



HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Service Bench No. 505 of 2019

03 July, 2026

N S Gangharia

--Petitioner

Versus

Union Of India and others

--Respondents

Presence:-

Mr. Sandeep Tiwari, learned Counsel for petitioner.

Mr. Saurav Adhikari, learned Standing Counsel for Union of India-respondents.

Per: Hon'ble Manoj Kumar Tiwari, J.

Petitioner has challenged order dated 26.08.2019 passed by Under Secretary (Personnel-III), Govt. of India, Ministry of Home Affairs. By the said order, representation made by petitioner claiming seniority on the post of Chief Medical Officer (Selection Grade) w.e.f. 06.06.2000 was rejected.

2. Petitioner has challenged the said order mainly on the ground that Dr. D.P. Singh, Dr. S.A. Asgar and Dr. D.S. Chouhan, who also were serving as Chief Medical Officers in 2001 and were promoted to the post of Chief Medical Officer (Selection Grade) on 24.05.2001, were given seniority on the post of Chief Medical Officer (Selection Grade) w.e.f. 06.06.2000, therefore, denial of similar treatment to petitioner is unjust and unsustainable.

3. Per contra, learned Standing Counsel appearing for Union of India submits that meeting of the Departmental Screening Committee was convened on



20.03.2001 which recommended 25 Chief Medical Officers for promotion to the post of Chief Medical Officer (Selection Grade) against 25 existing vacancies. He submits that petitioner stood at Serial No.28 in order of seniority amongst Chief Medical Officers, therefore, he was not recommended for promotion against any existing vacancy; the Departmental Screening Committee also took note of 04 anticipated vacancies on the post of Chief Medical Officer (Selection Grade) and petitioner was recommended for promotion against one such anticipated vacancy which was likely to arise upon retirement of Dr. L.K. Banerjea w.e.f. 01.07.2001. Thus he contends that petitioner was rightly given seniority from the date of occurrence of vacancy on the post of Chief Medical Officer (Selection Grade), against which he was promoted. Thus, he submits that the claim staked by petitioner for ante-dating his seniority from 10.06.2000 is without any basis.

4. Learned Counsel for petitioner then submits that Dr. D.P. Singh, Dr. S.A. Asgar and Dr. D.S. Chouhan were in Low Medical Category (LMC) at the time of holding promotion exercise and these persons regained their medical shape much later. The date of their regaining medical shape is given below in tabular format: -

Sl. No.	Name	Date of regaining Shape
1.	Dr. D.P. Singh	04.10.2001
2.	Dr. S.A. Asgar	31.08.2001
3.	Dr. D.S. Chouhan	29.11.2002

5. Learned Counsel for petitioner submits that



these three persons were given seniority w.e.f. 06.06.2000 even though they regained appropriate SHAPE-I category for promotion upon expiry of the relevant vacancy year.

6. In reply to this argument, learned Standing Counsel for Union of India contends that aforesaid three persons were considered for promotion against existing vacancies and they were also recommended for promotion against existing vacancies, available on the date of convening the meeting of Departmental Screening Committee, while there was no vacancy available for the petitioner on the date when meeting of Departmental Screening Committee was held. He submits that since above named three persons were promoted against existing vacancies, therefore, their promotion was ante-dated to 06.06.2000. He submits that there were vacancies available for granting promotion to those three persons as their names were included in the main panel, while petitioner was not recommended against existing vacancy and he was not recommended for promotion in the main panel of 25 Chief Medical Officers. Thus he submits that petitioner cannot claim parity with those three persons, named above.

7. Learned Counsel for petitioner then contends that as per the applicable Policy, an Officer placed in Low Medical Category can be promoted in the same vacancy year in which he is recommended for promotion, provided he regains Shape-1 and he cannot be promoted in subsequent vacancy years. He submits that these three persons returned to Shape-1 Medical Category in subsequent vacancy year, thus the promotion given to them was not proper and also



contrary to the applicable policy.

8. The said contention cannot be permitted to be raised at this belated stage as the selection was held in the year 2000; petitioner kept mum all these years; and even in this writ petition, decision taken by competent authority to grant promotion to above named three persons as Chief Medical Officer (Selection Grade) has not been challenged. In the absence of any formal challenge to the promotion given to these three persons, we cannot consider the contention raised by learned Counsel for the petitioner that too behind their back.

9. The fact of the matter is that the vacancy against which petitioner was promoted arose only on 01.07.2001. Earlier, there was no vacancy available for the petitioner. That was not the case for the other three persons whose promotion was ante dated, as there were vacancies available for them as on 06.06.2000. Thus petitioner cannot claim parity with them.

10. Having regard to the facts and circumstances of the case, we find no valid reason to interfere in the matter. The writ petition lacks merit and the same is dismissed.

11. Pending application, if any, stands disposed of.

(Pankaj Purohit, J.)

(Manoj Kumar Tiwari, J.)

03.07.2026

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