

**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. 83/NB/DB/2023

Kamal Arya, aged about 30 years, S/o late Sri Kundan Lal Arya, R/o Village Dhoura, Post Office Dhoura, District Almora.

..... Petitioner

Versus

1. State of Uttarakhand through Secretary, Urban Development, Government of Uttarakhand, Dehradun.
2. Director, Directorate of Urban Development, Government of Uttarakhand.
3. Chairman, Nagar Palika Parishad, Almora.
4. Executive Officer, Nagar Palika Parishad, Almora.

..... Respondents

Present: Sri N.K. Papnoi, Advocate for the petitioner

Sri Kishore Kumar, A.P.O. for the respondents no. 1 & 2

Sri Yogesh Pacholia, Advocate for the respondents no. 3 & 4

JUDGEMENT

DATED : MARCH 27, 2025

This claim petition has been filed seeking the following reliefs:

“(i) To direct the respondents to consider the petitioner for absorption on class III post from the date of his appointment with seniority and all other consequential benefits as given to other similarly situated persons who were appointed just after the petitioner on the class III post under the dying in harness rules and declared the act of the

respondents unfair, unjust and in arbitrary against the principle of natural justice and also contrary to the rule of equality and passed violates the provisions of Article 14,16 and 21 of the Constitution of India and established their act of pick and choose basis.

(ii) To issue directions to the respondent No. 3 and 4 to consider his pending representation by which he requested to absorb his services or give him promotion in vacant post of Class III post of Junior Assistant cum Data Entry Operator with all consequential benefits ignoring all the technical problems. It is important to mention here that at the time of appointment the respondents not given any kind of relaxation to the petitioner as contemplated under proviso to Rule 5 read with Rule 8 of the Dying-in-Harness Rules, 1974 and he accepted the appointment under compulsion because being an unemployed person he has no other option to accept the offer of respondents but after coming in service the petitioner know about that the subsequent compassionate appointments given by the respondents on class III posts which was a clear discrimination towards the petitioner..

(iii) To issue any other suitable order or direction to award damages and compensation to Applicant such amount which may be quantify this Hon'ble Court and same may be recovered from the respondents or any relief which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case..

(iv) To award the cost of the petition to the petitioner.”

2. At the time of final arguments, learned Counsel for the petitioner confined his prayer to the extent that he will make a fresh detailed representation individually to the respondent no. 4, Executive Officer, Nagar Palika Parishad, Almora, who may kindly be directed to decide the same within the specific time framed by a reasoned and speaking order.

3. Learned A.P.O. has no objection to the prayer of the learned Counsel for the petitioner.

4. In view of peculiar circumstances of the case, the Tribunal hereby directs the petitioner, who will make a fresh detailed representation to the respondent no. 4, Executive Officer, Nagar Palika Parishad, Almora, within a period of 15 days alongwith certified copy of this order and the respondent no. 4 (Executive Officer, Nagar Palika Parishad, Almora) shall decide the same by a reasoned and speaking order, in accordance with law, at an earliest possible, preferably within

two months of presentation of certified copy of this order along with copy of fresh representation.

5. The claim petition is disposed of as above. No order as to costs.

A.S.RAWAT
VICE CHARMAN (A)

RAJENDRA SINGH
VICE CHARMAN (J)

DATED: MARCH 27, 2025
NAINITAL
RS