

\SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	<u>19.12.2023</u>		WPSB No. 21 of 2015 <u>Hon'ble Manoj Kumar Tiwari, A.C.J.</u> <u>Hon'ble Vivek Bharti Sharma, J.</u> Mr. S.K. Mandal, learned counsel for petitioner. Mr. K.K. Shah, Addl. C.S.C. for the State. 2. By means of this writ petition, petitioner has challenged the impugned judgement and order dated 22.12.2014 passed by Uttarakhand Public Services Tribunal, Dehradun in Claim Petition No. 23/DB/2013, whereby the claim petition filed by petitioner challenging the tentative seniority list and final seniority list, was dismissed by holding that respondent nos. 5, 6 & 7, who were appointed earlier in the point of time will, regain their seniority upon promotion to the post of Statistical Officer. 3. Learned counsel for petitioner submitted that since petitioner was promoted to the post of Statistical Officer on 20.12.2005, while private respondents were promoted as Statistical Officer on 19.09.2007, therefore, they were liable to be placed below the petitioner in the seniority list of Statistical Officer by virtue of Rule 8(1) of Uttarakhand Government Servants Seniority Rule, 2002, which provides that seniority has to be reckoned from the date of order of substantive appointment. Thus, according to him, the

		challenge by the petitioner to seniority list, in which private respondents were placed above the petitioner, deserves to be allowed and learned Tribunal erred in dismissing the claim petition. 4. Learned State Counsel, however, supported the judgment rendered by learned Tribunal by relying upon Explanation to Rule 6, which reads as under:- <i>“6. Seniority where appointment by promotion only from a singly feeding cadre-</i> <i>Where according to the service rules, appointments are to be made only by promotion from a singly feeding cadre, the seniority inter se of persons so appointed shall be the same as it was in the feeding cadre.</i> <i>Explanation- A person senior in the feeding cadre shall even though promoted after the promotion of a person junior to him in the feeding cadre shall, in the cadre to which they are promoted, regain the seniority as it was in the feeding cadre.”</i> 5. Learned State Counsel submits that private respondents were senior on the feeder post of Investigator-cum-Computer, as they were appointed in the year 1981, while petitioner was appointed as Investigator-cum-Computer in the year 1990; petitioner as well as private respondents were thereafter promoted as Statistical Assistant and in the seniority list of Statistical Assistant, issued on 18.01.2000, petitioner was placed much below the private respondents, however, petitioner got accelerated promotion to the post of Statistical Officer on 20.12.2005 against a vacancy reserved for Scheduled Caste category, while private respondents were promoted against unreserved
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			vacancy on the post of Statistical Officer on 19.09.2007. Thus, he submits that since private respondents are senior to the petitioner in the feeding cadre of Statistical Assistant, therefore, as per Explanation to Rule 6, the private respondents regained the seniority, as it was in the feeding cadre of Statistical Assistant. He further submits that in the absence of any provision for consequential seniority to reserved category candidate, who got accelerated promotion to higher post, petitioner cannot claim to be senior merely on account of his promotion to the post of Statistical Officer earlier in point of time. Thus, he submits that the view taken by learned Tribunal cannot be faulted. 6. This Court finds substance in the contention raised by learned State Counsel. The view taken by learned Tribunal is in consonance with the law laid down by Hon'ble Supreme Court in the case of S. Panneer Selvam & others vs State of Tamil Nadu & others, reported in 2015 (10) SCC 292. Para 36 of the said judgment is reproduced below: <i>"36. In the absence of any provision for consequential seniority in the rules, the "catch-up rule" will be applicable and the roster-point reserved category promotees cannot count their seniority in the promoted category from the date of their promotion and the senior general candidates if later reach the promotional level, general candidates will regain their seniority. The Division Bench appears to have proceeded on an erroneous footing that Article 16(4-A) of the Constitution of India automatically gives the consequential seniority in addition to accelerated</i>
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			<i>promotion to the roster-point promotees and the judgment of the Division Bench cannot be sustained.”</i> 7. In such view of the matter, we do not find any scope for interference with the impugned judgment. 8. Accordingly, writ petition fails and is hereby dismissed. (Vivek Bharti Sharma, J.) (Manoj Kumar Tiwari, A.C.J.) 19.12.2023 Mamta
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