

**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. 47/NB/DB/2015

Suresh Chandra Bachheti, S/o Sri Amar Dev Bachheti, R/o Lane No. 4,
Amar Vihar, Ajabpur, Dehradun.

.....Petitioner

VERSUS

1. State of Uttarakhand through Secretary, Transport Department, Government of Uttarakhand, Dehradun.
2. Commissioner, Transport, Uttarakhand, Dehradun.
3. Regional Transport Officer, Dehradun.
4. Sri Manoj Kumar Sanwal, Senior Clerk, C/O Regional Transport Officer, Almora.
5. Sri Rajkumar, Senior Clerk, C/O Regional Transport Officer, Dehradun.
6. Sri Anil Anand, Senior Clerk, C/O Regional Transport Officer, Dehradun.
7. Sri Alok Kumar, Senior Clerk, C/O Assistant Regional Transport Officer, Haridwar.
8. Km. Vishnu Maya, Senior Clerk, C/O Regional Transport Officer, Dehradun.
9. Sri Ram Khiladi Surya, Senior Clerk, C/O Regional Transport Officer, Dehradun.

10. Sri Jitendra Thakur, Senior Clerk, C/O Regional Transport Officer, Dehradun.
11. Sri Bhawani Dutt Joshi, Senior Clerk, C/O Regional Transport Officer, Haldwani, District Nainital.
12. Sri Rakesh Kumar, Senior Clerk, C/O Regional Transport Officer, Dehradun.
13. Sri Krishna Ram Arya, Senior Clerk, C/O Regional Transport Officer, Rudrapur, District Udham Singh Nagar.
14. Sri Devendra Singh Rawat, Senior Clerk, C/O Regional Transport Officer, Haldwani, District Nainital.
15. Sri Sushil Kumar Niranjana, Senior Clerk, C/O Assistant Regional Transport Officer, Karanprayag, District Chamoli.
16. Sri Rajendra Bisht, Senior Clerk, C/O Assistant Regional Transport Officer, Haridwar.
17. Sri Deepak Kumar Sharma, Senior Clerk, C/O Assistant Regional Transport Officer, Rishikesh, District Dehradun.
18. Sri Mohan Singh Chamiyal, Senior Clerk, C/O Assistant Regional Transport Officer, Rishikesh, District Dehradun.
19. Sri R.P. Chamoli, Senior Clerk, C/O Regional Transport Officer, Dehradun.
20. Sri Neelkanth Joshi, Senior Clerk, C/O Regional Transport Officer, Pauri.
21. Km. Pramod Mishra, Senior Clerk, C/O Assistant Regional Transport Officer, Rishikesh, District Dehradun.
22. Sri Dinesh Kumar Verma, Senior Clerk, C/O Regional Transport Officer, Dehradun.
23. Sri Kaustubha Nand Pant, Senior Clerk, C/O Regional Transport Officer, Haldwani, District Nainital.
24. Smt. Surekha Samalok, Senior Clerk, C/O Regional Transport Officer, Dehradun.
25. Sri Hari Singh, Senior Clerk, C/O Assistant Regional Transport Officer, Kotdwar, District Pauri Garhwal.

26. Sri Ramesh Sanwal, Senior Clerk, C/O Assistant Regional Transport Officer, Kashipur, District Udham Singh Nagar.
27. Sri Pan Singh Rawat, Senior Clerk, C/O Regional Transport Officer, Haldwani, District Nainital.
28. Sri Sahid Ahmad, Senior Clerk, C/O Assistant Regional Transport Officer, Haridwar.
29. Smt. Sushma Chaudhary, Senior Clerk, C/O Regional Transport Officer, Haldwani, District Nainital.
30. Smt. Sandhya Mishra, Senior Clerk, C/O Regional Transport Officer, Dehradun.
31. Smt. Laxmi Kashyap, Senior Clerk, C/O Regional Transport Officer, Haldwani, District Nainital.
32. Smt. Mangni Hayanki, Senior Clerk, C/O Regional Transport Officer, Haldwani, District Nainital.

.....Respondents.

Present: Sri Bhagwat Mehra, Ld. Counsel
for the petitioner
Sarvasri Umesh Dhaundiyal &
V.P.Devrani, Ld. A.P.Os.
for the respondents No. 1, 2 & 3
None for the respondents No. 4 to 32

JUDGMENT

DATED: MARCH 23, 2018

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

1. The petitioner has filed the present claim petition for seeking the following relief:-

“A. To call for the record from Respondent No. 2 and to declare the action of the Respondent No. 2 in not giving the seniority to the petitioner from

30.04.1983 (date of joining 5.05.1983) on the post of Junior Clerk, as arbitrary and illegal.

B. To set-aside the impugned order No. 2714 dated 9.10.2009 passed by the Respondent No.2 (contained in Annexure No. A-1 to Compilation-I) in so far as it relates to the petitioner (which was served upon the petitioner vide reply dated 11.11.2013 under R.T.I. Act by the Respondent No. 2).

C. To set-aside the impugned Order No. 7189 dated 27.01.2006 passed by the Respondent No. 3 (contained in Annexure No. A-1 to Compilation-I) in so far as it relates to the petitioner (which was served upon the petitioner vide reply dated 11.11.2013 under R.T.I. Act by the Respondent No. 2).

D. To direct the Respondents, particularly Respondent No. 2 and 3 to forthwith revise the seniority list/prepare seniority list afresh giving seniority to the petitioner from initial appointment i.e. 30.04.1983 (date of joining 05.05.1983).

E. To direct the respondents, particularly Respondent No. 2 and 3 to grant all consequential benefit i.e. promotion, Pay Scale, A.C.P. etc. to the petitioner from the date when the same was granted to his juniors (Respondent No. 4 to 32).

F. To pass any other suitable order as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

G. To allow the claim petition with cost."

2. The petitioner was appointed as Junior Clerk on ad hoc basis vide Office Order dated 30.04.1983 (Annexure: A2) and in pursuant to this, he joined on 05.05.1983. The Office Order regarding his appointment is reproduced below:-

“संख्या मेमो/प्रशासन/83 दिनांक 30.4.83

कार्यालय ओदश

श्री सुरेश चन्द्र बछेटी पुत्र श्री अमर देव बछेटी को तदर्थ रूप से वेतनमान 354-550 तथा शासन द्वारा समय समय पर स्वीकृत भत्तों के साथ पौड़ी सम्भागीय परिवहन कार्यालय में कनिष्ठ लिपिक के पद पर नियुक्ति किया जाता है।

श्री सुरेश चन्द्र बछेटी की यह नियुक्ति पूर्णथ्य तदर्थ एवं अस्थाई रूप से की जा रही है। इन्हें बिना पूर्व सूचना के किसी भी समय सेवामुक्त किया जा सकता है।

सम्भागीय परिवहन अधिकारी
पौड़ी।”

3. The service of the petitioner (alongwith orders) was regularized on the post of Junior Clerk under the “उत्तर प्रदेश (लोक सेवा आयोग के क्षेत्र के बाहर पदों पर) तदर्थ नियुक्तियों का विनियमितीकरण नियमावली, 1979” (and Second Amendment in the Rules in 1989) on 01.01.1998 (Annexure: A8). The said order regularized the petitioner w.e.f. 05.05.1983 i.e. the date when he joined his service on ad hoc basis.

4. The petitioner was regularized under the Regularization Rules of 1979 and the Rule 7 of these Rules provide the mode of determination of seniority of regularized persons as under:-

“7. ज्येष्ठता-(1) इस नियमावली के अधीन नियुक्त कोई व्यक्ति इस नियमावली के अनुसार चयन के पश्चात् केवल नियुक्ति के आदेश के दिनांक से ज्येष्ठता का हकदार होगा और, सभी मामलों में, इस नियमावली के अधीन ऐसे व्यक्ति की नियुक्ति के पूर्व, संगत सेवा नियमों या यथास्थिति, नियमित विहित प्रक्रिया के अनुसार, नियुक्त व्यक्तियों के नीचे रखा जायेगा।”

5. The Rule 7(1) of the Regularization Rules above makes it clear that the seniority is to be determined from the date of appointment after the selection under the Regularization Rules.

6. The respondents issued an office Order dated 27.01.2006 (Annexure: A1) by which the date of regularization was corrected from 05.05.1983 (the date of joining on ad hoc basis) to 01.01.1998 (the date of regularization order) in accordance with Rule 7(1) of the Regularization Rules of 1979.

7. The respondents issued a tentative seniority list of Junior Assistants on 07.08.2009 (Annexure: A25) in which the date of substantive appointment of the petitioner was taken 01.01.1998 on which the petitioner was regularized.

8. The petitioner filed objections against the tentative seniority list and submitted that he should have been given the seniority from the date 05.05.1983 when he joined the service on ad hoc basis.

9. The respondents considered the objections of the petitioner and rejected the same on the ground that the petitioner is entitled to get seniority from 01.01.1998 (the date of regularization) only in accordance with Rule 7(1) of the Regularization Rules of 1979. Thereafter, the final seniority list was issued by the respondents on 09.10.2009 (Annexure: A1) placing the petitioner in the final seniority list on the basis of his date of regularization i.e. 01.01.1998.

10. We have gone through the claim petition and joint Written Statement filed by the State respondents No. 1 to 3. We have also perused the record. The private respondents No. 4 to 32 have not filed any written statement. The petitioner has not filed any rejoinder affidavit against the W.S. filed by the State respondents. In spite of many opportunities given to the

petitioner and the private respondents, none appeared at the time of hearing.

11. Learned A.P.O., in his arguments, mainly submitted that the final seniority list dated 09.10.2009 has been rightly issued on the basis of Rule 7(1) of the Regularization Rules of 1979.

12. After perusing the record and hearing learned A.P.O., we are of the clear view that the Regularization Rules of 1979 very clearly provide under Rule 7(1) that the seniority is to be determined on the basis of the date of appointment order issued after the selection of the persons under the Regularization Rules. The perusal of Rule 7(1) also reveals that the persons who are regularized under the Regularization Rules will be placed below the persons who are appointed before the regularization under the relevant Service Rules/ prescribed procedure.

13. In view of above, the petitioner has been rightly placed in the final seniority list dated 09.10.2009 (Annexure: A1) on the basis of his date of regularization i.e., 01.01.1998.

14. For the reasons stated above, we do not find any merit in the claim petition and the same is liable to be dismissed.

ORDER

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

(RAM SINGH)
VICE CHAIRMAN (J)

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

DATE: MARCH 23, 2018
DEHRADUN

KNP