

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

Present: Hon'ble Mr. Ram Singh

----- Vice Chairman (J)

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

**CLAIM PETITION NO. 73/2010**

1. Khushal Singh Rana, S/o Sri Jhuna Singh, R/o Village & P.O. Uttroun, District Uttarkashi.
2. Vikram Singh Negi, S/o Late Sri Munshi Singh Negi, R/o Village and P.O. Dharkot-Dharmandal, Tehri Garhwal.
3. Nagendra Dutt Semwal, S/o Late Sri P.D.Semwal, R/o Village and P.O, Mukhem, Patti Upli ramoli via Lambgaon, Tehri Garhwal.

.....Petitioners

**VERSUS**

1. State of Uttarakhand through Secretary, Forest, Civil Secretariat, Uttarakhand, Dehradun.
2. Divisional Forest Officer, Uttarkashi Forest Division, Kotbangla, Uttarkashi.
3. Conservator of Forest, Bhagirathi Circle, Uttarakhand, Munikireti.
4. Principal Chief Conservator of Forest, Uttarakhand, Dehradun.

.....Respondents

Present: Petitioners in person.  
Sri V.P.Devrani, Ld. A.P.O.  
for the respondents

**JUDGMENT**

**DATED: OCTOBER 11, 2019**

**HON'BLE MR. RAM SINGH, VICE CHAIRMAN (J)**

1. By way of this petition, the petitioners have claimed the following reliefs:

*“a. To give selection grade of Rs. 465-615 from 1<sup>st</sup> July, 1982 to petitioner No. 1 & 2 and from 1<sup>st</sup> November 1982*

*to petitioner No. 3 as on that day, he completes 12 years of service.*

*b. To give next grade of 1200-2040 to be given after 16 years from 1<sup>st</sup> July 1988 for petitioners No. 1 & 2 and 1<sup>st</sup> November 1988 for petitioner No. 3, along with consequential benefits.*

*c. To give any other relief as the Hon'ble Court may deem fit.*

*d. विपक्षीगण को निर्देशित किया जाय कि रेजिन मोहर्रिर पद वेतनमान दिनांक 01.07.79 से प्रार्थीगणों को पुनरीक्षित वेतनमान 345-510 के आधार पर अनुमन्य चयन (निर्धारित ) वेतनमान रूपये 465-615 स्वीकार करते हुये उक्त वेतनमान में समय-समय पर पुनरीक्षित वेतनमान के एरियर व तदनुसार ही सेवा निवृत्ति देयको में अनुमन्य लाभ व पेंशन दिलाये जाने के आदेश पारित करने की कृपा करें।'*

2. Briefly stated, the facts are that the petitioners joined the post of Resin Mohrrir in the erstwhile state of Uttar Pradesh and retired on 31.03.1999, 31.10.2000 and 20.09.2001 respectively from the same posts.

3. The main contention of the petitioners is that they are entitled to get the benefit of selection grade of Rs. 465-615 w.e.f 01.07.1982 and as per the G.O. dated 04.02.1983, next higher scales w.e.f. 1988. As per the G.O. dated 04.02.1983, the petitioners were not granted the selection scales by the respondents. As per the contention of the respondents, higher scale was not granted on account of the fact that petitioners were already granted the higher scale of Rs. 345-510 whereas, they were entitled to the scales of Forester of Rs. 330-495 and as per para-7 of the G.O. dated 04.03.1983, it was clearly mentioned that the employee shall not be entitled for dual benefits. The petitioners have contended that they were granted the higher scales of Rs. 345-510 on account of the fact that the post of Resin Mohrrir was higher than the post of Forest Guard hence, they were entitled to the higher scale earlier also w.e.f. 01.07.1979.

4. The real question in controversy in this matter is whether the petitioners were entitled to the higher selection scale as per the G.O. dated 04.02.1983.

5. It is an admitted fact that first admissible selection scale was not granted to the petitioners w.e.f. 01.07.1982 on account of the fact that the petitioners were already granted higher scales of Rs. 345-510 in place of the scale of Rs. 330-495 hence, the respondents denied such benefit to them. Petitioners have contended that they were granted the scale of Rs. 345-510 in view of their higher post, compared to the post of Forest Guard, as the scale of the Forest Guard was of Rs. 330-495.

6. We have gone through all the facts and contention of the petitioners. As per the affidavit submitted on behalf of the respondents on 16.07.2019, it is admitted fact that in the erstwhile State of Uttar Pradesh, Resin Mohrirs were recruited in the pay scale of Rs. 35-60. The said pay scale was revised to Rs. 175 to 250 on the recommendations of the 2<sup>nd</sup> Pay Commission w.e.f. 01.08.1972. Later on, the pay scale of Rs. 175-250 was revised to Rs. 185-265 and it was granted to the petitioners w.e.f. 01.08.1973 hence, it is clear that the pay scales of Resin Mohrirs i.e. 185-265 was higher to some extent, than the Forest guard and in place of Rs. 175-250, they were allowed the pay scale of Rs. 185-265/-.

7. Before the implementation of the G.O. dated 04.02.1983, the pay scales of the petitioners were revised from 185-265 to the scales of Rs. 345-510.

8. Respondents have contended that like Forest guards, the scales of the petitioners at that time, should have been revised to Rs. 330-495 w.e.f. 01.07.1979, but they were mistakenly granted the higher pay scales of Rs. 345-510, whereas, petitioners have contended that earlier to this revision, their scale was higher and not equivalent to the Forest Guard of Rs. 175-250. It was higher in the earlier grade also i.e. 185-265, because their post was higher than the cadre of Forest Guard to some extent.

9. We hold that when the earlier scale of the Resin Mohrir was higher to the Forest guard of the department, then naturally their revised scales will be higher, so, this contention of the respondents cannot be accepted that they were mistakenly granted the higher scale of Rs. 345-

510. We hold that the scales of the Resin Mohrir were rightly revised from 185-265 to 345-510.

10. The respondents have contended that this scale was not mentioned in their hierarchy of scales whereas, petitioners have contended that on account of their demand of being a higher cadre post than the Forest Guard, they were knowingly allowed the prior scale of Rs. 185-265 which was later on revised to Rs. 345-510. We hold that same pay scale was granted after considering their claim *vis-à-vis* the post of Forest Guard. As the post of Resin Mohrir was higher to some extent from the post of Forest Guard, hence, they were granted such higher scale bonafidely and not by mistake .

11. The controversy surfaces, when the demand of selection grade was made, in view of the G.O. No. वे०आ०-२-२१०/दस-८३-स० व्य०(सा०)-८२ वित्त (वि०आ०) अनुभाग-२ dated 04.02.1983 w.e.f. 01.07.1982. Admittedly, the respondents did not allow any corresponding selection scale to the petitioners, in view of the G.O. dated 04.02.1983 and it has been contended that as the petitioners were already granted the higher scales than the scales, which must be admissible to them, hence, they were not entitled for any selection grade, in view of the para 7 of the said G.O. The G.O. dated 04.02.1983 reads as under:-

“विषय: समयमान वेतनमान की स्वीकृति।

**Subject: Grant of time bound pay scale.**

मुझे यह कहने का निर्देश हुआ है कि राज्यपाल महोदय प्रदेश के विभिन्न राजकीय कर्मचारियों में विद्यमान वृद्धि-रोध की समस्या (जहाँ हो) के निवारण हेतु संलग्न- 1 के सतम्भ 2 में उल्लिखित पदों के लिये दिनांक 1.07.1982 से स्तम्भ 4 के अनुसार सेलेक्शन ग्रेड की सहर्ष स्वीकृति प्रदान करते हैं।

2- मुझे यह कहने का निर्देश हुआ है कि उपरोक्त सेलेक्शन ग्रेड उन्ही नियमित कर्मचारियों को स्वीकृत किये जायेंगे, जिन्होंने अपने पद के साधारण वेतनमानों में जिनका उल्लेख संलग्न-II के स्तम्भ- 2 से 4 में है उपर्युक्त संलग्न-1 के स्तम्भ- 5 में निर्धारित नियमित सेवा नियमों को पूर्ण कर ली है। नियमित सेवा से तार्त्यय ऐसी सेवा से है जो सक्षम प्राधिकारी द्वारा सेवा नियमों/शर्तों के अनुसार किये गये चयन के फलस्वरूप नियुक्त किसी कर्मचारी द्वारा की गयी हो। अल्प अवधि के लिये, अवकाश अवधि के लिये अथवा तदर्थ रूप से नियुक्ति पर किसी

कर्मचारी द्वारा की गयी सेवा को "नियमित सेवा" नहीं माना जायेगा और "नियमित सेवा" की अवधि का आगणन उस तिथि/वर्ष से किया जायेगा, जिसके आधार पर किसी कर्मचारी को अपने संवर्ग में ज्येष्ठता निर्धारित की गयी हो, किन्तु प्रतिबन्ध यह है कि सेलेक्शन ग्रेड की अनुमन्यता के लिये कर्मचारियों का चयन संवर्ग में ज्येष्ठता सूची के क्रम में किया जायेगा, अर्थात् कनिष्ठ कर्मचारी को, चाहे उसकी सेवा अवधि अधिक भी हो, तब तक सेलेक्शन ग्रेड नहीं स्वीकृत किया जायेगा जब तक उससे ज्येष्ठ कर्मचारी सेलेक्शन ग्रेड के लिये निर्धारित सेवा अवधि पूर्ण नहीं कर लेता।

3- उपर्युक्त सेलेक्शन ग्रेड प्रदान... दण्डों की पूर्ति आवश्यक होगी:-

- (1) कर्मचारी नियमित रूप से नियुक्त हो।
- (2) नियमित रूप से नियुक्त कर्मचारी ने अपने साधारण वेतनमान में कम से कम उतने वर्षों की नियमित संतोषजनक सेवा पूर्ण कर ली हो, जिसका उल्लेख संलग्नक-1 के स्तम्भ-5 में हैं।
- (3) सेलेक्शन ग्रेड की स्वीकृति हेतु वही मानक अपनाये जायेंगे जो उस संवर्ग से पदोन्नति के लिये अपनाये जाते हैं।

4- उपयुक्त प्रस्तर-1 में स्वीकृत सेलेक्शन ग्रेड में कर्मचारियों का वेतन उनके द्वारा कार्यरत वेतनमान में प्राप्त वेतन के अगले उच्च प्रक्रम पर निर्धारित किया जायेगा। इस संबन्ध में यह स्पष्ट करना है कि यदि ऐसा कर्मचारी जो सेलेक्शन ग्रेड में कार्य करते हुये वेतनमान में पदोन्नति होता है जो वेतनमान वह सेलेक्शन ग्रेड के रूप में पा रहा था तो पदोन्नति के पद पर भी उसका वेतन अगले उच्च प्रक्रम पर पुनः निर्धारित किया जायेगा।

5-संलग्नक-1 में उल्लिखित रू0 1,540-2,200 के वेतनमान में पुस्तकालयाध्यक्ष पद पर सीधी भर्ती द्वारा नियुक्त धारक को अंतिम वृद्धि के बराबर अर्थात् 75 रू0 प्रतिमाह की द्विवार्षिक (दो वर्ष में एक बार) वेतन-वृद्धियाँ, जिनकी संख्या- 5 से अधिक न होगी नियुक्ति प्राधिकारी द्वारा तभी स्वीकृत की जायेगी, जब उसने उक्त वेतनमान के अधिकतम प्रक्रम पर कम से कम 3 वर्ष की संतोषजनक सेवा पूरी कर ली हो।

6- उपरोक्त आदेशों के अनुसार अर्ह कर्मचारियों को सेलेक्शन ग्रेड की स्वीकृति के आदेश संबंधित नियुक्ति प्राधिकारी द्वारा जारी किये जायेगे। परन्तु ऐसे प्रत्येक मामले में जिनके नियुक्ति प्राधिकारी जिला स्तरीय अधिकार से नीचे स्तर के हैं, सम्बन्धित जिला स्तरीय अधिकारी का अनुमोदन प्राप्त करने के बाद ही सेलेक्शन ग्रेड की स्वीकृति के आदेश जारी किये जायेंगे।

7- उत्तर प्रदेश द्वितीय वेतन आदेश की संस्तुतियों के आधार पर जिन कर्मचारियों का वेतन सेलेक्शन ग्रेड अथवा उच्च वेतनमान में दिनांक 01.07.1982 के पूर्व निर्धारित हो चुका है, उन्हें इन आदेशों के फलस्वरूप पुनः वेतन निर्धारण में दोहरा लाभ अनुमन्य नहीं होगा।"

12. Para 4 of the G.O. specifically provides that the employee shall be allowed the next higher scale. We hold that para 7, is not applicable in the case of the petitioners because of the fact that granting of scale of Rs. 345-510 cannot be treated as the granting of earlier selection scale. The petitioners have also referred to another G.O. No.

वे0आ0-2-1450/दस-85-सं0अ0 (सा0)-82 dated 06.11.1985, by which the time scale was allowed as per the grades in schedule-1. Para 2 to 4 of the said G.O. reads as under:-

“2- उपर्युक्त प्रस्तर में स्वीकृत सेलेक्शन ग्रेड में संबंधित कर्मचारियों का वेतन उनके द्वारा साधारण वेतनमान में प्राप्त वेतन के अगले उच्च प्रक्रम पर निर्धारित किया जायेगा।

3- अर्ह कर्मचारियों को सेलेक्शन ग्रेड की स्वीकृति के आदेश संबंधित नियुक्ति प्राधिकारी द्वारा जारी किए जायेंगे। किन्तु ऐसे प्रत्येक मामले में जिनमें नियुक्ति प्राधिकारी जिला स्तरीय अधिकारी से नीचे स्तर के हों, संबंधित जिला स्तरीय अधिकारी का अनुमोदन प्राप्त करने के बाद ही सेलेक्शन ग्रेड की स्वीकृति के आदेश जारी किए जाएं।

4- मुझे यह भी कहने का निदेश हुआ है कि निम्नलिखित मामलों में सेलेक्शन ग्रेड/प्रोन्नति के अगले वेतनमान की स्वीकृति के आदेश संबंधित प्रशासकीय विभाग द्वारा वित्त विभाग की सहमति से निर्गत किये जायेंगे:-

(1) ऐसे मामलों में, जिनमें पूर्व निर्गत आदेशों के अधीन इस शासनादेश के संलग्नक-1 के स्तम्भ-3 में उल्लिखित सेलेक्शन ग्रेड से भिन्न सेलेक्शन ग्रेड अनुमन्य है, संबंधित पद के ऐसे धारकों की, जिन्हें पूर्व में सेलेक्शन ग्रेड नहीं मिल सका है, इस शासनादेश के अधीन सेलेक्शन ग्रेड की स्वीकृति।

(2) ऐसे पदधारकों को, जिनके वेतनमानों का उल्लेख इस शासनादेश के संलग्नक-1 के स्तम्भ-2 में नहीं है, सेलेक्शन ग्रेड की स्वीकृति।

(3) ऐसे पदधारकों को, जो संबंधित पद पर नियमित हैं और जिन्होंने कुल 16 वर्ष की सेवा जिसमें 6 वर्ष की सेवा सेलेक्शन ग्रेड में अनिवार्य है, संतोषजनक रूप से पूरी कर ली हो, प्रोन्नति का अगला वेतनमान वैयक्तिक रूप से प्रदान किया जाना।

5- मुझे यह भी कहने का निदेश हुआ है कि उक्त प्रस्तर-4 के अधीन सेलेक्शन ग्रेड/प्रोन्नति का अगला वेतनमान स्वीकृत करने के लिए प्रस्ताव संबंधित प्रशासकीय विभाग द्वारा इस शासनादेश के संलग्नक-2 में निर्धारित प्रपत्र में सूचना सहित वित्त विभाग को प्रस्तुत किया जायेगा।”

13. Para-2 specifically mentions that the scales of the employees, as mentioned in Annexure-I, shall be allowed the next higher selection scale as mentioned in that Annexure. Learned A.P.O. has argued that in the Annexure, annexed with the G.O. dated 06.11.1985, the scale, in which the petitioners were working i.e. Rs. 345-510, is nowhere mentioned, and because the corresponding selection scale were not mentioned in the table, they were not allowed the same, whereas, the petitioners have argued that by way of para 4 of the same G.O., they

should have been allowed the higher scale. We have gone through the same and noticed that para 4 is very specific to such situation where the scale of the employees, in which they are working, is not mentioned in Annexure-I. Para 4 specifically provides that those employees will also be allowed the next selection/promotion scale by the administrative department with the consent of the finance department.

14. This court is of the view that the petitioners, whose selection scales, although not mentioned in the Annexure-I, were entitled for the higher scale, as per para- 2 and 4 of the said G.O. dated 06.11.1985. The only rider is that the administrative department will grant such higher scale, with the consent of the finance department.

15. Hence, court is of the view that the petitioners are entitled to the higher selection scale for the grade of Rs. 345-510, even if it is not mentioned in the Annexure-1, w.e.f. 01.07.1982, in view of the G.O. dated 04.02.1983, read with G.O. dated 06.11.1985, we are also of the view that the petitioners are entitled to higher scale, even if, the corresponding pay scale is not mentioned in the Annexure and such scale will be higher to the scale, they were getting and scale needs to be fixed by the administrative department, after consultation with the finance department.

16. Through their Supplementary Affidavit, the respondents have also admitted the fact that on the representation of the petitioners, the matter was examined by the department and it was referred to the Government for guidance. The respondents along with their Supplementary C.A. dated 25.06.2019 have also filed an affidavit; copy of the letter, written by the Divisional Forest Officer to the Conservator of Forest; the constitution of the committee; the letter written from Conservator of Forest to the Principal Conservator of forest, and the copy of the letter dated 18.10.2018 written by the Principal Conservator of Forest to the government. In those letters, it has been mentioned that in view of the G.O. dated 04.02.1983, the facility for time scales allowed

to the Mohrirs, were not granted to the petitioners in view of non-availability of the corresponding scales in Annexure-1 of the G.O. dated 06.11.1985. The benefit was not granted to the Mohrirs as their scale of Rs. 345-510 was not mentioned in the Annexure-I and as per para 4 of the G.O. dated 06.11.1985, such matters, whose scales are not mentioned in the Annexure, are to be decided and such selection scale, can be granted by the Administrative Department, with the consent of the finance department. Such letter was written to the government for guidance, for granting of such scale.

17. The papers submitted by the respondents show that in this respect, request made by the petitioners from the department, was submitted to the government and ultimately, the government on 03.06.2019 has made query from the Principal Conservator of Forest as to whether the issue was dealt with in the undivided State of U.P. and why it was not disposed off there and what is the compulsion for disposal of the issue by the Uttarakhand Government when the selection grade was due from 01.07.1982, the time of undivided State of U.P. This letter shows that the respondents are shifting their liability to the State of U.P.

18. Learned A.P.O. on behalf of the respondents has raised an objection to the fact that the petitioners were the employees of the State of Uttar Pradesh and they were retired before allotment to Uttarakhand hence, their responsibility lies with the government of Uttar Pradesh and the petition is not maintainable before this Court.

19. The argument of learned A.P.O. on behalf of the respondents cannot be accepted as the issue of maintainability of the petition against the State of Uttarakhand has already been settled by the Hon'ble High Court. Their petition was returned by this court, on the ground of maintainability, but in appeal, the Hon'ble High Court has decided this controversy and same cannot be agitated again, and this Tribunal has jurisdiction to decide the same. Similarly, the state of Uttarakhand will



also be responsible for payment of dues and decide the request of the petitioners at the department level.

20. The record reveals that the claim of the petitioners, which was submitted before the department is yet to be decided by the department, after consultation with the finance department of the State. The petitioners are entitled to selection scale w.e.f. 01.07.1982, in view of the G.Os. referred above and they are also entitled for other consequential benefits and other time scales, from time to time. Hence, this claim petition deserves to be allowed and there is a need for a direction to the respondents to decide the claim of the petitioners to grant the facility of selection scale, as per the rules and the Government Orders, within a stipulated period.

#### **ORDER**

The claim petition is allowed. The respondents are directed to decide the pending matter of the petitioners and to grant them the selection scale, in view of the G.O. dated 04.02.1983 and 06.11.1985, obviously, after consultation with the finance department. The State Government of Uttarakhand is also bound to decide the same as per the above referred G.Os. Such decision in the matter should be made within a period of three months from today and the petitioners should be allowed the benefit of above G.O. alongwith other consequential benefits.

All the dues of the benefits will be paid to the petitioners by the State of Uttarakhand within the above stipulated period.

No order as to costs.

**(RAJEEV GUPTA)**  
VICE CHAIRMAN (A)

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

*DATE: OCTOBER 11, 2019*  
*DEHRADUN*

*KNP*