

**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. 30/NB/DB/2023

1. Rajeev Kumar (Male) aged about 46 years, S/o Shri Malkhan Singh, Presently posted as Lekhpal (Revenue Sub Inspector), Tehsil Kashipur, District- Udham Singh Nagar.
2. Mohan Singh Rawat (Male) aged about 45 years, S/o Shri Satya Singh, Presently posted as Lekhpal (Revenue Sub Inspector), Tehsil-Rudrapur, District- Udham Singh Nagar.
3. Deepak Kumar Chauhan (Male) aged about 46 years, S/o Shri Raja Ram, Presently posted as Lekhpal (Revenue Sub Inspector) Tehsil -Bazpur, District- Udham Singh Nagar.
4. Daljeet Singh (Male) aged about 41 years, S/o Shri Lakhmir Singh, Presently posted as Lekhpal(Revenue Sub Inspector), Tehsil Kichha, District- Udham Singh Nagar.
5. Surjeet Singh (Male) aged about 43 years, S/o Shri Surat Singh, Presently posted as Lekhpal (Revenue Sub Inspector), Tehsil-Sitarganj, District- Udham Singh Nagar.

.....**Petitioners**

Vs.

1. State of Uttarakhand through Secretary Department of Revenue, Government of Uttarakhand Dehradun
2. Collector/District Magistrate District- Udham Singh Nagar.
3. Additional District Magistrate / Chairman of the Committee constituted by the District Magistrate, Udham Singh Nagar to consider and decide the objection of all the persons concern.
4. Mukesh Kumar S/o Lekhraj, Presently posted as Lekhpal (Revenue Sub Inspector), Tehsil- Gadarpur, District - Udham Singh Nagar.
5. Jakhtar Singh S/o name not known, Presently posted as Lekhpal (Revenue Sub Inspector), Tehsil- Kashipur, District - Udham Singh Nagar.

6. Sanjay Kumar S/o name not known, Presently posted as Lekhpal (Revenue Sub Inspector), Up-Tehsil- Nanakmatta, District - Udham Singh Nagar.

7. Khushal Singh S/o name not known, Presently posted as Lekhpal (Revenue Sub Inspector), Tehsil- Bazpur, District - Udham Singh Nagar

8. Laxman Singh S/o name not known, Presently posted as Lekhpal (Revenue Sub Inspector), Tehsil- Rudrapur, District - Udham Singh Nagar

.....**Respondents**

Present: Sri Sandeep Kothari, Advocate for the petitioners
Sri Kishore Kumar, A.P.O. for the respondents no. 1 to 3
Sri T.A.Khan, Senior Advocate, assisted by
Sri Vinay Bhatt, Advocate for the respondents no. 4 to 8

JUDGMENT

DATED: MARCH 10, 2025

(Hon'ble Mr. A.S.Rawat, Vice Chairman(A))

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

"i) To set aside/quash the final seniority list issued by the orders of District Magistrate, Udham Singh Nagar on 08.08.2022, whereby, the long standing and settled seniority finalised in the year 2008 of the claimants has been disturbed and the claimants have been placed below the persons, appointed on the same date and have secured less marks in the training during the Regional Training Centre meant for Lekhpals contrary to provisions of Rule-27, 30 of the Uttarakhand Revenue Sub-Inspector(Lekhpal Service Rules, 2015) notified on 23.09.2015.

ii) Appropriate directions be issued to the respondent District Magistrate / Collector District - Udham Singh Nagar to redraw the seniority list of claimants and private respondents and the claimants be placed above the private respondents in the seniority list.

iii) To award the cost of the petition and compensation or to pass any such order or direction which this Hon'ble Tribunal may deem fit and proper. "

2. The brief facts for the case are as follows:

2.1 District Magistrate Udham Singh Nagar invited applications for filling up 18 posts of Lekhpal (7 posts of General Category, 8 posts of S.C. category and 3 posts of S.T. category). Total 23 persons were

selected as against the 18 advertised posts as there were further probable vacancies. The selected persons were trained at Regional Revenue Training Centre, Almora, all of them qualified in the examination conducted.

2.2 Lekpal Service Rules, 1958 were applicable to the petitioners at the relevant point of time. As per Rule 6 of the Rules of 1958, the seniority of the candidates was to be determined by the year of examination. The seniority of the candidates in the same year examination was determined based on the marks obtained, where aggregate marks are equal, the seniority was to be determined on the basis of age. The relevant Rule 6(3) is as under for reference:

(3) The names, in the list shall be arranged in order of seniority as determined by the year of examination. Seniority as between the candidates of the same year shall be judged on the basis of the aggregate marks obtained at the examination. Where the aggregate marks are equal, the seniority shall be determined on the basis of the age.

“(3-A). A district-wise list of ex-patwaris fulfilling the conditions laid down in sub rule (3) of rule 5 shall be maintained by each Collector. The names in this list shall be arranged according to the length of service. If the length of service of two or more ex-patwaris is the same, the names shall be arranged according to age.

Note: If any list is already maintained in this behalf under executive orders of Government it shall be deemed to be maintained under this sub-rule.”

2.3 Rule 17 of the Rules of 1958 also lays down the rule for maintaining seniority. As per Rule 17(2), the seniority of the Lekpal was to be determined from the date of substantive appointment. The date of substantive appointment of all the candidates is 14.11.2003, their seniority was to be determined on the basis of the marks in the Lekhpal examination obtained by them. The petitioners were required to be placed above private respondents. In the seniority list published in 2008, the petitioners and private respondents were appropriately placed which was issued after inviting objections on the tentative

seniority list. The final seniority list was not challenged till the year 2019-20.

2.4 Respondent no. 2 issued a seniority list on 21.05.2021 and relied upon Rule 27 of the Uttarakhand Revenue Sub-Inspector (Lekhpal Service Rules, 2015), by which the seniority decided in the year 2008 has been disturbed. The petitioners have submitted their objections to the seniority list notified. The Committee to finalize the seniority, held meeting on 09.09.2021 and thereafter, submitted the report on 11.12.2021. The objections of the petitioners were not taken into consideration and final seniority list was issued on 08.08.2022. The Lekhpal Service Rules, 1958, were substituted by the Lekhpal Uttarakhand Revenue Sub-Inspector (Patwari Service Rules, 2013) and thereafter, the Uttarakhand Revenue Sub-Inspector (Lekhpal Service Rules, 2015). Rule 27 of the Rules of 2015 is as under:

“27. प्रशिक्षण के उपरांत नियुक्ति की प्रक्रिया—

(1) मात्र प्रशिक्षण हेतु चयन अथवा विहित प्रशिक्षण प्राप्त करना सेवा में नियुक्ति का आधार नहीं होगा। संस्थान से सफलता पूर्वक विहित प्रशिक्षण प्राप्त अभ्यर्थी ही, अन्यथा उपयुक्त होने पर, राजस्व उप निरीक्षक, (लेखपाल) पद पर नियुक्ति हेतु पात्र होगा।

(2) कलेक्टर निम्नलिखित प्रपत्र में, भर्ती के प्रयोजनों के लिए, ऐसे अभ्यर्थियों की योग्यताक्रम में एक सूची रखेगा जिन्होंने संस्थान से सफलतापूर्वक विहित प्रशिक्षण प्राप्त कर लिया हो।

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(3) संस्थान का कार्यकारी निदेशक प्रति वर्ष, परीक्षाफल घोषित होने पर, जनपदवार परीक्षाफल तैयार कर विहित प्रशिक्षण सफलतापूर्वक प्राप्त सीधी भर्ती से चयनित तथा अनुसेवक/चेनमैन से चयनित अभ्यर्थियों की पृथक-पृथक सूची संबंधित कलेक्टर व मण्डलायुक्त को उपलब्ध करायेगा।

(4) जनपद का कलेक्टर प्रत्येक सूची में नाम उस प्रवीणता के क्रम में रखेगा जिस क्रम में परीक्षा या अनुपूरक परीक्षा (अनुपूरक से तात्पर्य मूल परीक्षा में अनुत्तीर्ण अभ्यर्थी को नियमों के अधीन दिये गये विशेष अवसर से है) उत्तीर्ण की गई हो। एक ही परीक्षा में सम्मिलित अभ्यर्थियों के बीच प्रवीणता का निर्णय, परीक्षा में प्राप्त कुल अंकों के आधार (मूल

परीक्षा में अनुत्तीर्ण, अनुपूरक परीक्षा में सफल अभ्यर्थियों के सम्बन्ध में अनुपूरक परीक्षा में सम्बन्धित विषय में प्राप्त अंकों को सम्मिलित करते हुए) पर किया जायेगा। दो या दो से अधिक सीधी भर्ती के अभ्यर्थियों द्वारा प्राप्त कुल अंकों के बराबर होने की दशा में अभ्यर्थियों की प्रवीणता प्रशिक्षण हेतु चयन प्रक्रिया की प्रवीणता सूची के आधार पर, अनुसेवक/चेनमैन से चयनित अभ्यर्थियों के संबंध में उनकी मौलिक पद पर ज्येष्ठता के आधार पर निर्धारित की जायेगी।

(5) सूची प्रति वर्ष परीक्षाफल प्राप्त होने के पश्चात् यथाशीघ्र पुनरीक्षित की जायेगी।

(6) सेवा में मौलिक रिक्तियों पर नियुक्तियां उसी क्रम में की जायेंगी, जिस क्रम में अभ्यर्थियों के नाम कलेक्टर की सूची में हों। कलेक्टर तहसीलों की रिक्तियों के सापेक्ष अभ्यर्थियों के नामों की सूची नियुक्ति अधिकारी को राजस्व उप निरीक्षक, (लेखपाल) पद पर मौलिक रूप से नियुक्त किये जाने के निर्देश के साथ प्रेषित करेगा, जिसकी प्रति मण्डल के आयुक्त को भी प्रेषित की जायेगी। नियुक्ति अधिकारी प्राप्त सूची के अनुसार अभ्यर्थियों को अविलम्ब नियमानुसार नियुक्ति आदेश जारी करेंगे

प्रतिबन्ध यह है कि कलेक्टर सूची में से निम्नलिखित अभ्यर्थियों के नाम हटा सकता है:-

(क) अभ्यर्थी, जो स्थायी रूप से नियुक्त हो चुके हों. और

(ख) अन्य अभ्यर्थी, जो कलेक्टर की राय में ऐसे कारणों से, जो अभिलिखित किये जायेंगे, राजस्व उप निरीक्षक, (लेखपाल) के रूप में नियुक्त किये जाने के लिये उपयुक्त न समझे गये हों। सूची में से अपना नाम हटाये जाने के विरुद्ध अभ्यर्थी को राजस्व परिषद के समक्ष अपील करने का अधिकार होगा।

टिप्पणी-यदि किसी रिक्त स्थान पर नियुक्त किये जाने के प्रस्ताव पर कोई अभ्यर्थी सेवा में आने से इंकार करे, तो उसकी ज्येष्ठता समाप्त मानी जायेगी।

2.5 It is further submitted that the seniority list issued vide order dated 08.08.2022 is contrary to Rule 27 read with Uttarakhand Revenue Sub-Inspector (Lekhpal Service Rules, 2015), hence the petitioners are liable to be placed above the private respondents in the said seniority list and seniority list dated 08.08.2022 is liable to be quashed.

3. C.A./W.S. has been filed on behalf of respondents no. 1 to 3, in which, it has been stated that:-

3.1 कार्यालय जिलाधिकारी, उधम सिंह नगर द्वारा पत्र संख्या 9714/सात-69/2018 दिनांक 21 मई, 2021 से जारी अनन्तिम कोटिकम सूची 2021-22 का अवलोकन करने पर विदित हुआ कि उक्त अनन्तिम कोटिकम सूची उत्तराखण्ड सरकारी सेवक ज्येष्ठता नियमावली-2002 के प्राविधानों पर तैयार नहीं की गयी है।

उक्त कोटिकम सूची के सम्बन्ध में प्राप्त समस्त आपत्तियों पर सरकारी सेवक ज्येष्ठता नियमावली-2002 के आलोक में लेखपालों की ज्येष्ठता का निर्धारण किया गया। उनकी मौलिक नियुक्ति के आधार पर करते हुए समिति द्वारा दिनांक 27.10.2021 से आपत्तियों का निस्तारण किया गया जिसके कम में कार्यालय जिलाधिकारी, उधमसिंहनगर द्वारा राजस्व उप निरीक्षकों (लेखपालों) की सेवा नियमावली 2015, उ० प्र० लेखपाल सेवा नियमावली 1958 तथा उत्तराखण्ड सरकारी सेवक ज्येष्ठता नियमावली-2002 में दिये गये प्रावधानों के आलोक में अपने पत्र संख्या 3327/सात-69/2018 दिनांक 11 दिसम्बर, 2021 से अनन्तिम कोटिकम सूची (द्वितीय) 2021-22 सम्बन्धित कार्मिकों से आपत्ति प्राप्त करने हेतु समस्त तहसीलदारों को प्रसारित करने के साथ ही पत्र संख्या 4169/सात-69/2018 दिनांक 30 दिसम्बर, 2021 के द्वारा एन०आई०सी० के वेबसाईट पर उक्त सूची अपलोड करायी गयी, जिसका कार्यालय पत्र संख्या 41170/सात-69/2018 दिनांक 30 दिसम्बर, 2021 से समाचार पत्रों में भी प्रकाशन कराया गया उक्त कोटिकम सूची (द्वितीय) जारी होने के उपरान्त समिति द्वारा बैठक दिनांक 26.05.2022 से प्राप्त आपत्तियों पर विचार किया गया तथा कार्यालय जिलाधिकारी द्वारा पूर्व में जारी अनन्तिम कोटिकम सूची वर्ष 2019 तथा अनन्तिम कोटिकम सूची (प्रथम व द्वितीय) का अवलोकन उपरान्त सूचियों में लिपिकीय त्रुटियों पायी गयी थी, तथा कुछ लेखपालों के सेवानिवृत्त होने तथा कुछ के राजस्व निरीक्षक /रजिस्ट्रार कानूनगो पद पर पदोन्नत होने के कारण कोटिकम सूची से नाम हटाये गये थे, जिसमें 21.08.1990 को नियुक्त हुए लेखपालों व उससे आगे के नामों को वरिष्ठता कम में यथास्थान दर्ज कर पुनः कोटिकम सूची में सम्मिलित किये जाने तथा लिपिकीय त्रुटि शुद्ध करने के साथ ही नवनियुक्त राजस्व उप निरीक्षक श्री चारु चन्द्र कोठारी तथा श्री विपिन कुमार को उनके प्राप्तांकों के आधार पर ज्येष्ठता' कमानुसार कोटिकम सूची में दर्ज करते हुए पुनः अनन्तिम कोटिकम सूची (तृतीय) जारी किये जाने की संस्तुति की गयी, जिसके आधार पर कार्यालय जिलाधिकारी उधमसिंहनगर द्वारा अपने पत्र संख्या 11376/सात-69/2018 दिनांक 21 जून, 2022 से अनन्तिम कोटिकम सूची (तृतीय) 2021-22 सम्बन्धित कार्मिकों से आपत्ति प्राप्त करने हेतु समस्त तहसीलदारों को प्रसारित करते हुए एन०आई०सी० की वेबसाईट पर अपलोड कराया गया जिसका कार्यालय पत्र संख्या 4170/ सात-69/2018 दिनांक 30 दिसम्बर, 2021 से समाचार पत्रों में भी प्रकाशन कराया गया।

3.2 वर्ष 2003 में लेखपाल नियुक्ति प्रक्रिया के दौरान तत्समय मूल रिक्तियाँ, आरक्षण रोस्टर व सम्भावित रिक्तियों के सापेक्ष भरे गये पदों के सम्बन्ध में मूल सिद्धान्तों का ध्यान रखा गया है। रिक्त मूल पद व मूल मेरिट सूची का परीक्षण किया गया, तत्समय कुछ पद मूल रिक्ति के सापेक्ष व कुछ पद सम्भावित रिक्ति के सापेक्ष थे, मौलिक पद के सापेक्ष चयनित लेखपालों की कोटिकम सूची तथा सम्भावित रिक्तियों पर चयनित लेखपालों की कोटिकम सूची मिश्रित नहीं की जा सकती, क्योंकि विधि का स्थापित सिद्धान्त यह है कि समान व्यक्तियों के मध्य ही समानता का व्यवहार (Equality among Equal) किया जाता है।

3.3 जिलाधिकारी महोदय द्वारा राजस्व उप निरीक्षकों (लेखपालों) की कोटिकम सूची के सम्बन्ध में गठित समिति द्वारा समस्त पक्षकारों/आपत्तिकर्ताओं को आपत्ति प्रस्तुत करने/साक्ष्य प्रस्तुत करने तथा सुनवाई का परस्पर अवसर प्रदान करने उपरान्त यह निष्कर्ष/निर्णय लिया गया कि मौलिक पद के सापेक्ष चयनित लेखपालों की कोटिकम सूची व सम्भावित रिक्तियों पर चयनित लेखपालों की कोटिकम सूची मिश्रित नहीं की जा सकती है।

3.4 इस प्रकार प्रशिक्षण संस्थान अल्मोड़ा की मेरिट सूची के अनुसार मौलिक रूप से नियुक्त 14 लेखपालों की ज्येष्ठता तथा तत्समय सम्भावित रिक्तियों के सापेक्ष नियुक्त 09 लेखपालों की ज्येष्ठता का पृथक-पृथक निर्धारण कर व प्रस्तुत आपत्तियों का निराकरण करते हुए संशोधित अनन्तिम कोटिकम सूची (द्वितीय) तैयार की गयी, जिसे सम्बन्धित कार्मिकों को संसूचित किये जाने हेतु इस कार्यालय के पत्र संख्या 3327/सात-69/2018 दिनांक 11 दिसम्बर, 2021 से समस्त तहसीलदारों को पत्र प्रेषित किया गया।

3.5 विपक्षी संख्या 02 (जिलाधिकारी, उधमसिंहनगर) द्वारा विपक्षी संख्या 03 (अपर जिलाधिकारी, वि०/रा०, उधमसिंहनगर) की अध्यक्षता में गठित समिति की निस्तारण आख्यानानुसार राजस्व उप निरीक्षकों (लेखपालों) की सेवा नियमावली 2015, उ०प्र० लेखपाल सेवा नियमावली 1958 तथा उत्तराखण्ड सरकारी सेवक ज्येष्ठता नियमावली-2002 में दिये गये प्राविधानों के अन्तर्गत नियमानुसार आदेश पत्र संख्या 14689/ सात-69/2018 दिनांक 08 अगस्त, 2022 पारित करते हुए अनन्तिम कोटिकम सूची (तृतीय) 2021-22 में आंशिक संशोधन करते हुए त्रुटिरहित अनन्तिम कोटिकम सूची वर्ष 2021-22 जारी की गयी है।

4. Private respondents no. 4 to 8 have also filed their Counter Affidavits separately mentioning the similar averments. They have stated that 23 persons were selected for the post of Lekhpal and all the selected candidates were sent for training and consequently a final selection list was published after the completion of training and the examination in the training. Out of 23 posts only 14 vacancies were

existing and remaining nine posts were lying against the expected vacancies. In above 14 vacancies, 7 vacancies were belonging to the Scheduled Caste Category and 2 vacancies were belonging to the Scheduled Tribe Category and 5 vacancies were belonging to General Category and consequently, the collector issued the letter of appointment to 14 candidates.

4.1 The private respondents have joined the services on 14-11-2003. The respondent issued the appointment letters in favour of the petitioners for a period of only 3 month and these appointment letters were not extended, rather fresh appointment letters were issued after the expiry of the previous appointment letter and after an interval of some days, the new appointment letter was issued. They were given permanent posting only in 2004 and after time to time as and when vacancies occurred. As per the Rule 17(2) of the Lekhpal Service Rules, 1958, the date of substantive appointment of petitioners is much later than the private respondents.

4.2 The seniority is to be determined as per rule 17(2) which reads as under:-

"17(2) - Seniority of Lekhpals shall be determined from the date of substantive appointment provided that if two or more candidates are appointed on the same date the seniority shall be determined from the date of their passing the Patwari or Lekhpals School Examination. If the year of passing the examination is the same the seniority shall be determined on the basis of the aggregate marks obtained at the examination. If the aggregate marks are also equal the seniority shall be determined on the basis of age".

Meaning thereby the seniority of petitioners as well as the private respondents was to be determined from the date of "substantive appointment".

4.3 The seniority list prepared in 2008 shows the date of substantive appointment of the petitioner no. 1 as 01.11.2004, but his position should not have been above the respondents, So placement of Mr. Rajeev Kumar above Mr. Laxman is per-se illegal. There were such discrepancies in respect of other candidates also. So, it was a

glaring mistake while making the preparation of seniority list in the year of 2008, which was liable to be corrected.

5. The petitioners have also filed R.A. to the C.A/W.S. filed by the respondents denying the contents of C.A./W.S. and reiterated the averments made in the claim petition.

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

7. Learned Counsel for the petitioner pleaded that the seniority list of the candidates has been finalised in 2008 after inviting objections from the candidates. Then seniority of the candidates decided in the year 2008, was disturbed by the final seniority list of 2022. It is decided by the Hon'ble Supreme Court in the various judgments that long decided seniority cannot be disturbed. The seniority list of 2022 is liable to be modified to the extent that seniority of the petitioners and private respondents decided by the list of 2008 should not be disturbed.

8. Learned Counsel on behalf of the private respondents pleaded that substantive appointments of the petitioner and private respondents are different. Infact, the petitioners were appointed much later than the private respondents. So, they have been rightly placed in the final seniority list of 2022. The shortcomings in deciding seniority in the year 2008 have been rectified. Although, the petitioners and private respondents were trained together but petitioners were given appointment much later than the private respondents. So, as per Rule 12(2), the seniority of the respondents vis-à-vis the petitioners has been rightly decided. The claim petition is liable to be dismissed.

9. Learned A.P.O. pleaded that the seniority list finalized in 2008 has some glaring mistakes. It has not been prepared as per the rule. The petitioners were appointed in 2004 and after wards but trained with the private respondents, who were given appointment in 2003 were given seniority over 2003 appointees. Total 23 candidates were

trained together in 2003 but 14 were given appointment in 2003 and the rest were given appointment in 2004 and after wards on availability of vacancies. The seniority list of 2022 has been prepared as per the Rule 17(2) of Rules. So in view of the facts mentioned the Claim Petition is liable to be dismissed.

10. The Lekhpal Service Rules, 1958 deal with the recruitment and seniority. Rule 5(1) of the same, reads as under:

“5(1) Only such candidates as have obtained the Patwari or Lekhpal School Certificate and whose names have been brought on the list mentioned in Rule 6 shall be eligible for appointment to the service.”

Rule 17(2) of the Rules of 1958 mentions about seniority, which reads as under:

“17(2) Seniority of Lekhpal shall be determined from the date of substantive appointment provided that if two or more candidates are appointed on the same date, the date of their passing the Patwari and Lekhpal School Examination. If their year of passing examination is same, then seniority shall be determined on the basis of aggregate marks obtained at the examination. If their aggregate marks equal then seniority shall be determined on the basis of age.”

11. Now उत्तराखण्ड राजस्व उपनिरीक्षक (लेखपाल) सेवा नियमावली, 2015 is applicable to the Lekhpals and Patwaris and as per these Rules, the procedure for recruitment is defined in Rule 5. Rule 5(1) reads as under:

“सेवा के पदों में भर्ती नियम-6 के उपबन्धों के अधीन रहते हुए, नियम-27 के अनुसार, सफलतापूर्वक विहित प्रशिक्षण प्राप्त अभ्यर्थियों की, तैयार की गई सूची में से वरिष्ठता क्रम से की जायेगी। विहित प्रशिक्षण हेतु चयन निम्नलिखित स्रोतों से किया जायेगा:-

(क) संवर्ग के 75 प्रतिशत पदों पर प्रशिक्षण हेतु चयन सीधी भर्ती के अभ्यर्थियों से

(ख) संवर्ग के 25 प्रतिशत पदों पर प्रशिक्षण हेतु चयन निर्धारित पात्रता पूर्ण करने वाले अनुसेवक /चेनमैन से

परन्तु पात्र अनुसेवक / चेनमैन उपलब्ध न होने की दशा में रिक्तियों के सापेक्ष उपनियम (क) के अभ्यर्थियों से प्रशिक्षण हेतु चयन किया जा सकेगा।”

Similarly, the procedure for appointment has been defined in Rule 27. Rule 27(1) of the Rules of 2015 reads as under:

“27(1) मात्र प्रशिक्षण हेतु चयन अथवा विहित प्रशिक्षण प्राप्त करना सेवा में नियुक्ति का आधार नहीं होगा। संस्थान से सफलता पूर्वक विहित प्रशिक्षण प्राप्त अभ्यर्थी ही, अन्यथा उपयुक्त होने पर, राजस्व उप निरीक्षक, (लेखपाल) पद पर नियुक्ति हेतु पात्र होगा।”

How the seniority is to be decided, the same is defined in Rule 30, which reads as under:

“सेवा में ज्येष्ठता का अवधारण मौलिक रिक्ति में नियुक्त किये जाने के सम्बन्ध में नियम-27(6) के तहत कलेक्टर द्वारा जारी निर्देश की दिनांक को मौलिक नियुक्ति का दिनांक मानते हुए उत्तराखण्ड सरकारी सेवक ज्येष्ठता नियमावली, 2002 के आधार पर किया जायेगा, किन्तु प्रतिबन्ध यह है कि यदि एक ही स्रोत से चयनित दो या अधिक अभ्यर्थियों की नियुक्ति सम्बन्धी कलेक्टर के निर्देश एक ही दिनांक के हों तो उनकी पारस्परिक ज्येष्ठता नियम 27(4) के अनुसार तैयार की गयी प्रवीणता सूची के आधार पर निर्धारित होगी।”

12. Out of 23 candidates, 14 candidates were appointed vide order dated 14.11.2003 by following the roster applicable. Two candidates, namely Rajeev Kumar and Mohan Singh Rawat were appointed against the vacant post of Patwari on 01.11.2004 and remaining six candidates were appointed on 10.01.2006. The seniority list of 2008 has been prepared on the basis of the merit list of the trainees in the Revenue Training Institute, Almora.

13. Rule 17(2) of the 1958 Rules has not been followed in this case while preparing seniority as the persons whose date of appointment was later have been given seniority above those who were appointed earlier. There is certainly a discrepancy in finalizing the seniority list but the affected persons did not object to the tentative seniority list. They also did not challenge final seniority list in the Hon'ble High Court or in any forum immediately after its notification. The process for modification of the impugned seniority list was started in 2019-20 and the same was finalized in 2022. The process of updating the list was taken up after almost 11 years in respect of the petitioners and private respondents and the seniority finalized in 2008 has been disturbed. The seniority list decided in 2008 is protected under the judgment of the Hon'ble Supreme Court in the matter

of Rajendra Pratap Singh Yadav & others vs. State of U.P. & others, in Civil Appeal No. 4949 of 2011. The relevant portion of judgment is as under:

“52. We deem it appropriate to reiterate that in service jurisprudence there is immense sanctity of a final seniority list. The seniority list once published cannot be disturbed at the behest of person who choose not to challenge it for four years. The sanctity of the seniority list must be maintained unless there are very compelling reasons to do so in order to do substantial justice. This is imperative to avoid avoidable litigation and unrest and chaos in the services.”

14. In view of the above, we hold that inter-se seniority decided in respect of the petitioners and private respondents in 2008 must be kept intact. The seniority list dated 08.08.2022 is liable to be quashed and the claim petition is liable to be allowed.

ORDER

The claim petition is hereby allowed. The impugned seniority list dated 08.08.2022 is hereby quashed. The respondents are directed to redraw the seniority list of the petitioners and private respondents keeping the seniority decided in 2008 intact, within three months from the date of presentation of certified copy of this judgement. No order as to costs

RAJENDRA SINGH
VICE CHAIRMAN (J)

A.S.RAWAT
VICE CHAIRMAN (A)

DATED: MARCH 10, 2025
NAINITAL.
KNP