

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

CLAIM PETITION NO. 49/SB/2017

Goverdhan Dass s/o Sh. Pawan Singh aged about 52 years at present working and posted on the post of Driver under the respondents in the office of District Information Officer, Dehradun.

.....Petitioner

vs.

1. State of Uttarakhand through Secretary, Information Public Department, Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Director General, Information and Public Relation Department, Uttarakhand, Bypass Road (Ring Road) Ladpur, Dehradun.
3. District Information Officer, Department of District Information Dehradun, Astley Hall, Dehradun.

.....Respondents.

Present: Sri L.K.Maithani, Counsel
for the petitioner.

Sri U.C.Dhaundiyal, A.P.O.
for the Respondents.

JUDGMENT

DATED: MARCH 12, 2018

Justice U.C.Dhyani(Oral)

Present claim petition has been filed by the petitioner for following reliefs:

“(i) To issue order or direction to the concerned respondents to correct/ modify the office order No. 143 of dated 26.08.2014 of Respondent No. 2 (Annexure No. A-8 to the petition) and grant the benefit of pay scale Rs.5200-20200 grade pay 2400 to the

petitioner from the date 02.11.2011, when the petitioner had completed his 09 years service on the post of Driver grade 4 in grade pay 1900.

(ii) To issue order or direction to the concerned respondents to re-fix the pay of the petitioner accordingly with all consequential benefits.

(iii) Any other.

(iv) Cost of the petition be awarded to the petitioner”.

2. Briefly put, facts giving rise to the present claim petition, are as follows:

Petitioner belongs to Scheduled Caste category. He completed 9 years' satisfactory service on the post of Driver Grade-IV in the pay scale of Rs. 3050-4500/- Grade Pay Rs.1900/-, on 02.11.2011, and according to the petitioner, he became eligible for promotion to the post of Driver, Grade-III in the pay scale of Rs.5200-20200/- Grade Pay Rs. 2400/- on 02.11.2011. But the respondents granted the pay scale of Rs.5200-20200/- Grade Pay Rs. 2400/- w.e.f. 31.01.2014 by office memorandum dated 26.08.2014 (Copy Annexure: A 8). Submission of Ld. Counsel for the petitioner is that, promotional pay scale ought to have been granted w.e.f. 02.11.2011 as per Government Order dated 03.07.2006 (Copy Annexure: A 3).

Counter affidavit has been filed on behalf of respondents today itself, indicating therein that there was ban on promotion of SC/ST Category in 2012. Second objection taken in Counter affidavit is that, it took time to the petitioner to pass the Trade Test.

3. Having heard Learned counsel for the parties, on twin objections, which have been taken on behalf of respondents in Counter Affidavit, this Court is of the opinion that both the objections, thus taken, hold no ground, for the reasons that, (i) petitioner is not responsible for conducting delayed Trade Test; (ii) the ban, if any, on

promotion of employees belonging to SC/ST Category, was prospective and not retrospective.

4. This fact is under no dispute that petitioner completed nine years of satisfactory service in the year 2011. He was entitled to benefits of Government Order No. 108/XXVII(7)/2006 dated 03 July, 2006 (Copy Annexure: A 3) w.e.f. 02.11.2011. A letter is usually sent by the department to RTO for conducting the Trade Test. If, in the instant case, the department made delayed request to the RTO in this respect, the petitioner is not to blame for the same.
5. If there was a ban on promotion of SC/ST Category, that was, in any case, after 2012, on the basis of Government Order dated 05.09.2012, which is said to be based on an Hon'ble Apex Court ruling. Be that as it may, the fact remains, that it would be applicable only on a future note and would not adversely affect the promotional prospects of such SC/ST Candidates who had already completed nine years of satisfactory service before 05.09.2012.
6. It may be noted here that petitioner, in any case, had passed Trade Test much before the impugned Government order was passed, which is sought to be modified by the petitioner, only to the extent that, instead of 31.01.2014, benefit of promotional pay scale be granted to him w.e.f. 02.11.2011. His prayer is worth accepting. Expanding the judgment any further, will only add to the length of the judgment. As has been mentioned above, petitioner joined service in November, 2002 and he ought to have been granted promotional pay scale in 2011 after completing nine years of satisfactory service.
7. In a nutshell, two objections have been taken on behalf of respondents and the documents brought on record, are sufficient to repel those objections.

8. The resultant would be that the petitioner ought to have been granted promotional pay scale w.e.f. 02.11.2011, instead of 31.01.2014. As a consequence thereof, the petition should be allowed.
9. The claim petition is allowed. The order impugned dated 26.08.2014, Annexure: A 8 is modified to the extent that the petitioner is entitled to promotional scale of Driver Grade-III, pay scale Rs.5200-20200/- Grade Pay Rs. 2400/- after completing nine years of satisfactory service w.e.f. 02.11.2011. Order accordingly.
10. Modified Office Memorandum be, therefore issued by Respondent No.2 within a period of three weeks of presentation of certified copy of this order. No order as to costs.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MARCH 12, 2018
DEHRADUN

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