

**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. 35/DB/2019

Gyan Singh aged about 57 years (Male), Revenue Inspector, Tehsil Roorkee District Haridwar, Uttarakhand, S/o Sri Mukhtyar Singh, R/o House No. 1025 Sunhara Shafipur, F/505/Shastri Nagar, Roorkee, District Haridwar.

.....Petitioner

VERSUS

1. State of Uttarakhand through Secretary, Revenue, Secretariat, Subhash Road, Dehradun.
2. Board of Revenue of Uttarakhand, Dehradun.
3. Commissioner, Garhwal Division, Pauri.
4. District Collector, Haridwar.
5. Sushil Kumar, presently posted as Registrar Kanoongo, Tehsil Roorkee District Haridwar.

.....Respondents

Present: Sri Vibhore Maheshwari &
Sri Chetan Jain, Ld. Counsel
for the petitioner

Sri V.P.Devrani, Ld. A.P.O.
for the respondents No. 1 to 4
Sri Dinesh Khanduri, Ld. Counsel
for the respondent No. 5

JUDGMENT

DATED: DECEMBER 19, 2019

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

1. The petitioner has filed this claim petition for the following reliefs:

“a. To issue order or direction to set aside the order & list of promotion to the post of Naib-Tehsildars dated 20.12.2018 (Annexure: 1) issued by the respondent No. 2.

b. To issue order or direction for petitioner to be promoted to the post of Naib-Tehsildar at the earliest.

c. Award the costs of the petition to the petitioner.

d. To issue order direction to quash the impugned promotion order dated 24.06.2019 (Annexure No. ½) to the extent of promotion of respondent No.5, Sushil Kumar.

2. Briefly stated facts narrated by the parties are that the petitioner was appointed as Lekhpal in District Haridwar on 26.09.1980 whereas, private respondent No. 5 was appointed on the same post in the same district on 01.10.1982. The petitioner was confirmed on the post of Lekhpal on 01.11.1986 whereas, confirmation of the private respondent no. 5 was made on 01.09.1988.

3. From the pleadings of the parties, it has been made clear that private respondent no. 5, on recommendations of the Selection Committee, held in the year 1992, was promoted in the cadre of Assistant Registrar Kanoongo in 2007. The cadre of Assistant Registrar Kanoongo was termed as Registrar Kanoongo, due to restructuring of the cadre, whereas, petitioner continued on the post of confirmed Lekhpal till the year 2017, when he was promoted to the cadre of Revenue Inspector in 2017.

4. It has also been contended by petitioner that he performed his duties with sincerity, dedication and honesty and there is nothing adverse to him on record. He is also a trained Revenue Inspector from the Training Institute, Almora and was senior to private respondent no. 5 in the Lekhpal cadre.

5. Initially, it was the contention of petitioner that private respondent no. 5 was promoted on the post of Naib Tehsildar on

20.12.2018, but the petitioner was left out, and without considering the seniority, temporary promotion was made.

6. As per the pleadings of the parties, respondent No. 5 was working on the post of Registrar Kanoongo, earlier to the petitioner, which is equivalent to the post of Revenue Inspector and it is the contention of petitioner that after getting promotion on the post of Revenue Inspector, he regained his seniority and he should have been considered for promotion to the post of Naib Tehsildar.

7. Initially, in his petition, the petitioner contended that his junior has been promoted hence, the order of temporary promotion dated 20.12.2018, issued by the respondent No. 2 should be set aside and the petitioner be promoted to the post of Naib Tehsildar at the earliest on the basis of promotion of his junior.

8. Respondents replied to the petition, with the contention that promotion order dated 20.12.2018 was not a regular promotion, it was a stopgap arrangement in the exigencies for conducting the parliamentary elections of 2019. Legally no cause of action has accrued to the petitioner for filing the claim petition. It was also contended by the respondents that admittedly, petitioner was senior in Lekhpal cadre, on account of his appointment in the year 1980 and his confirmation earlier to the respondent No. 5, but after his appointment, respondent No. 5 was promoted on the next higher post of Registrar Kanoongo in 2007, before the petitioner on the basis of his nomination as well as recommendations of Selection Committee. The promotion of petitioner from the post of Lekhpal to the next promotion post of Revenue Inspector was made on 01.06.2017, much later than the promotion of respondent No. 5 as Registrar Kanoongo.

9. It has also been contended that after promotion of respondent No. 5, from the post of Lekhpal to the post of Registrar Kanoongo, his service in fresh cadre was started. Respondent No. 5 was

confirmed on the post of Registrar Kanoongo on 12.01.2009 and on the basis of promotion quota of 10%, for the cadre of Registrar Kanoongo, respondent No. 5 on completion of 5 years of his service, he became eligible for promotion to the post of Naib Tehsildar in 2012 and was rightly promoted before the petitioner. Whereas, petitioner was promoted as Revenue Inspector in 2017 and a Revenue Inspector, in his quota of 30% for promotion to the post of Naib Tehsildar, will become eligible only after completion of 3 years of service on the post of Revenue Inspector. Hence, he will become eligible for promotion to the post of Naib Tehsildar only after June 2020. Thus, he has no *locus standi* to file the present petition.

10. It has also been contended that as per the rules, the post of Naib Tehsildar, can be filled up 50% directly by selection, whereas, 50% is the promotion quota to be filled up from three sources i.e. 30% from Revenue Inspector, to which cadre petitioner belongs, 10% from Registrar Kanoongo to which respondent No. 5 belongs, and 10% from Van Panchayat Nirikshak, which is not the case in hand. Hence, no comparison between the petitioner and respondent No. 5 can be made, because of the reason that both can be promoted on the basis of their different cadre posts namely Revenue Inspector and Registrar Kanoongo hence, no parity can be seen amongst unequals.

11. It is also contended that there is no direct promotion from Lekhpal to the post of Naib Tehsildar. The petitioner instead of getting selected for the promotional post of Registrar Kanoongo, remained in Lekhpal cadre and got promoted in the Revenue Inspector cadre hence, now petitioner has no occasion to claim seniority on the basis of initial appointment on the post of Lekhpal. He was promoted in a different cadre of Revenue Inspector, instead of Registrar Kanoongo. The petitioner was promoted on the post of Revenue Inspector in 2017, while the respondent No. 5 was promoted in different cadre on the post of Registrar Kanoongo (equivalent to the Revenue Inspector) in the

year 2007. The catch-up rules of seniority cannot be made applicable in this matter because from the cadre of Lekhpal, petitioner and respondent No. 5 were separately promoted in different cadres hence, no claim of parity among senior and junior is to be seen in the present matter. Hence, respondents contended that the petition has no legal force and being devoid of merit, is liable to be dismissed.

12. During hearing of the petition, petitioner amended his petition, alleging that respondent No. 2 has finally promoted respondent No. 5 to the post of Naib Tehsildar vide order dated 24.06.2019. It was contended that respondent No. 5, who was junior in Lekhpal Cadre, has been illegally promoted before the petitioner hence, such promotion is illegal, unlawful, arbitrary and in total disregard to the established seniority of the petitioner. The order dated 28.07.2018 of final seniority list of Revenue Inspector was also of District Haridwar, in which the petitioner was placed at sl. No. 8 whereas, respondent No. 5 was placed at Sl. No.24.

13. Respondents have replied to the same, with the contention that in the said list dated 28.07.2018, the names of respondent No. 5 as Lekhpal was mentioned wrongly by mistake. The said list was accordingly set aside vide order dated 20.07.2019 (Annexure SCA-R3) and respondents have replied to fact that the cadre of respondent No. 5 was separated in 2007, much before the date of such list, hence his name was wrongly shown in the list of Lekhpal in 2018. The claim of the petitioner is solely based on the basis of the list dated 28.07.2018, which has been set aside hence, his amended claim also has no force and the same deserves to be dismissed. Finally, the promotion order has rightly been issued, and the amended prayer of the petitioner, cannot be accepted. The petition deserves to be dismissed.

14. In the Supplementary R.A., petitioner has again reiterated the same facts of his petition and now through R.A., petitioner tried to raise

the question that promotion order of the private respondent No. 5 on the post of Assistant Registrar Kanoonogo in the year 2007 was wrongly made, on the basis of Selection Committee constituted in 1992. However, there is nothing on record to show whether the petitioner has ever objected to such selection earlier.

15. We have heard learned counsels for the petitioner as well for the respondents.

16. Certain facts are admitted to both the parties. It is admitted to the petitioner as well as to the respondents that initially, petitioner and private respondent no. 5 were recruited on the post of Lekhpal. While, petitioner was appointed on 26.09.1980 in the select list of 1980, respondent No. 5 was appointed on 01.10.1982 as Lekhpal. Petitioner was also confirmed as Lekhpal on 01.11.1986 whereas confirmation of the respondent No. 5 on the said post was made on 01.09.1988, later in time. It is an admitted fact that petitioner was two years' senior to respondent No. 5 in Lekhpal cadre.

17. The difference between the cadre of petitioner and respondent No. 5 came in the year 2007, when respondent no. 5 was nominated and selected as Assistant Registrar Kanoongo under Rule 8 of the U.P. Inferior Revenue Clerk (Registrar Kanoongo and Assistant Registrar Kanoongo) Service Rules, 1958 (hereinafter referred to as '1958 Rules'). There is no dispute that from the cadre of Lekhpal, first promotion could be made on the post belonging to two different cadres, one of Revenue Inspector Cadre and another of Registrar Kanoongo and Assistant Registrar Kanoongo cadre. The petitioner either did not opt for or was not selected the cadre of Registrar Kanoongo, while the respondent no. 5 was selected for the cadre of Registrar Kanoongo and it was as per procedure, mentioned in Rule 8 of the '1958 Rules', his selection was made to the post of Assistant Registrar Kanoongo in 2007. The proof of proceedings of selection of

respondent No. 5 is Annexure CA-R5 to the W.S. of respondent No. 4, which shows that persons were selected on the basis of merit for the cadre of Registrar Kanoongo, in which name of private respondent No. 5 also finds place. The petitioner was neither nominated nor his selection was made in that cadre and on the basis of such selection, respondent No. 5 was promoted as Assistant Registrar Kanoongo vide order dated 09.01.2007 (Annexure:CAR3 to the W.S. of respondent No. 4). Hence, the cadre of respondent No. 5 was separated from the cadre of the petitioner in 2007 and he got his first promotion from the post of Lekhpal to the cadre of Registrar Kanoongo earlier to the petitioner whereas, petitioner, who was neither nominated nor selected for Assistant Registrar Kanoongo cadre remained Lekhpal and later on got his promotion on the post of Revenue Inspector from the post of Lekhpal on 01.06.2017 (Annexure CA R2 to the W.S. of respondent No. 4). Hence, factually, it is proved that the cadre of respondent No. 5 was changed as separated in 2007 from the cadre of Lekhpal on his first promotion to the post of Registrar Kanoongo whereas, petitioner remained in the cadre of Lekhpal till 2017, when he got his first promotion to the other cadre of Revenue Inspector in 2017.

18. The real controversy in this case is about the promotion on the post of Naib Tehsildar. The petitioner has taken the stand that he was senior to private respondent No. 5 in the initial cadre of Lekhpal and his name was also shown above in the seniority list of Lekhpal, issued in July, 2018 (Annexure: A5). The petitioner has contended that his name was in the said list and his seniority has been shown at Sl. No. 8 whereas, name of the private respondent No. 5 was mentioned at Sl. No. 24. On that basis, the petitioner has come up before the court that in the year 2018, ignoring his seniority, respondent No. 5, who is junior to him, was wrongly promoted firstly on ad hoc basis, vide order dated 20.12.2018 (Annexure: 1), and later on, he was finally promoted on the post of Naib Tehsildar vide order dated 24.06.2019.

19. The respondents have opposed the claim of the petitioner and contended that in the said list, issued in July 2018, the name of respondent No. 5, who was promoted much earlier in another cadre of Registrar Kanoongo, was mistakenly mentioned in the seniority list of Lekhpal/Revenue Sub Inspector and the said seniority list was cancelled and amended by the concerned authority i.e. Collector, Haridwar vide order dated 20.07.2019 (Annexure: CA-R3 to the Supplementary CA.). We find that this fact is correct because the seniority list, on the basis of which, petitioner has come up before the court, is of the cadre of Rajswa Up Nirikshak (Lekhpal), issued in the year 2018 whereas, the cadre of respondent No. 5 was changed much earlier to the cadre of Registrar Kanoongo, which is a different cadre from Lekhpal and the Collector, Haridwar, who issued the seniority list of 2018, himself had cancelled and set aside the same vide order dated 20.07.2019 mentioning the fact that in the seniority list of Rajswa Up Nirikshak (Lekhpal) cadre, names of the Revenue Inspectors, Registrar Kanoongo were wrongly written. We find that the cadre of the respondent No. 5 was changed from the cadre of Lekhpal to the cadre of Registrar Kanoongo in 2007. Moreover, this seniority list of 2018 was set aside by the authority itself hence, on that basis, the petitioner's claim cannot be sustained.

20. The claim of the petitioner is solely on the basis that respondent No. 5, who was junior in the Lekhpal Cadre, was temporarily promoted and thereafter, he was finally promoted as Naib Tehsildar before him, which is not legal.

21. Respondents have opposed the claim of the petitioner on the ground that private respondent No. 5 got such promotion through a different cadre of Registrar Kanoongo on their 10% quota whereas, petitioner is entitled to his promotion on the post of Naib Tehsildar through a different cadre of Revenue Inspector in their 30% quota.

22. To examine this aspect, we have gone through the concerned Rules for the promotion on the post of Naib Tehsildar. The concerned Rules are “the Uttarakhand Subordinate Revenue Executive (Naib Tehsildar) Service Rules, 2009 (hereinafter referred to as ‘Service Rules of 2009’). Rule 5 of the said rules prescribes for the source of recruitment. This rule was further amended vide notification dated 28.01.2011. The post covered under this rule is mentioned in the rule 4, which is the only post of Naib Tehsildar and Rule 5 (as amended) prescribes for source of recruitment reads as under:-

“5. भर्ती का श्रोत-

सेवा में पदों पर भर्ती निम्नलिखित श्रोतों से की जायेगी:-

(1) पचास प्रतिशत पद आयोग द्वारा संचालित प्रतियोगिता परीक्षा के आधार पर सीधी भर्ती द्वारा,

“(2) (क) तीस प्रतिशत पद मौलिक रूप से नियुक्त राजस्व निरीक्षक में से जिन्होंने भर्ती के वर्ष के प्रथम दिवस को इस रूप में तीन वर्ष की सेवा पूर्ण कर ली हो, आयोग के माध्यम से पदोन्नति द्वारा;

(ख) दस प्रतिशत पद मौलिक रूप से नियुक्त रजिस्ट्रार कानूनगो में से, जिन्होंने भर्ती के वर्ष के प्रथम दिवस को इस रूप में पांच वर्ष की सेवा पूरी कर ली हो, आयोग के माध्यम से पदोन्नति द्वारा;

(ग) दस प्रतिशत पद मौलिक रूप से नियुक्त वन पंचायत निरीक्षको में से जिन्होंने भर्ती के प्रथम दिवस को इस रूप में तीव वर्ष की सेवा पूरी कर ली हो आयोग के माध्यम से पदोन्नति द्वारा;

परन्तु यह कि यदि पदोन्नति के लिए पर्याप्त संख्या में पात्र या उपयुक्त रजिस्ट्रार कानूनगो अथवा वन पंचायत निरीक्षक उपलब्ध न हो तो पद उपनियम(2) के खण्ड) (क) के अधीन पदोन्नति द्वारा भरा जा सकता है।”

6. आरक्षण- x x x

23. The rules make it clear that the posts of Naib Tehsildar are not directly filled from the cadre of Lekhpal. 50% Naib Tehsildars are directly recruited whereas in other 50%, 30% promotion quota is prescribed for Revenue Inspector to which cadre petitioner belongs,

10% quota is prescribed for Registrar Kanoongo cadre, to which private respondent No. 5 belongs, and 10% quota belong to the Van Panchayat Nirikshak cadre which is not the case of the parties. Hence, in our view, the petitioner cannot claim his promotion above respondent No. 5 on the basis of seniority in the cadre of Lekhpal, because private respondent No. 5 got his promotion on the post of Naib Tehsildar through a different cadre of Registrar Kanoongo in his 10% quota. Hence, the criteria of seniority of Lekhpal cadre of respondent No. 5 and petitioner, has no relevance in this cadre because respondent No. 5 was promoted on the post of Registrar Kanoongo on 09.01.2007, much before the promotion of the petitioner on the post of Revenue Inspector on 01.06.2017.

24. The post of Assistant Registrar Kanoongo, was merged with the cadre of Registrar Kanoongo and respondent No. 5 was confirmed as Registrar Kanoongo on 12.01.2009 after completion of two years of his probation period. The eligibility criteria for the purpose of promotion to the post of Naib Tehsildar is that a Registrar Kanoongo must have completed five years unblemished service and must be confirmed on the said post. The respondent No. 5 became eligible for the post of Naib Tehsildar as per the rules in the year 2012 while, petitioner for the purpose of promotion to the post of Naib Tehsildar, would be eligible for promotion on or after 01.06.2000 as per the rules because a Revenue Inspector is eligible for promotion to the post of Naib Tehsildar only after completion of three years of service as Revenue Inspector. As the petitioner was in the cadre of Lekhpal till 2017, when he got his first promotion as Revenue Inspector (a different cadre) much later than the promotion of respondent no. 5 as Registrar Kanoongo. Therefore, no comparison between petitioner and respondent No. 5 can be made in this case, because the petitioner can only get his promotion in his 30% quota reserved for Revenue

Inspector, whereas, respondent No. 5 got his promotion under 10% quota of the cadre of Registrar Kanoongo.

25. Respondents have argued that the question of seniority on the post of Lekhpal between the petitioner and respondent No. 5 had already ceased when respondent No. 5 was selected on the post of Registrar Kanoongo and his cadre was separated from the petitioner who remained Lekhpal, having his promotion avenue on the post of Revenue Inspector and now, according to the respondents, no right is accrued to the petitioner to challenge the promotion of respondent No. 5 on the post of Naib Tehsildar. We agree with this argument and hold that now, the petitioner cannot challenge the promotion of respondent No. 5 on the post of Naib Tehsildar, who got his promotion from the quota of Registrar Kanoongo.

26. This court is of the view that the appointment on the post of Lekhpal is not relevant for the purpose of promotion on the post of Naib Tehsildar, which is a promotional post from three different cadres of Registrar Kanoongo, Revenue Inspector and Van Panchayat Inspector. We find that the petitioner was promoted on the post of Revenue Inspector only in the year 2017, much after the promotion of respondent No. 5 on the promotional post of Registrar Kanoongo in the year 2007, on which he was confirmed in the year 2009 hence, the above date is relevant, to decide the present matter in dispute. The arguments that petitioner was senior to the private respondent No. 5 in the initial cadre of the Lekhpal and now he would fetch his seniority, is not applicable in this case because the cadres of respondent No. 5 was separated in 2007 and he got his promotion as Naib Tehsildar from the cadre of Registrar Kanoongo whereas, petitioner would be eligible for the post of Naib Tehsildar from the cadre of Revenue Inspector only in 2020 and both the cadres are totally different.

27. Once the cadre of Lekhpal of the petitioner and of private respondent No. 5 was separated on the promotion of respondent No. 5 as Registrar Kanoongo, the *inter-se* seniority as Lekhpal, lost its importance. No claim of parity of senior and junior is made out in the present matter. The seniority of Lekhpal has no connection for the purpose of promotion on the post of Naib Tehsildar and only the seniority of Revenue Inspector in their 30% quota and the seniority of Registrar Kanoongo for their 10% quota can be looked for promotion on the post of Naib Tehsildar.

28. The petitioner, who was promoted as Revenue Inspector from Lekhpal in the year 2017 and will get his promotion in this quota, only after completion of three years of service as Revenue Inspector has no legal right to challenge the promotion of the private respondent No. 5 who got his promotion vide order date 24.06.2019 as per his seniority in his cadre and got promotion in his 10% quota. In this respect, we find no substance in the arguments of the petitioner.

29. The petitioner initially challenged the order dated 20.12.2018 (Annexure:A1) issued by the respondent No. 2 by which 15 persons were given ad hoc promotion in view of the exigency of work and name of the private respondent No.5 was placed at sl. no. 14. It was pointed out by the respondents that this order dated 20.12.2018 (Annexure: 1) was not a regular promotion order, it was an interim arrangement in view of the exigency of the matter, looking into the ensuing parliamentary elections. The order dated 20.12.2018 is reproduced as below:

“कार्यालय राजस्व परिषद, उत्तराखण्ड, देहरादून।

संख्या:- 4198/तीन-52/रा0प0-त0ना0ल0/2017-18 दिनांक: 20 दिसम्बर, 2018

आदेश

राज्य में नायब तहसीलदारों की नितान्त कमी एवं आगामी लोक सभा निर्वाचन-2019 के दृष्टिगत राजकीय कार्यहित में दिनांक 18.12.2018 को आहूत विभागीय चयन समिति की

बैठक में लिए गये निर्णय के आलोक में शासनादेश संख्या-54/XVII(1)/2013-3(58)/09, दिनांक 09 जनवरी, 2013 में निहित प्राविधानों के अनुसार निम्नलिखित राजस्व निरीक्षक एवं रजिस्ट्रार कानूनगो संवर्गीय कार्मिकों को नायब तहसीलदार के रिक्त पद पर पूर्णतः अस्थायी व्यवस्था में नियमित प्रोन्नति/तैनाती होने अथवा एक वर्ष से अनधिक अवधि (364 दिन) जो भी पहले हो, तक के लिए इस प्रतिबन्ध के साथ तदर्थ रूप से उनके सम्मुख अंकित मण्डल में तैनात किया जाता है कि यदि किसी तदर्थ प्रोन्नत कार्मिक के विरुद्ध कोई प्रतिकूल तथ्य संज्ञानित होता है तो उनकी तदर्थ प्रोन्नति बिना किसी सूचना के तत्काल समाप्त की जायेगी। इस तैनाती के आधार पर कोई भी कार्मिक वरिष्ठता/नियमित पदोन्नति अथवा किसी भी प्रकार के वित्तीय लाभ का दावा करने का हकदार नहीं होगा और न ही कोई दावा अनुमन्य किया जायेगा। यह तदर्थ प्रोन्नति पूर्णतः अस्थायी है।

| क्र० सं० | राजस्व निरीक्षक/रजिस्ट्रार कानूनगो का नाम | तैनाती मण्डल |
|----------|---|--------------|
| 1. | श्री वीरेन्द्र सिंह रावत, राजस्व निरीक्षक, जनपद उत्तरकाशी | गढ़वाल मण्डल |
| 2. | श्री रमेश चन्द्र, राजस्व निरीक्षक, जनपद हरिद्वार | गढ़वाल मण्डल |
| 3. | श्री दामोदर भट्ट, राजस्व निरीक्षक, जनपद पिथौरागढ़ | कुमाऊ मण्डल |
| 4. | श्री मनोहर दत्त अवस्थी, राजस्व निरीक्षक, जनपद पिथौरागढ़ | कुमाऊ मण्डल |
| 5. | श्री विनोद प्रकाश वर्मा, राजस्व निरीक्षक, जनपद चम्पावत | कुमाऊ मण्डल |
| 6. | श्री कल्याण सिंह धौनी, राजस्व निरीक्षक, जनपद चम्पावत | कुमाऊ मण्डल |
| 7. | श्री दिनेश चन्द्र खण्डूड़ी, राजस्व निरीक्षक, जनपद गढ़वाल | गढ़वाल मण्डल |
| 8. | श्री हरीश चन्द्र जोशी, राजस्व निरीक्षक, जनपद चम्पावत | कुमाऊ मण्डल |
| 9. | श्री रामपाल सिंह रावत, राजस्व निरीक्षक, जनपद गढ़वाल | गढ़वाल मण्डल |
| 10. | श्री डब्लु सिंह रावत, राजस्व निरीक्षक जनपद गढ़वाल | गढ़वाल मण्डल |
| 11. | श्री सुदर्शन सिंह बुटोला, राजस्व निरीक्षक, जनपद चमोली | गढ़वाल मण्डल |
| 12. | श्री महेन्द्रपाल सिंह, रजिस्ट्रार कानूनगो, जनपद नैनीताल | कुमाऊ मण्डल |
| 13. | श्री गोपालकृष्ण कोटनाला, रजिस्ट्रार कानूनगो, जनपद गढ़वाल | गढ़वाल मण्डल |
| 14. | श्री सुशील कुमार, रजिस्ट्रार कानूनगो, जनपद हरिद्वार | गढ़वाल मण्डल |
| 15. | श्री करन सिंह, रजिस्ट्रार कानूनगो, जनपद देहरादून | गढ़वाल मण्डल |

संबंधित मण्डलायुक्त अपने अधीनस्थ जनपदों में रिक्त नायब तहसीलदार पद के सापेक्ष आवश्यकतानुसार इन कार्मिकों की तैनाती अपने स्तर से सुनिश्चित करेंगे।

यह आदेश तत्काल प्रभाव से लागू होंगे।

ह०/—
(एस०रामास्वामी)
अध्यक्ष”

This order makes it clear that 11 persons from the cadre of Revenue Inspector and 04 persons from the cadre of Registrar Kanoongo were given *ad hoc* promotion, purely on temporary basis, in view of the shortage of staff for parliamentary elections and it was not a regular promotion order. Furthermore, we find that while issuing such order, the persons from the Revenue Inspector cadre, as well as from Registrar Kanoongo cadre were also included in the ad hoc promotion list keeping in view of the ratio of their quota, as per the rules for promotion on the post of Naib Tehsildar.

30. We find that the petitioner has no *locus standi* to challenge, either temporary or permanent promotion order hence, in respect of relief 'A' sought by the petitioner, his petition deserves to be dismissed. After amending his petition, the petitioner has sought to quash the order dated 24.06.2019, to the extent of promotion order of respondent No. 5, Sushil Kumar. In the said order, the name of the private respondent No. 5 is mentioned at sl. No. 28 whereas, he was already promoted in the quota of Registrar Kanoongo. We hold that that petitioner has challenged this promotion order of the private respondent No. 5 solely on the basis of this seniority list of Lekhpal Cadre and such list was already cancelled.

31. In view of the discussion made above, we are of the opinion that the seniority of the Lekhpal has no meaning now as the respondent No. 5 got his promotion to the post of Naib Tehsildar through a different cadre of Registrar Kanoongo in his 10% quota under the rules which is totally different from the cadre of Revenue Inspector of the petitioner, having 30% quota for their promotion. Hence, in this respect the case of the petitioner is also liable to be dismissed. The impugned orders cannot be stuck down on that basis.

32. Hence, the petitioner is not entitled to the relief 'D' sought by him in his petition. The petitioner in relief 'B' has also sought a direction for the respondents to promote him on the post of Naib Tehsildar at the earliest. This relief has been opposed on behalf of the respondents on the ground that the petitioner who was promoted in the cadre of Revenue Inspector in the year 2017, would be eligible for his next promotion as Naib Tehsildar only in the year 2020 and again in his 30% quota and this prayer is also premature. In this respect, we agree with the contention of the respondents.

33. Learned counsel for the petitioner also argued that the Government may give relaxation for giving him promotion under the rules. This is not the case of the petitioner before the court, neither we have to decide this aspect. If the petitioner wants to get any such relaxation, he is free to move the government, seeking any such relaxation as per the rules.

34. In view of the above, we are of the opinion that the petition has no merit and the same deserves to be dismissed.

ORDER

The claim petition is hereby dismissed. No order as to costs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(RAM SINGH)
VICE CHAIRMAN (J)

DATE: DECEMBER 19, 2019
DEHRADUN
KNP