected few is bad in law.

b) Issue a writ, order or direction in the nature of mandamus commanding an directing the respondents to revive the suspended promotional exercise for the post of Deputy Director/ Chief Agriculture Officer and forthwith convene the DPC meeting to consider the petitioners for promotion in accordance with the service rules presently in force.

c) Issue any other appropriate writ, order or direction which this Hon’ble Court may deem fit and proper in the circumstances of the present case.

d) Award costs in favour of the petitioners.

5. Since the factual matrix of the above noted claim petitions along with law governing the field is the same, therefore, both the claim petitions are being decided together, by a common judgment, for the sake of brevity and convenience. Claim Petition No. 67/NB/DB/2022 Priyanka Singh and another vs. State and others shall be the leading case.

6. Brief facts of the present claim petitions are as follows:

6.1 The petitioners are substantively appointed Class-2 gazetted officers in the Agriculture department of the State of Uttarakhand. In terms of the applicable service rules, the petitioners are eligible to be considered for promotion to the higher post of Deputy Director/ Chief Agriculture Officer. The Personnel Department of the State Govt. *vide* its order dated 31.08.2020 had issued specific directions to all the Govt. departments to ensure to conclude the promotional exercises as early as possible. The grievance of the petitioners, by way of the present petition, is that despite the specific directions of the Govt., Departmental Promotion Committee meeting is not being held for promotion of Class-2 officers in the Agriculture Department.

6.2 1st petitioner possesses the academic qualification of M.Sc. in Botany with specialization in Plant Pathology. On being selected by the Uttarakhand Public Service Commission in the Combined State Civil/ Upper Subordinate Service Examination-2004, she was appointed as Agriculture Service Class-2 (Plant Protection Branch) Section 'C' *vide* order No. 866 (ii) dated 17.11.2009 of the State Govt. in the Agriculture Department in the pay scale of Rs.15600-39100/- plus grade pay Rs.5400/-. After successfully completing the probation period of two years, she continued to serve as Plant Protection Officer in the department. At the time of filing the petition, the 1st petitioner is serving as In-charge Chief Agriculture Officer, Almora.

6.3 2nd petitioner did his B.Tech. in Agriculture Engineering from G.B. Pant University of Agriculture and Technology, Pantnagar in 2005 and thereafter he completed his M.Tech. degree in Soil and Water Conservation Engineering from IIT Kharagpur in 2008. He was declared successful by the Uttarakhand Public Service Commission for Uttarakhand Agriculture Service Class-2 Section 'D' (Engineering Branch) in the Combined State Civil/ Upper

Subordinate Service Examination- 2010. On the basis of the recommendation of the Public Service Commission, he was given appointment in the Engineering Branch by the State Govt. *vide* its composite order no. 2287 dated 01.01.2015 in the pay scale of Rs. 15600-39100/- plus grade Rs.5400/-. 2nd petitioner successfully completed his probation period of two years and has been serving on the post of Agriculture and Soil Conservation Officer.

6.4 In the erstwhile composite State of U.P., the recruitment and service conditions of persons in U.P. Subordinate Agriculture Group 'B' Service were regulated by the U.P. Subordinate Agriculture Group 'B' Service Rules, 1995 framed under *proviso* to Article 309 of the Constitution of India. As per Rule 3(b), 'appointing authority' means the Governor. Sub clause (d) of Rule 3 defines 'commission' as the U.P. Public Service Commission. Rule 5 states that the recruitment to the various categories of posts in Service shall be made from the sources mentioned against them in Appendix 'A' & 'B'. Rule 8 states that for direct recruitment to various posts in service the candidates should have the academic qualifications indicated against the posts in Appendix 'A' & 'B'. By a notification dated 08.11.2002 the aforesaid Service Rules were adopted by the State of Uttarakhand with necessary modification and adaptation. Copies of the U.P. Subordinate Agriculture Group 'B' Service Rules, 1995 and Uttaranchal (U.P. Agriculture Group 'B' Posts Service Rules, 1995) Adaptation and Modification Order, 2002 are enclosed as Annexures: 1 & 2 to the petition. In the erstwhile State of U.P., the recruitment and service conditions of persons in U.P. Agriculture (Group 'A' Posts) Service were regulated by the U.P. Agriculture (Group 'A' Posts) Service Rules, 1992. The said Service Rules framed under Article 309 were in supersession of all rules and orders in existence on that point of time. Rule 5 of the said Rules provides for source of recruitment. The petitioners herein are concerned with the post of Deputy Director mentioned at Sl. No. 5 under Rule 5. The aforesaid Service Rules were adopted

by the State of Uttarakhand *vide* a notification dated 08.11.2002, with necessary modification and adaptation. Copy of the U.P. Agriculture (Group 'A' Posts) Service Rules, 1992 and Uttaranchal (U.P. Agriculture (Group 'A' Posts) Service Rules, 1992) Adaptation and Modification Order, 2002 (for short, Rules of 1992) are enclosed as Annexures: 3 & 4 to the petition.

6.5 *Vide* notification dated 02.08.2003 of the State Govt. (Annexure: 5), the earlier notifications dated 04.10.2001 and 27.10.2001 regarding the re-organization of the Agriculture Department were superseded and new reorganized cadre structure of Agriculture Department was issued creating 2609 posts in the department. The said reorganization was made with a view to speed up the development in the remote and inaccessible places of the State. By the said notification, 18 posts of Deputy Agriculture Director/ Chief Agriculture Officer in the pay scale of Rs.10,000-15,200/- were sanctioned.

6.6 In the Agriculture Department of the State of Uttarakhand, there are as many as seven branches at the Class-2 level. These are- Development, Engineering, Plant Protection, Statistical, Chemical, Botanical and Marketing. The immediate higher promotional post of Deputy Director/ Chief Agriculture Officer (which the petitioners are presently concerned with) is filled up by way of promotion of the Class-2 Officers of different branches who have completed five years service as such on the first July of the recruitment year.

The branch-wise cadre strength in Class-2 and Class-1 (Deputy Director/ Chief Agriculture Officer) in the department, is as follows:

Sl. No.	Name of the branch	Class-2 Sanctioned posts	Class-1 Sanctioned posts Dy. Dr./ C.A.O.	Vacancies in Class-1 posts Dy. Dr. / C.A.O.
1.	Development Branch	30	7	2

2	Engineering Branch	14	4	2
3.	Plant Protection Branch	14	3	1
4.	Statistical Branch	4	2	2
5.	Chemical Branch	4	1	
6.	Botanical Branch	1		
7.	Marketing Branch	1		
	Total	68	18	7

6.7 From the above table it would reveal that as against 18 sanctioned posts of Deputy Director/ Chief Agriculture Officer, presently 11 posts are occupied and seven posts are lying vacant. Out of the said vacant posts, two posts are to be filled up by promotion from amongst eligible officers belonging to Development Branch, two posts are to be filled up by promotion from amongst officers belonging to Engineering Branch, one post is to be filled up by promotion from amongst eligible officers belonging to Plant Protection Branch and two posts are to be filled up by promotion from amongst eligible officers belonging to the Statistical Branch. It is relevant to add here that there is no eligible officer available in the Statistical Branch for promotion to the post of Deputy Director/ Chief Agriculture Officer.

6.8 The qualifications prescribed for appointment in various branches at Class-2 level are branch specific. Therefore, separate branch-wise seniority lists of officers are maintained and accordingly, at the promotional stage of Deputy Director/ Chief Agriculture Officer, quotas for various branches have been earmarked. As the qualifications for direct recruitment in different branches are also different, the rule makers have consciously provided for quotas in promotion for the individual branches. The petitioners are having unblemished service record to their credit. Each of the petitioners has already completed more than five years of service on the Class-2 post. They are thus eligible to be considered for promotion to the post of Deputy Director/ Chief

Agriculture Officer, against the available vacancies in terms of the Services Rules of 1992.

6.9 Final seniority list of Class-2 Officers in Development Branch was issued by the Govt. *vide* O.M. No. 1279 (1) dated 27.10.2019 (Copy: Annexure-6). Out of the 34 officers figuring in the seniority list, 12 officers have been shown retired long back and one officer relieved for U.P. Final seniority list of Class-2 Officers in Plant Protection Branch was issued by the State Govt. *vide* O.M. No.227 dated 03.07.2020 (Copy: Annexure-7), by which it can be seen that 1st petitioner at Sl. No. 4 is the senior most officer among the officers serving the department. Final seniority list of Class-2 Officers in Engineering Branch was issued by the State Govt. *vide* O.M. No. 1644 dated 30.09.2020 (Copy: Annexure- 8). In the said list, the name of 2nd petitioner is at Sl. No. 19. The officers shown above at Sl. No.19, had either got promotion to class-1 long back or retired or relieved for Uttar Pradesh. 2nd Petitioner is practically at Sl. No.1 in the seniority of the officers belonging to Engineering Branch.

6.10 The Govt. of Uttarakhand by issuing different G.Os. from time to time, directed all the Addl. Chief Secretaries, Principal Secretaries/ Secretaries, H.O.Ds./Principal Heads of offices, Commissioner Garhwal/Kumaon Region, D.Ms. and M.Ds. of all the Corporations/Establishments to ensure necessary steps relating to promotion against the vacant posts for promotion in all departments in accordance with the provisions contained in the G.O. dated 05.09.2012 and also to report back to the Personnel and Vigilance Department of the action taken. *Vide* G.O. dated 05.09.2012, it was also directed that promotions shall be made without applying the reservation roster for SCs and STs in promotions. Subsequently, the Addl. Secretary, Personnel and Vigilance *vide* communication dated 15.09.2020 brought to the notice of all the Secretaries of Govt. of Uttarakhand that Hon'ble

Chief Minister was to be apprised of the overall situation regarding the cadre-wise promotions made in different departments. Subsequent to the aforesaid Govt. communication dated 15.09.2020, promotional exercise for the post of Deputy Director / Chief Agriculture Officer was apparently initiated by the administrative department of the Govt. The Director, Agriculture, *vide* his communication no. 4367 dated 21.11.2020 (Annexure: 13) submitted the proposal to the Secretary, Agriculture, for promotion to the post of Deputy Director/ Chief Agriculture Officer, in which it was pointed out that against 18 sanctioned posts of Deputy Director/ Chief Agriculture Officer, 07 posts are lying vacant and promotions are to be made against the branch-wise vacancies. It is also clarified in the communication dated 21.11.2020 that against the 07 posts earmarked for Development Branch, 02 posts were lying vacant, against 03 posts earmarked for Plant Protection Branch, 01 post was lying vacant, against 04 posts earmarked for Engineering Branch, 02 posts were lying vacant and against 02 posts earmarked for Statistical Branch, both the posts were lying vacant. The Director also submitted the names of senior most 05 officers of each of the three branches namely: Development Branch, Engineering Branch and Plant Protection Branch for being considered for promotion by the D.P.C.

6.11 The Joint Secretary, Agriculture and Farmer Welfare, Govt. of Uttarakhand, *vide* communication dated 29.12.2020 (Annexure: 14) brought to the notice of the Addl. Secretary, Personnel Department and the Director, Agriculture that D.P.C. meeting for Deputy Director/ Chief Agriculture Officer in Agriculture Service Class-1 was scheduled to be held on 19.01.2021 from 11:00 AM in the Chairmanship of Secretary, Agriculture and Farmer Welfare Department, Govt. of Uttarakhand. By the said communication a request was also made to the said authorities to participate in the proposed D.P.C. meeting. On 31.12.2020, a representation (Annexure: 15), at the behest of the few officers of Development

Branch, was made to the Hon'ble Minister, Agriculture, to make the provision of Single Window System on Class-2 post and till then no promotions be made. On 31.12.2020 itself, Hon'ble Minister directed the Secretary, Agriculture to forthwith submit the proposal of restructuring/ reorganizing the various branches in Class-B Service into a Single Window System for being placed before the Cabinet and till then the promotional exercise on Class-1 post in the department be kept in abeyance (Copy: Annexure-16).

6.12 When petitioners came to know that the promotional exercise has been kept in abeyance on the ground of proposed amendment in the Service Rules, they made a representation dated 08.01.2021 (Annexure: 17) to the Chief Secretary, thereby pointing out that the branch-wise promotional provision has been in existence in the Service Rules of 1992 prior to the creation of Uttarakhand. Petitioners requested that the D.P.C. meeting be convened in accordance with the relevant Service Rules and also keeping in view the G.O. No. 254 dated 31.08.2020, issued by the Personnel Department. Thereafter on 11.01.2021 the 1st petitioner made a representation (Annexure: 18) through proper channel to the Secretary, Agriculture, Govt. of Uttarakhand requesting that the promotional exercise being in accordance with the Agriculture Service Group-A Service Rules, 1992, was Constitutional and in accordance with law. 2nd Petitioner also submitted a representation dated 10.01.2021 (Annexure: 19) to the Hon'ble Minister by which a similar request was voiced.

6.13 On 14.01.2021, the Joint Secretary, Agriculture wrote a letter (Annexure: 20) to the Addl. Secretary, Personnel Department, Govt. of Uttarakhand and Director, Agriculture, Uttarakhand that the D.P.C. meeting for promotion to the vacant Class-1 posts of Deputy Director/ Chief Agriculture Officer, under the Chairmanship of the Secretary, Agriculture and Farmer Welfare, Govt. of Uttarakhand, scheduled to be held on 19.01.2021, was being suspended/ stayed

due to unavoidable reason. Since the promotional process had already been initiated and it was stalled mid-way as per the instructions of the Hon'ble Minister, it appears that pursuant to the directions from the highest level, the administrative department decided to convene the D.P.C. meeting for promotion as per the prevailing Service Rules. Accordingly, by letter dated 29.01.2021 of Deputy Secretary, Agriculture (Annexure: 21), intimation was given to the Addl. Secretary, Personnel and Director, Agriculture that for promotion against the vacant posts of Deputy Director/ Chief Agriculture Officer, D.P.C. meeting would be held on 2.02.2021 at 09:30 AM under the Chairmanship of Secretary, Agriculture and Farmer Welfare in his official chambers. Addl. Secretary, Personnel and Director, Agriculture were requested to participate in the said D.P.C. meeting. However, the D.P.C. was not held even on this date.

6.14 The Personnel Department of the State Govt. is the nodal department in the matters of framing Rules for Govt. employees. It can issue policy related directions on behalf of the State Govt. to all the Govt. departments and G.O. dated 31.08.2020 is binding on all the departments. The promotional process cannot be suspended for amending the service rules to give benefits to a few employees. The chances of promotion of officers belonging to all feeding cadres need not be the same, inasmuch as the qualifications prescribed for appointment to the posts in various feeding cadres are also different. If an employee fulfils the requisite requirements for promotion prescribed under the relevant Service Rules and he falls within the zone of consideration, such employee is entitled to be considered for promotion against the available vacancy. In the instant case, the petitioners who are eligible to be considered for promotion in terms of the Service Rules are not being considered on the pretext of amending the rules, which is totally arbitrary and illegal.

6.15 It is settled law that no employee has a fundamental right for promotion, but right to be considered for promotion is a fundamental right, envisaged under Article 16 (1) of the Constitution of India, therefore, consideration cannot be suspended after initiation of the promotional process on the pretext of amending the Service Rules. In such view of the matter the grievance of the officers of Development Branch, who would not be promoted under the presently applicable Service Rules (*i.e.* Rules of 1992), is thoroughly misconceived and meritless.

6.16 The State Govt., by way of a policy decision, has already decided to fill up the vacant posts of promotion in all the departments, which decision of the State Govt. is binding on all the concerned including the State Govt. itself. The State Govt.'s directions do not give any liberty to the concerned administrative departments enabling them to first amend the Service Rules to the satisfaction of the selected few and then initiate the promotional process.

6.17 It is the submission of Ld. Counsel for the petitioners that respondents be directed to forthwith convene the D.P.C. meeting to consider the petitioners for promotion to the post of Deputy Director/ Chief Agriculture Officer in accordance with the Service Rules, as prevalent on the date s of vacancies or else the petitioners will suffer irreparable loss and injury. The petitioners have, therefore, filed present petition for the reliefs, which have been mentioned in Para 4 of this judgment.

7. Sri G. N. Upreti, Deputy Secretary, Agriculture and Farmer Welfare Department, Govt. of Uttarakhand, has filed Counter Affidavit on behalf of Respondent No.1. Sri Gauri Shankar, Director, Agriculture Department, Uttarakhand, Dehradun, has filed Counter Affidavit on behalf of Respondent No.3. Each and every material averment in the claim petition has been denied, save and

except as specifically admitted. The following has been mentioned in the C.A./W.S.:-

7.1 Rule 5 of the Service Rules, 1992 deals with source of recruitment and Rule 5(5) provides that recruitment on the post of Deputy Director, Agriculture shall be made by promotion through Departmental Selection Committee from amongst substantively appointed members of the Uttar Pradesh Agricultural Class-II Service, who have completed at least 05 years of service as such on the first day of July of the year of recruitment. *Provided* that the representation of members promoted from various Sections of the Uttar Pradesh Agricultural Class-II Service shall be maintained in the same proportion as the sanctioned strength of the Uttar Pradesh Agricultural Class-II Service, as it stands on the first day of the relevant year of recruitment. Further, the posts of Deputy Director of Agricultural Statistics shall be filled from amongst the members of the Agricultural Statistics Section of the Uttar Pradesh Agricultural Class-II Service only.

7.2 As per the provisions provided in the Service Rules of 1992, the Directorate *vide* letter No. 4367 dated 21.11.2020 (Copy: Annexure-CA-1), submitted branch-wise proposal for initiating promotional exercise for making promotion on Group 'A' post i.e., Deputy Director/ Chief Agriculture Officer amongst the members of Agricultural Class-II Service. Pursuant to the proposal dated 21.11.2020 of the Directorate, the officers appointed in the year 2009 and 2014 were included against the branch-wise vacancies as per the provisions of the Service Rules. Consequently, in some branches, where there being no vacancy or less vacancies, the names of officer appointed in the year 2005 could not be included in the said proposal, inasmuch as *proviso* to Rule 5(5) of the Service Rules of 1992 provides representation of members to be maintained in the same proportion as the sanctioned strength as it stands on the first day of the relevant year of recruitment.

7.3 In response to the representation of Association of the Uttarakhand Agriculture Officers, dated 31.12.2020, Hon'ble Minister, Agriculture, Govt. of Uttarakhand, vide letter No. 2008 dated 31.12.2020 directed the Secretary, Agriculture and Farmers Welfare, Govt. of Uttarakhand, to submit a proposal immediately for restructuring the posts under the Agriculture Group-II Service into a single window system in place of posts under various Branches, before the Cabinet and till then promotional exercise for promotion on the posts under Agriculture Group-I Services be kept in abeyance. Direction was give to Director, Agriculture, Uttarakhand by Secretary, Agricultural, Govt. of Uttarakhand *vide* letter dated 05.01.2021 (Annexure: CA-2) to forward clear proposal with immediate effect regarding restructuring/ reorganizing the posts under Agriculture Group-II Service into single window system. In response to the proposal submitted by the Directorate of Agriculture, the State Govt. *vide* letter dated 19.01.2021 sought clarification regarding Points No. 7 & 8 and pursuant to the said clarifications, the Directorate *vide* letter No. 5823 dated 28.01.2021 forwarded the amended proposal regarding restructuring of the existing structure to the Govt. for amending the relevant Service Rules. (Copies of letters dated 19.01.2021 and 28.01.2021 are collectively filed as Annexure: CA-4). In such view of the matter, the petition filed by the petitioner is devoid of merits and is liable to be dismissed.

8. Respondents no. 4 & 5 were impleaded as party in the claim petition and they have also filed C.A./W.S. separately on the same lines, denying the averments made in the claim petition. The following has been mentioned in the C.A./W.S.:-

8.1 Part-3, rule-5 of the UP (Group- A) Service Rules, 1992, deals with source of recruitment and the rule-5(5) provides that the recruitment on the post of Deputy Director, Agriculture, shall be made by promotion through Departmental Selection Committee

from amongst substantially appointed members of the UP Agriculture Service Group-B, who have completed at least five years of service, as such, on the first day of July of year of recruitment provided that the representation of members promoted from various section of UP Agriculture Group-B Service shall be maintained in the same proportion as the sanctioned strength of UP Agriculture Group-B services as it stand on the first day of the relevant year of recruitment. Provided, further that the post of Deputy Director of Agriculture Statistics shall be filled only from amongst the members of Agriculture Statistics section of the U.P. Agriculture service Group-B only.

8.2 Vide notification no. 864/Agriculture/2001 Dated 26th February 2002, specialized posts of Group-A namely Deputy Director Agriculture (Garhwal/Kumaon), Deputy Director Agriculture (Soil Conservation) Almora, Pauri and Dehradun, Deputy Director Agriculture (Plant Protection) Garhwal and Kumaon, Deputy Director Agriculture (Statistics) Haldwani etc. were abolished with immediate effect.

8.3 Vide notification no. 956/Agriculture-1 (41)/2002 Dated 2nd August, 2003, the cadre structure of agriculture department was reorganized/ restructured, wherein the 18 posts of Group-A were created as Deputy Director/ Chief Agriculture Officer, out of this, 13 posts of Chief Agriculture Officer at districts level, 4 posts of Deputy Director at Directorate of Agriculture and 1 post at Chief Revenue Commissioner Office, Dehradun were created. By the said notification, offices of Deputy Director Agriculture, Deputy Director (Plant Protection) Garhwal and Kumaon, Deputy Director (Soil Conservation) Almora, Pauri and Dehradun, Deputy Director (Statistics) Haldwani, Deputy Director Agriculture (Extension) Haridwar etc. were abolished with immediate effect. In view of the special geographical condition of State of Uttarakhand, to speed up the agricultural development in the state for providing all kinds of

scientific/ technical information and facilities related to agriculture to the farmers and ensuring solutions of their problems/ queries at the same place, the State Government vide notification no. 481 dated 28th May, 2010, implemented the system of single window system in the agriculture department permanently which was at first implemented in department vide G.O. no 460 dated 14th July 2008. By the said notification, various branches in Subordinate Agriculture Services Group C (Group1, 2 and 3) Viz; Development (General Branch), Plant Protection Branch, Chemical and Botanical Branch, Marketing Branch were merged together (except the Statistics and Engineering Branch) in two branches namely Agriculture Development Branch and Chemical & Research Branch.

8.4 Though in the subordinate agriculture service, the single window system was made applicable by merging the various sections, but in Group-B and Group-A Services, the posts were still earmarked section wise and vacancies were determined, section wise, both for promotion as well as for direct recruitment even after when the specialized posts of Group A level were already abolished in the year 2003 vide notification no. 864/Agriculture/2001 Dated 26th February 2002. Serious anomaly arose due to the proportionate system still existing in Group-B and Group-A post as the appointee of the some branches of Agricultural Group-B Service appointed in the year 2009 and 2015 were in the zone of consideration for promotion to Group-A post, whereas the appointee of the some branches of Agricultural Group-B services appointed in the year 2005 were out of zone of consideration for promotion to Group-A services.

8.5 The matter was placed before the Cabinet on 28th October, 2021 for the reorganization/ restructuring of Agriculture Group B services under Single Window System by amalgamating/ merging the 63 posts under various sections viz; Development Branch, Plant Protection Branch, Engineering Branch, Chemical

and Botanical Branch (except Marketing and Statistics branch) under one branch namely Agriculture Development Branch in the light of notification no 956 dated 2nd August, 2003 and notification no 481 dated 28th May, 2010. To implement the Single Window System in Group-B necessary amendments were incorporated in Uttarakhand Agriculture Group A service (Amendment) rules 2021 and Uttarakhand Agriculture Group B service (Amendment) rules 2021. Vide notification no 1374 dated 10th December, 2021, 63 posts of Group-B services which were earmarked section wise Viz; Development Branch, Plant Protection Branch, Engineering Branch, Chemical and Botanical Branch (except Marketing and Statistics branch), have been merged together and constituted as Agricultural Development branch. The system of proportionate representation of various Sections from Group B while considering for promotion on the post of Group-A services was done away.

8.6 The Uttar Pradesh Agriculture (Group-A) Service Rules, 1992 (as applicable to the state of Uttarakhand) as amended from time to time were amended by Government of Uttarakhand vide Gazette notification no 1495 dated 10th December and The Uttarakhand Agriculture Group-A Service (Amendment) Rules 2021 came into existence, whereby Rule-5, Rule-7, Rule-8, Rule-9 and Rule-12 were amended. Likewise, the Government of Uttarakhand vide Gazette notification no 1493 dated 10th December, 2021 also amended the Group-B Service Rules, 1995 and The Uttarakhand Agriculture Group-B Service (Amendment) Rules, 2021, came into existence whereby the Rule-4, Rule-5, Rule-8, Rule-14, Rule-15, Rule-17, Rule-21 and Rule-22 have been amended.

8.7 Once Agriculture Group B service (Amendment) rules 2021 came into force, the tentative seniority list was issued as per the provisions given in it vide letter no 348 dated 12th April 2022. Thereafter considering the objections from the Agriculture Group B employees, a final seniority list was issued vide letter no 52293

dated 25th July 2022 in which the answering respondent is placed at sr. no.3, as such senior to the claimants in the claim petition. It is submitted that the seniority list as per the amended rules, was issued after the disposal of the representation against the tentative seniority list on 25th July, 2022 and there is no challenge to the said final seniority list by the petitioners. In absence to the challenge to the said final seniority list dated 25th July, 2022, the claim petition filed by the petitioners, is liable to be dismissed.

8.8 In pursuance to the final seniority list issued vide letter no. 52293 dated 25th July 2022, the Director of Agriculture sent the proposal for promotion on the five posts of Deputy Director / Chief Agricultural Officer on 5th August, 2022 to the secretary, Agriculture and the DPC was held on 26th August, 2022. In the claim petition, neither there is any challenge to the amended rules nor there is any challenge to the final seniority list issued and the DPC held on 26th August, 2022, as such, the claim petition is liable to be dismissed on the said ground alone.

9. Rejoinder Affidavits have also been filed by the petitioners, reiterating the same averments as were mentioned in the petition.

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

11. The piece of chronology that is relevant in this matter begins in the years 2008-2010 when the department of Agriculture chose to bring in the employees under one umbrella, wherein, their service matters (upto Class-III grade) were to be governed by the single window system. Nevertheless, this single window system was not envisaged for the officers of Class-II & Class-I grades into this new policy. This situation continued well till year 2021. Definitely, many promotions might have taken place between these 10-11 years' time period, but there was no necessity felt to touch the Class-II & Class-I cadres.

12. Interestingly, every year, every department prepares a list of retiring/passed away officers in the Department, as well as the list of vacant posts, and the seniority list from which the vacant posts are expected to be filled-in by promotion. It is noteworthy here that on record the Personnel and Vigilance Department had issued a very important Government Order dated 05.09.2012 to all the Departments to mandatorily ensure necessary steps relating to promotions against the vacant posts in accordance with the provisions contained in this G.O. dated 05.09.2012, and also to report back to the Personnel and Vigilance department about the action taken. This exercise was conducted all over the Country in accordance with the Hon'ble Supreme Court's landmark judgment about the employees belonging to SC/ST reservations. It was also directed that promotions shall be made without applying the reservation roster for SC/ST employees. This was meant to be a massive exercise. The Agriculture Department even at that time did not feel the need for promulgating the single window system over the Class-II & class-I officers of the department, and the same policy continued till the end of year 2020. There is not an iota of evidence on record that there was ever a buzz in the Administrative Department or the Government about changing the policy of promotion so far as the Class-II & Class-I officers are concerned.

13. Again on 31.08.2020, the Personnel and Vigilance Department issued a fresh Government Order to all the Government Departments to ensure to conclude the promotional exercises as early as possible. Here also, there was no pondering upon bringing in the single window policy for the promotions of Class-II & Class-I officers. Consequently, the Director, Agriculture vide his communication No. 4367 dated 21.11.2020 submitted the proposal to the Secretary, Agriculture for promotion to the post of Deputy Director/Chief Agriculture Officer, in which it was pointed out that against the 18 sanctioned posts of Deputy Director/Chief

Agriculture Officer, 07 posts were lying vacant and promotions were to be made against the Branch-wise vacancies. It was also clarified in the communication dated 21.11.2020 that against the 07 posts earmarked for Development Branch, 02 posts were lying vacant, against the 03 posts earmarked for Plant Protection Branch, 01 post was lying vacant, against 04 posts earmarked for Engineering Branch, 02 posts were lying vacant and against 02 posts earmarked for Statistical Branch both the posts were lying vacant. The Director also submitted the names of senior most 05 officers of each of the 03 Branches, namely, Development Branch, Engineering Branch and Plant Protection Branch for being considered for promotions by the DPC. Consequent to this proposal by the Director, Agriculture, the Joint Secretary Agriculture and Farmer Welfare, Government of Uttarakhand vide his communication dated 29.12.2020 scheduled the DPC meeting on 19.01.2021. This is quite pertinent to look into the matter very carefully that this entire exercise for the departmental promotion was conducted as per the existing rules of promotion continuing since the year 1992, outside the ambit of single window system, as the policy shift brought in the year 2008 to 2010 was never envisaged for the Class-II and Class-I officers cadre from the very beginning.

14. Then, on 31.12.2020 all the hell was let loose upon the Agriculture Department when a representation, at the behest of few officers of Development Branch, was made to the Hon'ble Minister, Agriculture to enforce the provisions of single window system on the Class-II posts also so as to adjust a few officers of the other branches too in this promotional exercise, and till then no promotions should be made. On 31.12.2020 itself, Hon'ble Minister directed the Secretary, Agriculture in writing to forthwith submit the proposal of restructuring/reorganising the various branches in Class-II service into a single window system for being placed before the Cabinet and till then the promotional exercise on Class-I posts in the Department be kept in abeyance.

15. So, it is quite apparent on the record that Hon'ble Minister acted abruptly under the extraneous factors instead of applying his own free-will and conscience; and down the line upto the Director, Agriculture this knee-jerk reaction took place, postponing the DPC thrice, so as to bring in the new single window policy "tailor made to fit in a few". At the centre-stage of this entire hullabaloo was the representation dated 31.12.2020 handed over to the Hon'ble Minister by the Officers' Association of Development Branch. Thus, it is apparent that this policy change was not based upon "Public policy", "Public trust" & "Public good", as is envisaged in the Constitution of India. Very definitely the Agriculture Department had earlier determined the promotions to be concluded as per the existing 1992 Rules, but was compelled to act differently in the mid stream in an arbitrary and non-judicious manner based upon the whims and fancies of the employees' association. Quite evidently this was a bad decision.

16. Though, there was not much scope for the learned Counsels for the petitioners/respondents, and the learned A.P.O. to argue in this matter, which is solely based upon documentary facts, the learned Counsels have relied upon a plethora of rulings on the subject of employment, including recruitments and promotion, and have broadly reiterated the facts of the case. This Court has perused well through all the quoted rulings on the matter. Quite naturally all the landmark rulings are focused upon constitutional liberties given to the State as an Employer relating to the public employment, and the natural justice. There are vivid directions not to change the goalposts mid game or to provide the level field equally to all the players of the game, and so on.

17. The ultimate amongst all these rulings that cover the public employment are the famous Rangiah (1983) 3 SCC 284, and State of Himachal Pradesh & others Vs. Raj Kumar & others (2023) 3 SCC 773. The Rangiah's case favours the promotional exercises to

be done as per the existing laws, whereas the latter one empowers the employer, i.e., the State Government and the Administrative Department, to promulgate the new rules any time, and conduct the promotional exercises as per the new rules. Nevertheless, even in the Himachal Pradesh's case the overriding guideline is that the new rules must be in accordance with the liberties as envisaged in the Constitution of India, particularly keeping in view the "Public Policy", "Public Trust" and "Public Good", alongwith the mandate of natural justice. Thus, "Public Good" and natural justice are the cardinal principles underlying all the quoted rulings as submitted by the learned Counsels. These are inviolable doctrines of the public employment on the "basis of the tenure at pleasure of President or Governor". Here, the million dollar question arises as to whether the landmark ruling in State of Himachal Pradesh & others Vs. Rajkumar & others should apply in the present scenario?

18. As the circumstances of this instant case ironically manifest, never was there any inclination of bringing in the new promotional rules before 31.12.2020 at the level of the Administrative Department or the Government. Half the promotional exercise had already been completed before the Hon'ble Minister decided to bring in the new rules. Obviously, there was neither felt a need for policy change earlier, nor was there sufficient pondering done over the matter of bringing in the new rules of promotion in this instant matter. Had there been a necessity felt for applying the single window system to the cadre of Class-II & Class-I officers it might have been done between 2008 to 2010, or thereafter, but much before 31.12.2020. Therefore, the Administrative Department has failed miserably so far as the acid test of "public good" and natural justice is concerned. Therefore, not only this instant matter goes beyond the definition of bona fide decision, but also utterly fails to get covered by the landmark ruling of State of Himachal Pradesh & others Vs. Rajkumar & others.

19. This is noteworthy here that the original rules specifically focus on the recruitment eligibility for the different branches of Agriculture Department, because the working environments of the different branches need different academic eligibilities. The same thread has been continuing in the promotion rules also, reason being that by virtue of academic eligibility and branch-wise specific experience a particular officer is suitable for a particular branch for a healthy functioning. A “Jack of all” attitude may not do any “Public Good”.

20. Nevertheless, if the Administrative Department deemed it appropriate to bring in the Class-II & Class-I officers’ cadre under the ambit of single window system it could have done it before hand, instead of initiating the entire promotional exercise based upon the old rules and then taking a “U-turn” the midway. In those circumstances, the ruling of State of Himachal Pradesh & others Vs. Rajkumar & others would have been admittedly applicable in the instant case. But here, it is manifestly a case of an afterthought. It is interesting to note here that the Administrative Department had positively finalized branch-wise separate seniority lists by 27.10.2019 for the forthcoming promotional exercise, meaning thereby, that the amendment of rules was not on the Government/Administrative department’s agenda till the submission of representation dated 31.12.2020 before the Hon’ble Minister by the Association of officers of the Development Branch, to favour a few.

21. The learned A.P.O. has raised a very pertinent question during the hearing that the petitioners’ prayers are of such a nature that they cannot be adjudicated upon by the Hon’ble Tribunal. According to the learned A.P.O., since the amended rules have already been promulgated by the Government and this Court does not have powers to nullify them, they will remain in force as such. Against this argument, the learned Counsels for the petitioners have

opined, and rightly so, that the instant case is not originally a claim petition filed directly before the Tribunal, rather it was in the form of a writ petition originally filed before the Hon'ble High Court of Uttarakhand at Nainital from where it has been transferred to the Tribunal with definite guidelines, and, therefore, the Tribunal is expected, in principle, to act on behalf of the Hon'ble High Court. Similarly, the stay order as granted by the Hon'ble High Court in the concerned writ petition would continue to exist till the time the final results of the DPC are submitted before the Hon'ble High Court as directed. This Tribunal agrees with the petitioners' Counsels on those questions.

22. Having analysed the instant matter as above, this Tribunal is of a clear opinion that the instant matter is not covered by the landmark SC judgment of Himachal Pradesh & others Vs. Raj Kumar & others, and the promotional exercise by the Administrative Department of Agriculture must be concluded as per the existing rules.

23. As per the directions given by the Hon'ble High Court of Uttarakhand at Nainital in Writ Petition No. 60 (S/B) of 2021 and Writ Petition No. 93 (S/B) of 2021 on 01.08.2022, the Tribunal is expected to decide the matter as a Claim Petition. Therefore, the exact prayers in these claim petitions cannot be allowed, in toto. Rather this Bench would limit itself within the scope of powers as given to this Tribunal, as follows:-

- (A) The promotional exercise as existed on 31.12.2020 shall be completed in accordance with the then existing rules of promotion. All the steps taken by the Administrative Department of Agriculture subsequently in the wake of Officers' Association representation dated 31.12.2020 shall be null and void,
- (B) Needless it is to mention here that the new rules of promotion, i.e., the single window system, as promulgated by the

Government would continue to serve the future promotions, excluding the instant promotional exercise to fill in the vacant 07 post of Deputy Director/Chief Agriculture Officer, branch-wise as proposed by the Director, Agriculture on 21.11.2020.

ORDER

Accordingly, the Claim Petition No. 67/NB/DB/2022 Priyanka Singh & another Vs. State & others and the Claim Petition No. 91/DB/2022 Deepak Purohit Vs. State & others are hereby partly allowed to the extent that the final result of promotional exercise in accordance with the then existing rules on and before 31.12.2020 shall be produced before the Hon'ble High Court of Uttarakhand at Nainital as directed. So far as the new rules are concerned, they will remain in force for the future promotions, excluding the promotions under the ambit of this instant case. No orders as to costs.

(CAPT. ALOK SHEKHAR TIWARI)
MEMBER (A)

(RAJENDRA SINGH)
VICE-CHAIRMAN (J)

DATED: MARCH 06TH, 2025
NAINITAL

KNP/BK