

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

Present: Hon'ble Mr. Ram Singh

----- Vice Chairman (J)

Hon'ble Mr. D.K.Kotia

-----Vice Chairman (A)

CLAIM PETITION NO. 58/DB/2013

1. Sant Ram S/o Sri Chote Lal, presently posted as Sub-Divisional Forest Officer, Haridwar Forest Division, Haridwar.
2. R.K.Singh, S/o Late Sri S.R. Singh, presently posted as Divisional Project Director, Watershed Management Directorate, Indranagar, Dehradun.

.....Petitioners

VERSUS

1. State of Uttarakhand through Secretary/Principal Secretary (Forest), Govt. of Uttarakhand at Secretariat, Dehradun.
2. State of Uttar Pradesh through Secretary/Principal Secretary (Forest), Govt. of Uttar Pradesh, Secretariat, Lucknow.
3. Ashok Kumar Mehar, presently posted as Silviculturist (Sal Region), Forestry Training Academy Campus, Haldwani.
4. Inderpal Singh, presently posted as D.F.O., Office of Principal Chief Conservator of Forests, 87, Rajpur Road, Dehradun.
5. C.K.Kavidayal, presently posted as Dy. Director, Forestry Training Academy Campus, Haldwani.
6. G.K. Rastogi, presently posted as D.F.O., Uttarkashi Forest Division, Uttarkashi.

7. Man Singh, presently posted as D.F.O., Soil Conservation Forest Division, Lansdowne.
8. A.K.Benerjee, presently posted as Working Plan Officer, Narendra Nagar Forest Division, Narendra Nagar.
9. Diwakar Sinha, presently posted as D.F.O., Chakrata Forest Division, Kalsi.
10. Ramesh Chandra, presently posted as D.F.O., Additional Soil Conservation Forest Division, Ramnagar.
11. Rajmani, presently posted as D.F.O., Garhwal Forest Division, Pauri.
12. Ram Gopal, presently posted as D.F.O., Soil Conservation Forest Division, Kalsi.
13. Ashok Kumar Gupta, presently posted as D.F.O., Champawat Forest Division, Champawat.
14. Anjani Kumar, presently posted as Working Plan Officer, Lansdowne Forest Division, Kotdwar.
15. Niyand Pandey, presently posted as D.F.O., Badrinath forest Division, Badrinath.
16. R.C.Sharma, presently posted as Dy. Director, Forestry Training Academy Campus, Haldwani.
17. Dharmesh Kumar Singh, presently posted as D.F.O., Uppar Yamuna Forest Division, Barkot.
18. Santosh Kumar Gupta, presently posted as Office of the Principal Chief Conservator of Forests, Monitoring & Evaluation, 87, Rajpur Road, Dehradun.
19. Rajendra Prasad Mishra, presently posted as D.F.O., Tehri Forest Division, New Tehri.
20. Shivraj Ram Parjapati, presently posted as Working Plan Officer, Rudraprayag Forest Division, Rudraprayag.

.....Respondents.

Present: Sri M.C.Pant & Dr. Aparna Singh, Ld. Counsel
for the petitioner

Sri Umesh Dhaundiyal, Ld. A.P.O.
for the respondents No. 1 & 2

Smt. Anupama Gautam & Sri A.S.Bisht, Ld. Counsel
for the respondents no. 7,10,14,15,17,19 & 20

JUDGMENT

DATED: AUGUST 10, 2017

(HON'BLE MR. RAM SINGH, VICE CHAIRMAN (J))

1. By way of this petition, the petitioner has requested to quash the seniority list dated 03.10.2010 (Annexure: No. 3) issued by the respondent no. 1 and to direct the respondent to issue a fresh combined seniority list of directly recruited as well as promotee members of Provincial Forest Service (PFS) after inviting and disposing of their objections and further to declare that any promotional exercise without finalizing the seniority list, is non-est and to grant all consequential benefits.

2. Briefly stated facts are that the petitioners were initially recruited on the post of Forest Ranger during the year 1978 to 1991 and became eligible for promotion to the post of Assistant Conservator of Forest after completion of 8 years of service and accordingly, they became members of PFS in 1997 after their promotion. In the year 2006, Government of India vide its order No. 22/05/ dated 30.10.2006 finally allocated 111 personnel of PFS to the cadre of Uttarakhand and in Uttarakhand a tentative seniority list of PFS cadre was issued on 09.07.2007. The petitioners filed their objections, which remained undisposed and another tentative seniority list dated 04.03.2009 was issued by the respondents without disposing the objections. The petitioners also filed their objections against the same.

3. Appointing Authority/Principal Secretary, respondent no. 1 without disposing the objections/representations of the petitioners, issued final seniority list dated 03.02.2010, mentioning therein that the seniority issued by the State of UP. vide O.M. No.1614/14-1-92 dated 28.04.1994 has been kept as it is. The seniority list dated 03.02.2010 indirectly restrained the promotees from making any representation against the list of direct recruits and tentative list dated 28.04.1994 was not revised by the respondent No. 2, State of U.P. and it was not a valid final seniority list.

4. In the year 2013, the petitioners came to know that the members of PFS working as ACF are being considered for promotion for the post of Deputy Director. Then the petitioners sent their representations to the respondent no. 1 on 31.07.2013. On the basis of invalid seniority list dated 03.02.2010 and without finalizing the combined seniority of direct and promotees, promotions should not be made, but ignoring the representation of the petitioners and without deciding their representation, respondent no. 1 issued promotion order on 14.08.2013, promoting 18 persons to the post of Deputy Director, which is invalid and illegal, hence this petition was filed for the relief sought as above.

5. Respondents contested the petition stating that in relation to their seniority, petition No. 626/86 and 660/87, Keshav Chandra Joshi Vs. Union of India & others were filed, in which following order was passed by the Hon'ble Apex Court:

“The direct recruits having been appointed in accordance with Rule 5(a) read with Appendix “A” their seniority shall be counted from the date of their discharging the duty of the post of Assistant Conservator of Forest and the seniority of the direct recruits and promotees shall be

determined in accordance with Rule 5, 6 & rule 24 in the light of the law declared in the judgment."

6. In compliance of that order, the seniority list dated 28.04.1994 about direct recruitees and promotee ACF was issued. In 1997 and 1998, writ petitions were also filed by Gopal Chandra Sinha and G.C.Saxena in Hon'ble High Court of Allahabad in which vide order dated 21.02.2006 and 21.08.2007, directions were issued to settle the seniority of promotee officers in accordance with U.P. Government Servant Seniority Rules, 1991 and the direction of the Hon'ble Supreme Court passed in Keshav Chandra case. Against that order of the Hon'ble High Court, SLP was also filed before the Hon'ble Supreme Court, which was dismissed on 01.01.2011. The contention of the respondents has been that the seniority of the direct recruits was fixed as per selection on alleged service and was to be counted below direct recruits on the basis of judgment of Hon'ble Apex Court. The promotion order was made on the basis of valid seniority list and the impugned order was in accordance with seniority Rules and the petition deserves to be dismissed.

7. Pending hearing the petition, the respondent no. 1 issued a final combined seniority list dated 06.04.2016, after disposing of the representations and objections of all the persons in service. Learned A.P.O. by filing list (Annexure: R-2) before the court has argued that prayer of the petitioners has become infructuous and on the basis of fresh seniority list, further exercise can be taken.

8. We have heard both the sides and perused the record.

9. The grievance of the petitioners was that without disposing their objections and without finalizing combined seniority list of the direct and promotees, promotional exercise was started. The petitioners have sought the relief that without finalizing the seniority list, such exercise cannot be undertaken. The relief sought from the

Tribunal has already been redressed by the respondents and after disposing the objections/representation of the parties, final seniority list has been issued on 06.04.2016 and accordingly, impugned previous list has been superceded and the court is of the view that the petition has become infructuous now. If on the basis of the new combined seniority list, any new cause of action arises to the petitioners in future and they are aggrieved by the same, they may approach appropriate forum for redressal of their grievances. Under these circumstances, the petition being infructuous, deserves to be dismissed.

10. The petition being infructuous, is hereby dismissed with the remark that if any new cause of action arises to the petitioners, they may approach appropriate forum for redressal of their grievances. No order as to costs.

(D.K.KOTIA)
VICE CHAIRMAN (A)

(RAM SINGH)
VICE CHAIRMAN (J)

DATE: AUGUST 10, 2017
DEHRADUN

KNP