

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
AT DEHRADUN**

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

CLAIM PETITION NO. 34/DB/2019

Ramendra Singh aged about 64 years S/o Late Shri Kartar Singh, R/o 219-B,
Lunia Mohalla, Dehradun..

.....Petitioner

vs.

1. State of Uttarakhand through Secretary Finance, Secretariat, Subhash Road, Dehradun.
2. Additional Inspector General , Stamps & Registration, Ring Road, Dehradun.
3. Uttarakhand Public Service Commission, Haridwar, through its Secretary.

.....Respondents.

Present: Smt. Anupama Gautam & Sri A.S.Bisht, Counsel for the petitioner.
Sri V.P.Devrani, A.P.O., for the Respondents.

JUDGMENT

DATED: JULY 17, 2019

Justice U.C.Dhyani(Oral)

Present claim petition has been filed by the petitioner for following reliefs:

“ (a) That the order dated 07.04.2018 dispatched on 03.05.2018 be quashed allowing the petitioner notional promotion to the post of Sub Registrar, Dehradun as per his seniority fixed by the DPC and admitted to the respondents, from 29.08.2013 till his date of retirement.

(b) That the petitioner be allowed the arrears of consolidated salary during his service period and the arrears of pension as per the said promotion dated 29.08.2013.

(c) That the petitioner be allowed exemplary damages for his harassment all these years commencing from 29.08.2013 till date.

(d) Full cost of the petition.

(e) Any other relief to which the petitioner is found entitled may very kindly be granted.”

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

Petitioner was a Clerk in the office of Sub- Registrar, Dehradun and retired on 31.08.2013. According to the information gathered by the petitioner under RTI, the DPC was conducted for his promotion, along with others, before his retirement. Petitioner was at Sl. No. 3 in the Selection year 2011-12. Petitioner made representation to the appointing authority on 06.02.2017, but no information was given to him. The petitioner called upon Respondent No.2 to make good his arrears of salary, pension, retiral benefits on the basis of his promotion to the post of Sub-Registrar as per his seniority fixed in the DPC, but such notices of the petitioner were never replied by Respondent No.2. The petitioner served the said respondent with a reminder, but to no avail.

3. The petitioner was, therefore, compelled to file claim petition no. 53/SB/2017, which was disposed of by this Tribunal *vide* order dated 05.03.2018, by directing Respondent No.2 to decide the representation of the petitioner at an earliest possible but not later than four weeks of presentation of certified copy of this order along with a copy of representation, by a reasoned and speaking order, as per law.

4. Petitioner moved a representation on 14.03.2018. Such representation was decided by Respondent No.2 *vide* order dated 07.04.2018 (Copy: Annexure- A 4). According to Respondent No.2, no action was required on the representation of the petitioner. Aggrieved against the same, petitioner filed departmental appeal on 27.06.2018

(Copy: Annexure- A 10). Such departmental appeal has not been decided and is still pending before Respondent No.1.

5. Counter Affidavit has been filed on behalf of Respondents No. 1 & 2. It has been averred in C.A. that petitioner has sought relief of notional promotion to the post of Sub-Registrar from the post of Registration Clerk ,primarily on the ground that, his name figured at Sl. No. 3 in the seniority list of Registration Clerks. His contention is that since he was eligible, therefore, his name figured in the eligibility list of promotion. It has been admitted in Para 6 of C.A./W.S. that Requisition was sent to Uttarakhand Public Service Commission for promotion on the posts of Sub-Registrar. Six vacancies of Sub-Registrar were to be filled up for the Selection Year 2011-12 and one vacancy for the year 2012-13. In Para 7 of C.A./W.S. it has been admitted that although petitioner was within the zone of consideration for promotion on the post of Sub-Registrar, but he retired on 31.08.2013 and since he was actually not in service of State Government on the date of promotion order dated 10.10.2013, therefore, he has not been given notional promotion. Respondents, in Para 8 of the C.A./W.S. have submitted that no junior to the petitioner was promoted to the post of Sub-Registrar during his service, therefore, the relief, as sought for by the petitioner for his notional promotion, is not tenable. It has also been averred in the W.S. that no financial loss has been caused to the petitioner.
6. Since the departmental appeal of the petitioner is pending before the appellate authority (Respondent No.1), therefore, in the given facts of the case, without entering into the merits of the case, this Tribunal deems it proper to direct Respondent No.1 to decide the departmental appeal of the petitioner, by a reasoned and speaking order, in accordance with law, within stipulated time.
7. The claim petition is, accordingly disposed of by directing Respondent No.1 to decide the departmental appeal of the petitioner

by a reasoned and speaking order, as per law, at an earliest possible but not later than four weeks of presentation of certified copy of this order along with copy of memo of departmental appeal.

8. Needless to say that the decision so taken by the appellate authority shall be communicated to the petitioner soon thereafter.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JULY 17, 2019
DEHRADUN

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