



HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Service Bench No.770 of 2024

Mairaj Hussain and Another --Petitioners

Versus

State Of Uttarakhand and Others --Respondents

Presence:

Mr. Anil Bisht, learned counsel for petitioners.

Mr. Sushil Vashisth, learned Standing Counsel with Mr. Prem Prakash Bhatt, learned Brief Holder for the State of Uttarakhand/respondent Nos.1 to 3.

Mr. Piyush Tiwari, learned counsel for respondent No.4.

**Coram: Hon'ble Manoj Kumar Tiwari, J. (Oral)
Hon'ble Pankaj Purohit, J.**

Petitioner has challenged the judgment dated 06.09.2024 passed by Uttarakhand Public Service Tribunal in Claim Petition No.54/NB/DB,2022. By the said judgment, Claim Petition filed by respondent No.4 (Anuj Jain), challenging the order dated 02.02.2022, was allowed.

2. By the order dated 02.02.2022 passed by Chief Engineer, Irrigation Department, Anuj Jain (respondent No.4) was downgraded in the Seniority List of Junior Engineers from S.No.119 to 173-A. Operative portion of the judgment dated 06.09.2024 is extracted below:-

"24. The petition is disposed of in terms of judgment rendered by the Tribunal on 29.11.2022 in claim petition no.114/DB/2022 Manu Kumar vs. State of Uttarakhand and others, which has been upheld by the Hon'ble High Court of Uttarakhand, SLP against which has been dismissed by Hon'ble Supreme Court of India.

25. Seniority list, in the instant case, shall abide by the aforesaid decisions."

3. Learned counsel for petitioners submits that petitioners were appointed as Junior Engineer (Mechanical) by direct recruitment on the recommendation of Uttarakhand Public Service

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Commission during Recruitment Year 2013-14, while Anuj Jain (respondent No.4), who was initially appointed as Junior Clerk in Irrigation Department on 21.03.1998, was promoted as Junior Engineer on 24.05.2014 against the promotion quota available to ministerial employees during the same Recruitment Year i.e. 2013-14. He contends that respondent No.4 obtained Diploma in Mechanical Engineering only on 12.11.2013, as is apparent from the Diploma Certificate issued to him by Indira Gandhi National Open University (annexed as Annexure No.3 to the writ petition), and is admitted in Para 5 of the counter affidavit filed by State Government before the Tribunal; since Diploma in Mechanical Engineering is essential for promotion from ministerial post to the post of Junior Engineer and respondent No.4 was not educationally qualified for such promotion on the first date of the year of Recruitment Year i.e. 01.07.2013, therefore, respondent No.4 could not have been considered for promotion during Recruitment Year 2013-14. Thus, he submits that respondent No.4 was ineligible and was wrongly promoted during Recruitment Year 2013-14, and he was also wrongly placed above petitioners in the seniority list.

4. Per contra, learned counsel for respondent No.4 submits that since order of promotion issued in favour of his client has not been disturbed and the fact remains that respondent No.4 was promoted as Junior Engineer on 24.05.2014, therefore, as a natural corollary, he is entitled to seniority from the date of his order of substantive appointment on the post of Junior Engineer, and by application of rota-quota rule, he is entitled to be placed above the petitioners, who are directly recruited Junior Engineers.



5. To buttress his argument, learned counsel for respondent No.4 submits that promotion given to respondent No.4 was not ad-hoc or temporary, but it was a regular promotion on the recommendation of DPC, therefore, he is entitled to seniority from the date of his regular promotion. He further submits that Rule 8 of Uttarakhand Government Servants (Determination of Seniority) Rules, 2002, provides that where during the course of same recruitment year, recruitment is made both by direct recruitment and by promotion, then the promotee will be placed above direct recruit. Thus, he submits that respondent No.4 was rightly placed above the petitioners in final seniority list prepared on 14.02.2018.

6. Learned counsel for respondent No.4 further submits that petitioners never raised objection before Competent Authority against the promotion or seniority given to respondent No.4 and they also did not participate in the proceedings before learned Tribunal, even though notices were sent to them. He further submits that respondent No.4 has earned as many as three promotions, *namely*, (i) Junior Engineer (ii) Additional Assistant Engineer and (iii) Assistant Engineer, and learned Tribunal rightly decided the claim petition in his favour.

7. This Court do not find any reason to interfere with the judgment rendered by learned Tribunal. Respondent No.4 was promoted as Junior Engineer on 24.05.2014 and he was given seniority from that date and was placed at S.No.119 in the Seniority List. Without disturbing the promotion given to respondent No.4 effective from 24.05.2014, his seniority could not be



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disturbed. The show-cause notice issued to respondent No.4 on 11.12.2021 was in the right earnest, whereby, he was informed that he became eligible for promotion to the post of Junior Engineer during recruitment year 2014-15 only, while he was promoted against a vacancy during recruitment year 2013-14, however, instead of proceeding in that direction, Competent Authority chose to downgrade respondent No.4 in the seniority list, without correcting his date of promotion.

8. We find force in the submission made by learned counsel appearing for respondent No.4 that without correcting the date of promotion of respondent No.4, his seniority cannot be disturbed.

9. For the aforesaid reasons, we do not find any scope for interference with the impugned order. Accordingly, the writ petition fails and is dismissed.

10. Pending application stands disposed of.

(Pankaj Purohit, J.)

(Manoj Kumar Tiwari, J.)

14.08.2026

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