

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

Present: Hon'ble Mr. Rajendra Singh

----- Vice Chairman (J)

**REVIEW PETITION NO.03 OF 2025
(Arising out of the judgment dated 21.03.2025, passed in
Claim Petition No. 37/SB/2022)**

Manoj Kumar Singh, aged about 52 years, s/o late Sri Ram Singh, r/o
Khasra No. 34-A, Opposite M.B. Aamwala Uprala, Dehradun.

.....**Review applicant**

VS.

1. State of Uttarakhand through Secretary (Finance), Section 6, Civil Secretariat, Dehradun.
2. Additional Secretary (Finance), Section-6, Civil Secretariat, Dehradun. .
3. Director, Directorate of Audit, Government of Uttarakhand, 37-A, I.T. Park (SIDCUL), Sahastradhara Road, Dehradun.

.....**Respondents**

Present: Sri H.M. Bhatia, Advocate, for the petitioner (online)
Sri V.P. Devrani, A.P.O. for the respondents

JUDGMENT

DATED: MAY 27, 2025

A review application was filed by the review applicant, to review the judgment and order dated 21.03.2025 passed by this Tribunal in claim petition No. 37/SB/2022, Manoj Kumar Singh vs. State of Uttarakhand & others.

2. The review applicant has filed this review application on the following ground:

2.1 While passing the Judgment under review dated 21.03.2025 the Hon'ble Vice President (J) relied upon the Judgment of Hon'ble Delhi High Court in the case of Union of India vs. D. P. Singh 2016 SCC On Line Del 5381, while reading the facts of the

said judgment it is ample clear that the facts of the said case was altogether different to the facts present case in hand, as per para 14 of the Judgment of Hon'ble Delhi High Court as submitted and relied by the Hon'ble Court before the Hon'ble Delhi High Court framed the legal issue for its decision which read as "The legal issue before us, which is rather narrow and limited, has to be answered in the aforesaid backdrop. The first question is whether in the given facts the respondent-employees have vested right to be considered for time bound promotion on completion of requisite period under the old-byelaws. The Second question which is arise, is whether the applicant no.2 could have amended and modified the bye-laws i.e. terms of services and made the same applicable to the existing employees."

2.2 In the present case none of the question has been arised for consideration before the Hon'ble Court as farmed by the Hon'ble Delhi High Court in the case of Union of India vs. D. P. Singh (supra), rather the question was before this Hon'ble Tribunal was that as to Whether the Services of the petitioner as regular Deputy Director from 28.05.2012 to 26.02.2016 is to be considered as for promotion on the post of Joint Director or not? and also admittedly the petitioner completed the 02 years of probation period from 28.05.2012 to 27.05.2014 during his regular service as Deputy Director and in such view of the facts and law there apparent mistake in the Judgment Dated 21.03.2025, which required to be reviewed.

2.3 While passing the judgment Dated 21.03.2025 the Hon'ble Court in Para 5 of the Judgment stated about the Rule 4 of the Uttarakhand Government Servants Relaxation in Qualifying Service for promotion Rules, 2010 and Uttarakhand Government Servants Relaxation in Qualifying Service for promotion (Amendment) Rules, 2023 and in para 6 gave the strength on the words of Rule 4 "Excluding the period of probation as laid down for the said lower post or posts, as the case may be." And in Para 9 the Hon'ble Court

stated that even if it is presumed that earlier period working the capacity of deputy Director from 28.05.2012 to 26.02.2016 is to be considered for qualifying service, the petitioner has completed 03 years 08 Months and 27 Days service in the capacity of Deputy Director from 28.05.2012 to 26.02.2026, in which the two years probation period is excluded, which comes to 01 years 08 months 27 days, which is less than 50% required relaxation service i.e. 02 Years 6 Months, such calculation of the Hon'ble Court is prima facie is incorrect in view of the chart given below for the reason that for getting the relaxation under the rules the period uptill 30.06.2023 is required to be counted:-

Sl.	Period served as Deputy Director	Days
1.	8.05.2012 to 26.02.2016	3 Years 8 Months and 27 Days
2.	11.04.2023 till 30.06.2023	02 Months 20 Days
	Total period served as Deputy Director -	3 Years 11 Months 17 Days
3.	Eligibility of period in the capacity of Deputy Director	5 Years
4.	Period Served on Probation 2 Years from 28.05.2012 to 27.05.2014	2 Years
5.	Less the period of probation from qualifying service of eligibility of 5 Years as per rule 5 (3) of Uttarakhand Audit Gazetted Service Rules 2019	5 Years -2 Years = 3 Years
6.	Required relaxation as per Rule 4	50% of 3 Years i.e. 1 Year 6 Months
7.	Total period served in the capacity of Deputy Director till 30.06.2023	3 Years 11 Months 17 Days
8.	Total period served in the capacity of Deputy Director till 30.06.2023 (excluding the period from 28.05.2012 to 30.06.2012, as selection year starts on 1st of July)	3 Years 07 Months 26 Days
9.	Exclude the period of probation of 2 years as per Rule 4	3 Years 07 Months 26 Days (-) 2 years = 1 Year 07 Months 26 Days
10.	Period required for Relaxation	3 Years (-) 1 Year 07 Months 26 days 1 Year 05 months and 04 Days

2.4 The above chart clearly shows that the petitioner was required the period of only 1 year 05 months and 04 Days in view of Uttarakhand Government Servants Relaxation in Qualifying Service for promotion Rules, 2010 and Uttarakhand Government Servants

Relaxation in Qualifying Service for promotion (Amendment) Rules, 2023 which is less than 50% of 3 Years i.e. 1 Year 6 Months but the Hon'ble Court while passing the judgment dated 21.03.2025 in Para 9 of the Judgment stated that the petitioner required relaxation of 2 Years 6 months and said mistake in Para 9 of the Judgment is apparent on the face of record and liable to be reviewed.

2.5 The information supplied by the Finance Section-6, government of Uttarakhand on 25.03.2025, whereby the respondent given the relaxation of service in view of 2010 Rules 13 incumbents who were at that point of working on the post of in the Finance Services at the Pay scale of Grade Pay Rs.5400/- and after giving the one time relaxation they have been promoted in the Pay scale of Grade Pay Rs.6600/-.

2.6 On 22.03.2025, once again the Government of Uttarakhand notified the Uttarakhand Government Servants Relaxation in Qualifying Service for promotion Rules, 2025, whereby the Rule 4 provides the relaxation in qualifying service and as till 05.04.2025 the petitioner completed total service in the capacity of Deputy Director 5 Years 8 Months 21 Days (28.05.2012 to 26.02.2016 = 3 Years 8 Months 27 Days and 11.04.2023 to 05.04.2025= 01 Years 11 Months 24 Days, Total period in the capacity of Deputy Director 5 Years 8 Months 21 Days) and Rule 5 (3) of Uttarakhand Audit Gazetted Service Rules, 2019 provides that for consideration for promotion on the post of Joint Director the incumbent must completed 5 years' service in the capacity of Deputy Director and as stated above the petitioner have completed more than 5 years requisite service in the capacity of Deputy Director, therefore the petitioner is even otherwise is eligible to for consideration for promotion on the post of Joint Director. Therefore, it is prayed recall the Judgment/Order dated 21.03.2025 which is under review passed by Hon'ble Vice Chairman (J) in Claim Petition No.73/DB/2024 Manoj Kumar Singh vs. State of Uttarakhand and others, otherwise

the applicant will suffer irreparable loss and injury which cannot be compensated in any manner.

3. Learned A.P.O. has filed objections to the review application and it has been stated that the Departmental Promotion Committee, recommended the petitioner for promotion to the post of Deputy Director, pursuant to which a promotion order dated 28.05.2012 was issued by the Secretary. However, the said order was made subject to the express condition that in the event any officer senior to Shri Soban Singh Naganyal, who himself had been recommended for promotion to the post of Joint Director, joins the cadre of the State of Uttarakhand pursuant to the final allocation made by the Government of India, both the petitioner and Shri Soban Singh Naganyal shall be liable to be reverted to their respective substantive posts, namely Deputy Director and Assistant Director. The promotion was neither ad hoc nor officiating in nature; however, it was expressly made conditional and subject to revocation, as was unequivocally stated in the promotion order itself, and in due course resulted in the petitioner's reversion vide order dated 26.02.2016. The petitioner actually got promoted to the post of Deputy Director on 11.04.2023 and continues to serve in that post.

The petitioner sought relaxation in qualifying service for promotion to Joint Director (Audit) for the selection year 2023-24, relying upon the Uttarakhand Government Servants Relaxation Rules, 2010 and 2023 amendments. Moreover Rule 4 of the 2010 Relaxation Rules allows of the required qualifying service, but excludes 2 years' probation period and limits such relaxation to a maximum of 50%, to be availed only once during the course of a government servant's entire service career. As per Rule 5(3) of the Uttarakhand Audit Gazetted Service Rules, 2019, eligibility for promotion to the post of Joint Director mandates a minimum of five years' substantive service in the cadre of Deputy Director, a requirement which the petitioner admittedly does not fulfill. The petitioner was promoted to the post of Deputy Director on

28.05.2012 and continued to serve in that capacity until 26.02.2016, when he was reverted in view of the conditional nature of the promotion order. The total duration of service rendered during this period is 3 years, 8 months, and 27 days. However, as per Rule 4 of the Uttarakhand Government Servants Relaxation in Qualifying Service Rules, 2010, the mandatory two-year probation period is to be excluded while computing the qualifying service for the purpose of relaxation. Hence the judgment dated 21.03.2025, passed in Claim Application No. 73/DB/2024, Manoj Kumar v. State of Uttarakhand and Others, is legally sound, well-reasoned, and entirely valid in the eyes of the law. There is no apparent error of law or fact warranting any reconsideration. Consequently, the review application is devoid of any legal merit and must, therefore, be dismissed at the very outset.

5. Heard learned Counsel for the parties.

6. This Tribunal vide order dated 21.03.2025, after hearing the parties, passed the judgment, relevant paragraphs of which, read as below:

“3. Admittedly, the petitioner was promoted on 28.05.2012 on the post of Deputy Director as per the recommendation of Departmental Promotion Committee in the pay scale of Rs. 15600-39100 Grade Pay Rs. 6600/- as per the relevant service rules with a direction that petitioner has completed two years’ probation period and another condition that if any incumbent senior to Sri Soban Singh Naganyal will join the services in the State of Uttarakhand after its final allocation, then the petitioner will be reverted to his original post. These conditions are clearly mentioned in the petitioner’s promotion order dated 28.05.2012. It is also admitted that on 26.02.2016, the petitioner was reverted on the post of Audit Officer Grade-I, in view of final allocation of Sri Vipin Bihari to State of Uttarakhand.

4. Further, it is also admitted that the petitioner once again was promoted on the post of Deputy Director vide order dated 11.04.2023.

5. Now, where is the question arise by the petitioner to consider his case for granting the relaxation to him in view of Uttarakhand Government Servants Relaxation in Qualifying Service for Promotion Rules, 2010 and Uttarakhand Government Servant Relaxation in Qualifying Service for Promotion (Amendment) Rules, 2023. Rule 4 of the Uttarakhand Government Servants Relaxation in Qualifying Service for Promotion Rules, 2010, is as under:

"Relaxation in qualifying service;

4. In case a post is filled by promotion and for such promotion a certain minimum length of service is prescribed on the lower post or posts, as the case may be, and the required number of eligible persons are not available in the field of eligibility. such prescribed minimum length of service may be suitably relaxed up to fifty percent by the Administrative Department in consultation with the Personnel Department of the Government, excluding the period of probation as laid down for the said lower post or posts, as the case may be.

provided that relaxation in prescribed qualifying service for promotion will be allowed once in entire service tenure of any employee;

provided further that the employees, who have availed the benefit of relaxation of prescribed qualifying service for promotion earlier, shall not be entitled for such benefit again."

[Emphasis Supplied]

6. In the aforesaid Rule 4, it is clearly mentioned that such prescribed minimum length of service may be suitably relaxed upto 50% by the Administrative Department in consultation with the Personnel Department of the Govt. excluding the period of probation as laid down for the said lower post or posts, as the case may be.

7. The opinion of the Personnel Department as available on record also reads that the appointment of the officer on the post of Deputy Director from 28.05.2012 to 26.02.2016 was not ad-hoc basis, Temporary or Officiating. The officer has completed probation period also but the Finance Department, the Administrative Department in this case does not agree with the advice of Personnel Department as it finds the advice presumptive and contradictory. The Administrative Department has advised that the officer did not have a lien to the post of Deputy Director as the promotion was conditional. It means the promotion of petitioner was not permanent promotion. Consequently, the petitioner after promotion was reverted to his original post on 26.02.2016. Hence, the period spent on the post of Deputy Director from 28.05.2012 to 26.02.2016 and the petitioner was again promoted on 11.04.2023 on the post of Deputy Director, therefore from 11.04.2023 till 01.07.2023, the petitioner has worked in the capacity of Deputy Director for the period of two months and 20 days, which period cannot be considered for the qualifying service for promotion after excluding two years' probation period.

8. Rule 5 of the Uttarakhand Audit Gazetted Service Rules, 2019, provides for recruitment. Recruitment to the post of Joint Director has been mentioned in Rule 5 (3) of the Service Rules of 2019, which reads as under:

"(3) Joint Director - By promotion from amongst such substantively appointed Deputy Director who have completed five years of service in that capacity and have completed total fifteen years of service in the gazetted Audit Service Cadre on the first day of the recruitment year on the basis of seniority subject to rejection of unfit through the Departmental Promotion Committee."

9. Even if it is presumed that the earlier period working the capacity of Deputy Director from 28.05.2012 to 26.02.2016 is to be considered for qualifying service, the petitioner has completed 03 years 08 months and 27 days' service in the capacity of Deputy Director from 28.05.2012 to 26.02.2016, in which two years' probation period is excluded, which comes to 01 year 08 months and 27 days, which is less than 50%

required relaxation service i.e. 2 years 6 months. So the petitioner is not eligible for the relaxation of the qualifying service envisaged in the aforesaid relevant rules.

10. *In view of the above law laid down by the Hon'ble Apex Court in the matter of Union of India and another vs. D.P. Singh and others, 2016 SCC OnLine Del 5381, and also on the basis of Rule 4 of Uttarakhand Government Servants Relaxation in Qualifying Service for Promotion Rules, 2010, the claim petition has no legal force being devoid of merits and is liable to be dismissed and is accordingly dismissed.*

ORDER

The claim petition is dismissed. No order as to costs."

7. This Tribunal while passing the judgment has specifically clarified in para 8 of the judgment that Rule 5 of the Uttarakhand Audit Gazetted Service Rules, 2019, provides for recruitment. As per Rule 5(3) recruitment to the post of Joint Director by promotion from amongst such substantively appointed Deputy Director who have completed five years of service in that capacity and have completed total fifteen years of service in the gazetted Audit Service Cadre on the first day of the recruitment year on the basis of seniority subject to rejection of unfit through the Departmental Promotion Committee. The petitioner has completed 03 years 08 months and 27 days' service in the capacity of Deputy Director from 28.05.2012 to 26.02.2016, in which two years' probation period is excluded, which comes to 01 year 08 months and 27 days, which is less than 50% required relaxation service i.e. 2 years 6 months. So the petitioner is not eligible for the relaxation of the qualifying service envisaged in the aforesaid relevant rules.

8. The Tribunal while passing the judgment, the contestations raised by the petitioner were dealt and discussed, therefore, it cannot be said that there was any manifest error in the judgment. The Tribunal had drawn a reasonable and justifiable conclusion after considering all the relevant facts, circumstances of the case and having considered the relevant Service Rules.

9. Moreover, the scope of review is very limited to the extent of (i) clerical or arithmetical mistakes (ii) error apparent on the face

of record and (iii) for any other 'sufficient reason'. The review applicant has not been able to show as to what is the error apparent on the face of record. There is no other 'sufficient reason' to show that the review petition is maintainable and should be allowed.

10. On the basis of the above discussion, I am of the definite opinion that there is no force in the review petition, resultantly; the review petition is liable to be dismissed.

ORDER

The review petition is hereby dismissed. No order as to costs.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

DATE: MAY 27, 2025
DEHRADUN
KNP