

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

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. D.K.Kotia

-----Vice Chairman (A)

**CLAIM PETITION NO. 16/DB/2014**

Shri Lalit Kumar, S/o Late Sri Kukh Ram Singh, H.C.P. 52, presently posted at Police Station, Kalsi, District Dehradun.

.....Petitioner

**vs.**

1. State of Uttarakhand through Principal Secretary, Home Affairs, Civil Secretariat, Dehradun.
2. Director General of Police, Uttarakhand, Police Headquarters, Subhash Road, Dehradun.
3. Senior Superintendant of Police, Dehradun.
4. H.C. No. 2, C.P. Thakur Singh, R/o Police Line, Dehradun.
5. H.C. No. 33, C.P. Kabool Singh, P.S. Patel Nagar, Dehradun.
6. H.C. No. 60, C.P. Balwant Singh, P.S., G.R.P., Dehradun.
7. H.C.NO. 16, C.P. Kailash Singh, S.S.P. Office, Dehradun.

.....Respondents

Present: Sri L.D.Dobhal, Ld. Counsel  
for the petitioner.  
Sarvsri U.C. Dhaundiyal &  
Sri V.P.Devrani, Ld. A.P.Os.  
for the Respondents No. 1 to 3

**JUDGMENT****DATED: MARCH 23, 2018****Justice U.C.Dhyani (Oral)**

Principal prayer of the petitioner, in the present claim petition, is that the respondents be directed to promote the petitioner to the post of Sub-Inspector (Special Category) from the date, on which his juniors were promoted. Certain documents are filed by the petitioner alongwith his affidavit, in support of the relief sought by him.

2. In the Counter Affidavit, filed on behalf of the Respondents No. 1, 2 and 3, a plea was taken that the claim petition is barred by limitation. It was averred in the Counter Affidavit that the claim petition is not maintainable, as the same is time barred. A sweeping statement has been given in the affidavit. Nowhere, it has been stated, as to when the petitioner got definite information regarding impugned order. A plea has also been taken in the Counter Affidavit that the petitioner is not entitled to promotion. He has not rendered satisfactory service.

3. Learned Assistant Presenting Officers, on behalf of the respondents, vehemently opposed that the claim petition is time barred. The documents have been brought on record to show that petitioner could obtain the knowledge of impugned order only in July, 2013 and present claim petition has been filed on 20.03.2014. The limitation, for filing claim petition, is one year and, therefore, this court is of the opinion that claim petition is not barred by limitation.

4. The facts of the claim petition are very simple. The petitioner was Head Constable (Special Category) in Civil Police, when he filed the claim petition. On 07.05.2010, he was communicated a 'censure entry'. The petitioner made a representation against the

same. Petitioner's representation was allowed. I.G. Garhwal Region, *vide* order dated 16.12.2010, expunged the 'censure entry' awarded to the petitioner. Meanwhile, in April, 2017, the petitioner was promoted as Sub-Inspector in routine DPC. Thereafter, the petitioner moved representation to give him promotion from the date his juniors were promoted, but to no avail. Hence, present claim petition.

5. **The criteria for promotion from the post of Head Constable to Sub-Inspector, is 'seniority subject to rejection of unfit'. No doubt, when the petitioner was denied promotion, there was 'censure entry' against him and, therefore, he was, rightly, not considered fit for promotion. In other words, DPC did not find him fit for promotion. But, subsequently, when the petitioner was promoted to the post of Sub-Inspector, in April, 2017, after his 'censure entry' was expunged by the Appellate Authority, there appeared to be no reason not to promote the petitioner to the post of Sub-Inspector, from the date when his juniors were promoted. It is an admitted fact that 'censure entry' awarded to the petitioner in 2010, has been expunged by the Appellate Authority. Legally, 'censure entry' awarded to the petitioner, and communicated *vide* order dated 07.05.2010, had become *non-est* and, therefore, the petitioner is entitled to promotion to the post of Sub-Inspector from the date his juniors were promoted.**

6. Claim petition proceeded ex-parte against respondent No. 5. Though, other Respondents No. 4, 6 & 7 have filed their Counter Affidavits, but no specific plea has been taken, as to why the claim petition should be dismissed.

7. We are, therefore, of the opinion that present claim petition should be allowed.

8. Claim petition is allowed. Respondent No. 2 is directed to hold a review DPC, pertaining to the year 2010, and promote the

petitioner to the post of Sub-Inspector, if not otherwise found unfit, preferably within a period of three months of presentation of certified copy of this order, before the Respondent No. 2. No order as to costs.

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

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: MARCH 23, 2018*  
*DEHRADUN*

*KNP*