



2026:UHC:1091-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

**HON'BLE JUSTICE SRI MANOJ KUMAR TIWARI AND
HON'BLE SRI JUSTICE PANKAJ PUROHIT**

Writ Petition (S/B) No. 240 of 2021

Anil Negi

--Petitioner

Versus

State of Uttarakhand and another

--Respondents

Mr. Sandeep Kothari, Advocate for the petitioner
Mr. Sushil Vashisth, Standing Counsel for the State.
Mr. Pankaj Chaturvedi, Advocate for the respondent

The Court made the following:

JUDGMENT: (per Hon'ble Justice Sri Manoj Kumar Tiwari)

1. Petitioner filed Claim Petition No. 40/D.B./2020 before Uttarakhand Public Services Tribunal, challenging rejection of his representation by Chief General Manager, Uttarakhand Jal Sansthan, vide order dated 03.07.2020, whereby petitioner's claim for promotion to the post of Assistant Engineer against 7.33% posts reserved for degree-holder Junior Engineer/Additional Assistant Engineer, was rejected.
2. The reason assigned for rejecting petitioner's representation was that petitioner obtained B.Tech Degree before his appointment as Junior Engineer, while as per the Rules, Junior Engineers, who obtained B.Tech Degree with prior permission of Jal Sansthan alone are eligible for promotion against the posts earmarked for degree-holder candidates.
3. It was further observed in the rejection order that petitioner appeared in the examination held by N.I.T. Jalandhar (Punjab) for validating B.Tech Degree,



obtained by him through distance mode, between 03.06.2018 to 06.06.2018; however, he did not obtain prior permission of Jal Sansthan for appearing in that examination also.

4. The Claim Petition No. 40/D.B./2020 filed by petitioner was disposed of with a direction to Secretary, Payjal, Govt. of Uttarakhand to get a clarificatory order or amendment to the Rules issued within two months.

5. Before the Tribunal, it was argued on behalf of respondents that separate quota of promotion to the post of Assistant Engineer is provided in the Rules to incentivize Junior Engineers to upgrade their qualification after their appointment; candidates with Diploma in Engineering alone are to be appointed as Junior Engineer, who with a view to avail the benefit of accelerated promotion, would acquire Bachelor's degree in Engineering, and in the process, their efficiency/skill would improve which would be in public interest; 7.33% promotion quota is meant for persons who were appointed as Junior Engineer on the strength of Diploma qualification and it is not meant for persons who had B.Tech Degree at the time of appointment as Junior Engineer, as is apparent from Rule 6(3)(c) of applicable Rules which provides that anyone who obtained B.Tech Degree with the prior permission of Jal Sansthan alone would be eligible for promotion against 7.33% posts.

6. Learned Tribunal came to the conclusion that there is some ambiguity in the Rules and the expression "with the prior approval of Jal Sansthan" cannot be



overstretched to exclude persons who were having Bachelor's Degree in Engineering at the time of their appointment as Junior Engineer.

7. Learned Tribunal further came to the conclusion that reading of Rule 6(3)(c) does not include persons who had Bachelor's degree at the time of appointment as Junior Engineer within its fold in order to claim promotion under 7.33% quota.

8. It was further observed by learned Tribunal that intention of the rule maker appears to give accelerated promotion to persons with higher qualification, as such it would be immaterial whether such higher qualification was obtained before or after appointment as Junior Engineer. In that background, learned Tribunal directed the Secretary, Payjal to remove the ambiguity in the rules by issuing clarificatory order or by amending the rules.

9. Rule 6(3) of the Rules, as notified on 02.12.2011 is extracted below:

“(3) Assistant Engineer- Recruitment to the posts of Assistant Engineer shall be made from following sources -

- (a) 45% posts by direct recruitment through the Public Services Commission;
- (b) 50% posts by promotion on the basis of seniority subject to rejection of unfit from amongst such Junior/Additional Assistant Engineers, who have completed minimum 10 years service on the first July of the year of recruitment;
- (c) 5% posts by promotion from amongst such Junior Additional Assistant Engineers, who have completed 07 years satisfactory service and who have Graduate Degree in Civil, Electrical or Mechanical Engineering from any University established by Law in India or passed examination of 'A' and 'B' of Institute of



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Engineers (recognized) in Civil, Electrical or Mechanical Engineers, Computer Science or equivalent thereto with the prior approval of the Jai Sansthan,

NOTE: For the calculation of service for promotion on the post of Assistant Engineer, length of service on the post of Junior Engineer and Additional Assistant Engineer shall be counted.

Provided that the appointing authority may, under the prescribed norms as deemed fit by the State Government, make appointment by absorption only for once against the vacant posts of direct recruitment from amongst substantively appointed Assistant Engineers working on deputation in Jal Sansthan on the date of commencement of these rules continuously from the date of deputation and who hold the education qualification of the post.”

10. It may be mentioned here that promotion quota available to degree-holder Junior Engineers was increased from 5% to 7.33% by an amendment made in 2013.

11. From perusal of Rule 6(3)(c), the intention of the rule maker is not clear. Whether the persons who obtained B.Tech Degree before appointment as Junior Engineer are to be excluded from the benefit of accelerated promotion against 7.33% promotion quota meant for degree-holders, is not clear from the rules. This ambiguity can only be removed by the rule making authority, therefore, learned Tribunal was justified in referring the matter to the State Government for decision.

12. However, we do not approve of the direction issued by learned Tribunal to the State Government to issue clarificatory order or to amend the rule, as it is a legislative function and direction cannot be issued to the rule making authority to amend the statute or to



issue clarification. The judgment rendered by learned Tribunal is interferable to that extent only.

13. We, accordingly, set aside the direction issued by learned Tribunal to the State Government to amend the rules and dispose of the writ petition by providing that petitioner shall be at liberty to represent the matter before State Government and the representation, if made within two weeks, shall be considered, as per law, within three months.

MANOJ KUMAR TIWARI, J.

PANKAJ PUROHIT, J.

Dt: 18th February, 2026
Mahinder

MAHINDER SINGH