

**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. 26/DB/2018

1. Subhash Chandra Juyal s/o Late Shri Vishnu Dutt Juyal, Assistant Engineer, Uttarakhand Jal Sansthan, North Division, Dehradun, and seven others.

.....Petitioners

vs.

1. State of Uttarakhand through Secretary, Peyjal, Uttarakhand Shasan, Dehradun, Uttarakhand.
2. The Chief General Manager, Uttarakhand Jal Sansthan, Jal Bhawan, B-Block, Nehru Colony, Dehradun, Distt- Dehradun.
3. Rajesh Kumar Nirwal.
4. Shiv Kumar Rai
5. Madan Sen Verma
6. Sanjay Kumar Srivastav
7. Vinod Kumar Srivastav.
8. Shishupal Singh.
9. Rakesh Kumar.
10. Arun Kumar.
11. Rama Shankar.
12. Satyawan Singh Rawat.

.....Respondents.

Present: Sri M.C.Pant & Sri L.K.Maithani, Counsel for the petitioners.

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

JUDGMENT

DATED: JUNE 25, 2018

Justice U.C.Dhyani (Oral)

By means of present claim petition, the petitioners seek following reliefs:

“ (a) Issue an order or direction, directing to the respondents to declare the rule or regularization is unconstitutional and arbitrary and struck down and further to prepone the date of regularization of the petitioners w.e.f. their initial date of induction in service for the purpose of all consequential benefits and by declaring that using the word work-charge is misnomer and sham show for all consequential benefits after calling the entire records from the respondents and to quash seniority list and impugned orders as contained in Annexure No. 1, in view of the legal position and keeping in view of the facts highlighted in the body of the petition and re-draw the same by placing the petitioners at appropriate place by reckoning the same from the date of their initial appointment.

(b) Issue an order or direction directing to the respondents to count entire length of service from the initial date of appointment shown as under artificial nomenclature of daily wager, as a regular and substantive for the purpose of grant of pensionary benefits and other service benefits including seniority etc. after calling the entire records from the respondents.

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

(d) Award the cost of the petition in favour of the petitioners”.

2. Sri Umesh Dhaundiya, Ld. A.P.O. receives notice on behalf of Respondent No.1. Sri B.B.Naithani, Advocate, who is present in Court in connection with some other claim petition, is requested to take notice on behalf of Jal Sanstahn, Respondent No.2. He has, accordingly, taken notice on behalf of Respondent No.2.

3. Facts, giving rise to present claim petition, are as follows:

Petitioners were appointed as Junior Engineers between 1988 and 1991 in the then Garhwal Jal Sansthan and are continuously working with Respondent No. 2 since then. Since 30.06.2014, all the petitioners are working as Assistant Engineers in Uttarakhand Jal Sansthan. In the year 2003, 475 employees of Jal Sansthan were regularized, but in spite of being eligible, petitioners could not be regularized along with other employees. Petitioners approached

Hon'ble High Court of Uttarakhand at Nainital, and *vide* order dated 04.08.2004 of Hon'ble Court, petitioners were regularized *w.e.f.* 17.08.2004. Respondents, instead of fixing the *inter se* seniority of the petitioners *vis-à-vis* other Junior Engineers, after taking into account the date of initial appointment of the petitioners, as ordered by the Hon'ble Court, fixed the *inter se* seniority of the petitioners solely on the basis of their dates of birth (copy annexed as Annexure: A 5). Petitioners moved various representations on different dates as well as legal notice to the respondents, but to no avail. Petitioners sought information under RTI and they were supplied the information by way of two letters of the State Government dated 01.09.2015 and 26.05.2017, in which the Additional Secretary of the State Government, *vide* its letter dated 01.09.2015 informed the Chief General Manager, Jal Sansthan for providing a specific proposal and details of the vacancies and other service record *w.e.f.* 01.09.1996 as per rules and consequently, on 26.05.2017, also informed all the Additional Chief Secretaries of the State of Uttarakhand, by referring a decision taken by the Cabinet on 17.11.2016, in which it has been mentioned that the Chief Secretary/ Secretary Personnel/ Secretary Finance and Secretary, Law shall re-examine the aforesaid matter and accordingly directed to provide all the details as required. This information itself shows the inaction on the part of the respondents.

4. It is the submission of Ld. Counsel for the petitioners that petitioners' representation dated 23.05.2017 (Annexure-14), which is pending decision before the Government, may kindly be directed to be decided by Respondent No.1 by a reasoned and speaking order, within stipulated time, in accordance with law.
5. It is also the submission of Ld. Counsel for the petitioners that Uttarakhand Jal Sansthan , Respondent No.2, has already written a letter (Annexure: 11) to Respondent No.1 for fixing up the seniority of the petitioners. Such letter is also pending decision with Respondent No.1 and the same may also kindly be directed to be decided by Respondent

No.1 by a reasoned and speaking order, within stipulated time, in accordance with law.

6. The innocuous prayer made by Ld. Counsel for the petitioner is worth accepting keeping in view the backdrop of facts mentioned in the petition. It may be noted here that Respondent No.1 has already written a letter to Respondent No.2 on 01.09.2015 for placing pin pointed, reasoned proposal for consideration before the Government. Hon'ble Cabinet, in its meeting dated 17.11.2016, has also directed the Chief Secretary, Secretary Personnel, Secretary Finance and Secretary Law to re-examine the matter in relation to grant of pensionary benefits to the employees of Respondent No.2, who were regularized in the years 2003 and 2004.
7. The claim petition is disposed of at the admission stage by directing Respondent No.1 to decide the pending representation dated 23.05.2017 (Annexure: 14) of the petitioners, at an earliest possible, but not later than 12 weeks of presentation of certified copy of this order along with copy of representation, by a reasoned and speaking order, in accordance with law.

D.K.KOTIA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JUNE 25, 2018
DEHRADUN

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