

**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. 05/DB/2016

S.S..Chauhan, S/o Sri Surat Singh Chauhan, aged about 60 years, R/o Garh Vihar
Ext. (IIP Gate-2), Mohakam Pur, Dehradun..

.....Petitioner

VS.

State of Uttarakhand and Others.

.....Respondents.

Present: Sri L.K.Maithani, in brief of
Sri M.C. Pant, Counsel for the petitioner.

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

JUDGMENT

DATED: APRIL 26, 2018

Justice U.C.Dhyani (Oral)

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

“ (i) Issue order or direction for quashing the reasoning for rejection of promotion of the petitioner given in the note sheet dated 31.08.2015 and any consequential orders, if any, which has been taken into consideration by the Respondent No.1 and accepting the same vide his consent on the noting dated 31.08.2015, which is not tenable in the eyes of law because the same constitutes an order along with its effect and operation also after calling the entire records from the respondents.

(ii) Issue Order or direction directing to the respondents to consider the case of the petitioner for promotion on the post of Deputy

Director (Pharmacy) taking into consideration his eligibility and recommendation dated 27.08.2015 of the respondents and allow the same to the petitioner by giving all consequential benefits had it been the impugned communication was never in existence.

(iii) Award appropriate compensation and damages to the petitioner due to the tortuous and actionable wrong on the part of the respondents and quantify the amount and be directed to be recovered the same from the erring officers.

(iv) Issue any other order or direction, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

(v) Award cost of the petition.”.

2. Facts in brief, giving rise to present claim petition, are as follows:

The petitioner was appointed as Pharmacist on 10.05.1976. He was subsequently promoted to the post of Chief Pharmacist and thereafter to the post of Officer on Special Duty (Pharmacy). The next promotional post of the petitioner is Deputy Director (Pharmacy), for which prescribed criteria of eligibility, according to U.P. Pharmacist (Gazetted) Service Rules, 1993 (Annexure: A 3), is “ a person working on the post of Officer on Special Duty (Pharmacy) must complete 20 years of service as Pharmacist, Chief Pharmacist and Officer Incharge, Pharmacy and Officer on Special Duty by way of promotion”. On 30.09.2013, the post of Deputy Director (Pharmacy) had fallen vacant, but deliberately, promotion of the petitioner on the post of Officer on Special Duty (Pharmacy) was delayed, which was made on 24.07.2015, and he was kept on probation up to 31.08.2015, which is also the date of his superannuation.

Government Orders of 2007 and 2010, (Annexure: A-8 colly provide for the time limit for the redressal of the grievances of the employees as well as determination of the vacancies and promotional exercise, but respondents ignored these G.Os.

The petitioner preferred representation on 18.08.2015 and requested for extension of service, as his promotion was delayed and the posts of Officer on Special Duty (Pharmacy) as well as Deputy Director were not filled up in due time. Such representation of the petitioner was forwarded by respondent No.3 on 21.08.2015 to respondent No.2 with a recommendation in favour of the petitioner, but to no avail.

Petitioner again preferred a representation to respondent No.3 to grant him the benefit of promotion on the post of Deputy Director (Pharmacy), as he is already drawing his pay in the pay scale of Deputy Director, therefore, Government shall not be put to additional financial burden. Such representation of petitioner was again forwarded to respondent No.2 *vide* letter dated 27.08.2015, but respondent No. 2 did not pay any heed to the same.

3. After arguing the claim petition at some length, Ld. Counsel for the petitioner has confined his prayer only to the extent that, subject to filing a fresh representation by the petitioner, the same may kindly be directed to be decided by the respondent No.1, by a reasoned and speaking order, in accordance with law.
4. Ld. A.P.O. has no objection to such innocuous prayer. Considering the facts of the case, we think that the innocuous prayer made by the petitioner, is worth accepting.
5. Claim petition is, accordingly, disposed of by directing petitioner to move a fresh representation before the respondent No.1, along with a copy of this Order. Respondent No.1, thereafter, is directed to decide such representation of the petitioner, by a reasoned and speaking order, in accordance with law, at the earliest possible but not later than eight weeks of presentation of certified copy of this order along with a copy of representation .

6. Needless to say that the decision so taken, shall be communicated to the petitioner soon thereafter.

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

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: APRIL 26, 2018
DEHRADUN

VM