

**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. 49/SB/2014

1. Sudhir Kumar, S/o Shri Om Pal Singh, R/o Village and Post Office Goverdhanpur, Thana Manglaur, District Haridwar.
2. Rajkumar, S/o Shri Santar Pal, R/o Tibri Colony Ranipur, House No. 378, Haridwar.

.....Petitioners

VERSUS

1. State of Uttarakhand through its Secretary, Ministry of Home Affairs, Uttarakhand, Dehradun.
2. Director General of Police (Headquarters and Karmik), Uttarakhand Police Headquarters, 12, Subhash Road, Dehradun.
3. Senior Superintendent of Police, District Haridwar.
4. Superintendent of Police (Karmik), Uttarakhand, Dehradun.

.....Respondents.

Present: Sri M.C.Pant, Ld. Counsel
for the petitioners
Sri Umesh Dhaundiyal, Ld. A.P.O.
for the respondents .

JUDGMENT

DATED: MARCH 07, 2018

(HON'BLE MR. D.K.KOTIA, VICE CHAIRMAN (A))

1. The petitioners filed the present claim petition seeking the following relief initially:-

“(i) To issue appropriate order or direction quashing the impugned communication order dated 09.08.2010 issued by respondent no. 4 (Annexure n. 1 to this Claim Petition) along with its effect and operation also after calling the entire record.

(ii) To issue an appropriate order or direction directing the respondents to give seniority to the petitioners w.e.f. 17.04.2002 and granting all the benefits of salary along with allowances treating them to be selected on 17.04.2002 vide selection list dated 17.04.2002 and total salary during the training period and the petitioners are entitled to get compensation on account of malafide and malicious act of the respondents, had it been the impugned order was never in existence.

(iii) Issue any other rule or direction, which this Hon’ble Court may deem fit and proper in the circumstances of the case.

(iv) Award cost of petition.”

2. The petitioners are constables in Uttarakhand Police.
3. During the pendency of present Claim Petition, the Hon’ble High Court at Nainital in writ petition no. 1466 of 2011, Jagdish Ram vs. State of Uttarakhand, has decided the controversy in question (Annexure: A 11) and held as under:-

“3..... After hearing learned counsel for the parties, this Court is of the view that although order (November 8, 1965) specifically states that the period of training is a part of the service and to be counted for the period of pension but there is a specific exclusion of the benefit of any increment only, and there is no other exclusion. Therefore, the usual interpretation of the said circular dated 8.11.1965 would be that such a benefit is liable to be granted to the constable as has been held by Hon’ble Allahabad High Court in Civil Misc. Writ Petition No. 24910 of 2006. The interpretation of which would be that though the period of training, inter alia, not be

counted for period of increment, but will be counted when entire period of service for any other benefit including the benefit of payment of higher pay-scale or promotional pay-scale, as the case may be.

4. The writ petition is allowed in the above terms with the direction to the respondents to count the period of training for every purpose, save the increment."

4. In pursuant to order of the Hon'ble High Court, the Government of Uttarakhand has issued a Government Order dated 31.03.2015 (Annexure: A 12) by which the Director General of Police, Uttarakhand has been directed to comply with the order of the Hon'ble High Court.

5. In the light of new development, the petitioners have filed an application dated 28.09.2015 and have prayed for a direction to the respondents to provide all service benefits including the seniority to the petitioners.

6. After arguing for a while, learned counsel for the petitioners has confined his prayer only to the extent that the petitioners may be allowed to make a representation to the respondents, who may be directed by the Tribunal to decide the representation at the earliest, to which learned A.P.O. has no objection.

7. Since the relief as mentioned in paragraph 5 above has been made by the petitioners after the judgment of the Hon'ble High Court and the issuance of the Government Order at a later stage on 28.09.2015 and no Counter Affidavit has been filed by the respondents in this respect, therefore, the innocuous prayer of the petitioners in paragraph 6 above is worth accepting.

8. The claim petition is, accordingly, disposed of by granting two weeks time to the petitioners to move a representation to the respondents. Thereafter, the respondents are directed to decide

such representation by a reasoned order at the earliest but not later than eight weeks of presentation of the representation before the respondents along with a copy of this order.

No order as to costs.

(RAM SINGH)
VICE CHAIRMAN (J)

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

DATE: MARCH 07, 2018
DEHRADUN.

KNP