

**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. 41/DB/2015**

Virender Singh S/o Shri Inder Singh, R/o Presently posted as Accountant  
(Cash), Treasury, Rudraprayag, District Rudraprayag.

.....Petitioner

**vs.**

1. State of Uttarakhand through its Secretary, Finance Services,  
Subhash Road, Dehradun, Uttarakhand.
2. Director, Treasury and Finance Services, 23, Laxmi Road, Dalanwala.
3. District Magistrate, Chamoli, Garhwal.
4. Treasury Officer, Chamoli, Chamoli.

.....Respondents

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

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

**JUDGMENT**

**DATED: MARCH 27, 2018**

**Justice U.C.Dhyani (Oral)**

1. By means of the present claim petition, the petitioner seeks  
following reliefs:

*“a) To give all benefits of service to petitioner from the  
date, that is, 24.09.1986, when the petitioner was*

*appointed on substantive basis against vacant post in regular pay scale instead of 01.12.1990.*

*b) To give benefit of service to petitioner for the purpose of career prospective from the date, that is, 13.05.1986, when the petitioner was first appointed on the post of 'Tahveeldar' and till date he was continuing his work on that post.*

*c) To issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.*

*d) Award cost of the petition."*

2. Brief facts, giving rise to the claim petition, are as follows:

The petitioner was appointed as *Tahveeldar*, by District Magistrate/Treasury Officer, Chamoli *vide* order dated 05.05.1986, for the duration of 02.05.1986 to 11.07.1986. Again, *vide* order dated 04.10.1986, the petitioner was appointed as *Tehveeldar* for the vacant period of 12.07.1986 to 24.09.1986. The petitioner was again appointed as such, by District Magistrate *vide* order dated 24.09.1986 in the pay scale of Rs. 354-550. Petitioner worked regularly from 13.05.1986 to 08.03.1988 in Sub-Treasury. According to the petition, District Magistrate *vide* order dated 26.02.1988, terminated the services of the petitioner, without giving any opportunity of hearing. Thereafter, the petitioner was again appointed on the post of *Tehveeldar* in the pay scale of Rs. 354-550 *vide* order dated 04.12.1989 by Treasury Officer, Chamoli. The petitioner was further appointed on the same pay scale by the selfsame officer, on the same post, *vide* order dated 04.12.1989. The petitioner continued to work from 07.02.1990 to 11.07.1990. A plea has been taken that he was appointed on substantive basis, against vacant post, in regular pay scale of Rs. 354-550 (revised pay scale Rs. 950-1500). The prayer of the petitioner is, for giving him service benefits w.e.f. 24.09.1986.

3. Learned A.P.O., at very outset, vehemently opposed the petition by arguing that:

- (i) Claim petition is time barred and,
- (ii) This Tribunal lacks jurisdiction to decide such claim petition.

4. Let us first examine, whether this Tribunal has jurisdiction to entertain present claim petition or not?

5. Ld. A.P.O. has cautioned us not to transgress our territorial authority in terms of judgment dated 28.05.2012 rendered by Hon'ble Apex Court in Civil Appeal No. 3984 of 2012, State of Uttarakhand and another vs. Umakant Joshi. It will be useful to reproduce relevant paragraphs of the aforesaid judgment herein below for convenience:-

“11. We have considered the respective submissions. It is not in dispute that at the time of promotion of Class-II officers including Shri R.K. Khare to Class-I posts with effect from 16.11.1989 by the Government of Uttar Pradesh, the case of respondent No.1 was not considered because of the adverse remarks recorded in his Annual Confidential Report and the punishment imposed vide order dated 23.1.1999. Once the order of punishment was set aside, respondent No.1 became entitled to be considered for promotion to Class-I post with effect from 16.11.1989. That exercise could have been undertaken only by the Government of Uttar Pradesh and not by the State of Uttaranchal (now the State of Uttarakhand), which was formed on 9.11.2000. Therefore, the High Court of Uttarakhand, which too came into existence with effect from 9.11.2000 did not have the jurisdiction to entertain the writ petition filed by respondent No.1 for issue of a mandamus to the State Government to promote him to Class-I post with effect from 16.11.1989, more so because the issues raised in the writ petition involved examination of the legality of the decision taken by the Government of Uttar Pradesh to promote Shri R.K. Khare with effect from 16.11.1989 and other officers, who were promoted to Class-I post vide order dated 22.1.2001 with retrospective effect. It appears to us that the counsel, who appeared on

behalf of the State of Uttarakhand and the Director of Industries did not draw the attention of the High Court that it was not competent to issue direction for promotion of respondent No.1 with effect from a date prior to formation of the new State, and that too, without hearing the State of Uttar Pradesh and this is the reason why the High Court did not examine the issue of its jurisdiction to entertain the prayer made by respondent No.1.

12. In view of the above, we hold that the writ petition filed by respondent No.1 in 2008 in the Uttarakhand High Court claiming retrospective promotion to Class-I post with effect from 16.11.1989 was misconceived and the High Court committed jurisdictional error by issuing direction for his promotion to the post of General Manager with effect from 16.11.1989 and for consideration of his case for promotion to the higher posts with effect from the date of promotion of his so called juniors.

13. In the result, the appeals are allowed, the impugned order is set aside and the writ petition filed by respondent No.1 is dismissed.

14. However, it is made clear that this Court has not expressed any opinion on the merits of the entitlement of respondent No.1 to claim promotion to Class-I post with retrospective effect and, if so advised, he may avail appropriate remedy by filing a petition in the Allahabad High Court. It is also made clear that we have not expressed any opinion on the legality or otherwise of order dated 17.1.2005 issued by the Government of Uttarakhand withdrawing the order of punishment passed against respondent No.1 and the writ petition, if any, pending before the Uttarakhand High Court against that order shall be decided without being influenced by the proceedings of these appeals.”

*[Emphasis supplied]*

6. The petitioner has retired in 2016. He is seeking relief in respect of services rendered by him since 24.09.1989, when State of Uttarakhand was not in existence and the petitioner was an employee of erstwhile State of U.P. The State of Uttarakhand was born only on 09.11.2000 and, therefore, if we pass any order in the present claim petition, the same will amount to exceeding our territorial jurisdiction.

We do not intend to go beyond our geographical boundaries and do not want to commit jurisdictional error by directing State of U.P. to pass an appropriate order. We, therefore, hold that this Tribunal has no jurisdiction to entertain present claim petition.

7. Let claim petition be returned to the petitioner for presentation before the appropriate forum, if he so advised.

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

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

*DATE: MARCH 27, 2018*  
*DEHRADUN*

*KNP*