

**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. 07/DB/2013**

Hari Shankar Pandey, S/o Sri Govind Narayan Pandey, presently posted as Assistant Director, Audit, Agriculture Directorate, Dehradun.

.....Petitioner

**Versus**

1. State of Uttarakhand through Secretary Agriculture, Government of Uttarakhand, Dehradun.
2. Director of Agriculture Department, Uttarakhand, Dehradun.
3. Public Service Commission, through Secretary, Gurukul kangri, Haridwar.
4. Shri Netra Prasad Gaur, Agriculture & Soil Conservation Officer, Unit DIDI Hat Pithoragarh.
5. Shri Bhakti Lal, Asstt. Agriculture Officer, Agriculture & Soil Conservation Officer, Unit Raipur, Dehradun..
6. Shri Vijay Lal Tamta, Agriculture & Soil Conservation Officer, Unit Rudrapur.
7. Shri Pyare Lal Arya, Agriculture & Soil Conservation Officer, Unit Bhhikyasen, Almora.
8. Shri Ram Lal, Agriculture & Soil Conservation Officer, Unit Karanprayag, District Chamoli.
9. Shri Mahidhar Singh Tomar, Deputy Director (Incharge) Technical Audit, Agriculture Director, Dehradun.

.....Respondents.

Present: Sri V.P.Sharma, Ld. Counsel  
for the petitioner.

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

## **JUDGMENT**

**DATED: MARCH 22, 2018**

**(Hon'ble Mr. Ram Singh, Vice Chairman (J))**

1. Petitioner has filed this claim petition for following reliefs:-
  - (i) To issue order or direction to the respondents for deciding the seniority of the petitioner from the date of his initial appointment w.e.f. 16.08.1989 and fix up the seniority of the petitioner between at Sl. No. 4 and 5 as 4A with all consequential benefits.
  - (ii) To issue order or direction to the respondents to grant all consequential benefits such as notional promotions and also grant subsequent promotions from the date his juniors were promoted.
  - (iii) Any other relief which the Hon'ble Court may deem fit and proper in the circumstance of the case.
  - (iv) To award cost of this petition to the petitioner.
  
2. As per the averment of the petition, petitioner was appointed on ad hoc basis vide order dated 16.08.1989 (Annexure: A 1) in the respondents' department in response to the public advertisement issued as per Annexure: A 3. Petitioner was regularized into the service in the year 2002 under THE UTTARANCHAL REGULARIZATION OF AD HOC APPOINTMENTS (ON POSTS WITHIN THE PURVIEW OF THE PUBLIC SERVICE COMMISSION) RULES, 2002 (hereinafter referred to as Regularization Rules of 2002). The interim seniority list was issued, against which the petitioner filed his representation, wherein he has sought that his seniority should be fixed from the date of his initial appointment, i.e., 16.08.1989. According to the petitioner, several representations were submitted by him for fixing his seniority at the appropriate place. Departmental Committee also recommended that petitioner should be given seniority from the date of his initial appointment but no action has been taken by the respondents rather

promotion has been granted to the juniors of the petitioner. Hence this petition.

3. Petition was opposed by the respondents mainly on the ground that as per the relevant seniority rules, seniority can only be granted from the date of substantive appointment and the petitioner's substantive appointment will be deemed to be made from the date of his regularization in the service under the Regularization Rules of 2002, as his ad hoc appointment in 1989 was not made as per the procedure set by the relevant Service Rules.
4. We have heard learned counsel for both the parties and perused the record.
5. The main issue to be decided in this petition is, whether the petitioner can be granted seniority from the date of his ad hoc appointment or from the date of his regularization in the service
6. This Court is of the view that the seniority can be fixed only from the date of his regularization in the service because of the reason that the initial appointment of the petitioner made on 16.08.1989, was purely ad hoc as the appointment letter itself mentions as under:-

“आदेश

तदर्थ –नियुक्ति

विभागीय चयन समिति द्वारा लिये गये साक्षात्कार एवं चयन के आधार पर श्री हरिशंकर पाण्डे पुत्र श्री गोविन्द नारायण पाण्डे ग्राम पनासा पो0स्यानासा इलाहाबाद वतमान में द्वारा भूमि संरक्षण अधिक दुगड्डा (गढ़वाल) की तदर्थ नियुक्ति प्रशिक्षण उद्यान(अ0 कृ0से0वर्ग-1) वेतनक्रम रू0 570-25-2770-द0रो0-30-980-द0रो0-30-1100 में तथा अन्य मंहगाई भत्तों सहित जो शासन द्वारा समय-समय पर निर्धारित /स्वीकृत किये जावेगें,योगदान करने की तिथि से की जाती है ।

उक्त तदर्थ नियुक्ति पूर्णरूपेण अस्थायी एवं एक माह के नोटिस पर कभी भी बिना कारण बताये समाप्त की जा सकती है यह तदर्थ नियुक्ति नियमित नियुक्ति तक हो मान्य होगी।”

7. The public advertisement, on the basis of which this ad hoc appointment was made, also mentions as under:-

“ नियुक्ति विज्ञापन

अधिनस्थ कृषि सेवा वर्ग-1 वेतनमान 570-25-770 द.रा.-30-980 -द.रो. -30 1100 रूपए में निम्न विषयानुसार प्रशिक्षकों की पूर्णतः अस्थाई एवं तदर्थ नियुक्ति हेतु आवेदन पत्र विभाग .....आमंत्रित किय जाते है यह नियुक्तियां उत्तर प्रदेश लोक सेवा चयन आयोग/ अधिनस्थ सेवा चयन आयोग से चयनित प्रशिक्षकों की नियुक्तियों तक ही मान्य होगी। .....

8. Hence, it was very much clear that this appointment was purely ad hoc and was for a definite period, i.e., till the regular appointee, under the relevant Service Rules is appointed, following the prescribed procedure.
9. This Court is of the view, that this appointment of the petitioner, which was made only on the basis of interview, was not as per the prescribed procedure under the concerned Service Rules because this post was under the purview of Public Service Commission and it could only be filled up following a set procedure. Hence, this appointment of the petitioner cannot be said to be a substantive appointment for the purpose of seniority under the Seniority Rules of 2002.
10. As per the Seniority Rules of 2002, seniority can be given only from the date of substantive appointment and the date of substantive appointment of the petitioner will be considered as the date of his regularization because he was not appointed as per the procedure prescribed in the relevant Service Rules. Furthermore the seniority of the petitioner will be fixed as per Rule 7 of the Regularization Rules of 2002.
11. It is an admitted fact that ad hoc appointment of the petitioner was regularized vide order dated 07.10.2002 issued under

Regularization Rules of 2002. Rule 7 of the aforesaid Rules provides as follows:

**7. Seniority-** (1) A person appointed under these rules shall be entitled to seniority only from the date of order of appointment after selection in accordance with these rules and shall in all cases, be placed below the persons appointed in accordance with the relevant service rules, or as the case may be, the regular prescribed procedure, prior to the appointment of such person under these rules.

(2).....”

12. Hence in view of the Court, the substantive appointment of the petitioner will be deemed to be made under the abovementioned Regularization Rules of 2002. Accordingly, as per the Regularization Rules of 2002, the date of substantive appointment of petitioner will be the date of his regularization in service because the petitioner's appointment was not made as per the prescribed procedure of the relevant Service Rules. Petitioner may be granted monetary benefits from the date of his ad hoc appointment but for the purpose of seniority, Rule 7 of Regularization Rules of 2002 is the relevant law. Hence, this Court is of the view that the petitioner cannot claim seniority from the date of his ad hoc appointment. Even otherwise, as per the Seniority Rules of 2002, his seniority will be counted from the date of his substantive appointment, which is the date of his regularization in the service.
13. This Court is of the view, that the recommendation of any such committee, to grant seniority from the date of ad hoc appointment, is not as per law, which was rightly not considered by the department.
14. Ld. Counsel for the petitioner has cited the case law of **Rudra Kumar Sain & others Vs. Union of India & others 2000(4) SLR 789**. This

Court is of the view that the facts of the above-mentioned case are totally different from the case in hand because in that case all the persons were appointed as per relevant Service Rules, whereas, ad hoc appointment of the petitioner was not made as per relevant Service Rules rather his appointment will be deemed to be made under the Regularization Rules of 2002 and his seniority can be fixed only as per the Regularization Rules of 2002.

15. The Seniority of the petitioner can only be fixed on the basis of the date of his regularization into service, and the prayer of the petitioner to fix his seniority from the date of ad hoc appointment, cannot be accepted and he is not entitled for any relief. Therefore, claim petition deserves to be dismissed.
16. The claim petition is hereby dismissed. No order as to costs.

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

**(RAM SINGH)**  
VICE CHAIRMAN (J)

*DATE: MARCH 22, 2018*  
*DEHRADUN*

VM