SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			WPSS/37/2025 Pankaj Giri Goswami --Petitioner **Versus** State Of Uttarakhand --Respondent **Hon'ble Rakesh Thapliyal, J.** 1. Mr. C.S. Rawat, learned counsel for the petitioner. 2. Mr. N.S. Pundir, learned Deputy Advocate General for the State. 3. By the instant petition, the petitioner is praying for the following relief: *"(i) A suitable writ order or direction in the nature of certiorari quashing the impugned order dated 15.10.2024 passed by respondent no. 2 (Annexure no. 8 to the writ petition) whereby the representation of the petitioner dated 23.9.2024 has been dismissed (Annexure no. 7 to the writ petition).* *(ii) A writ order or direction in the nature of mandamus commanding the respondents to treat the petitioner to be promoted since the year 2018 on the post of Junior Assistant in the department of Child Development and Women Empowerment Uttarakhand and pay salary and other service benefits as well as seniority to the petitioner since the year 2018 of the post of Junior Assistant"* 4. Brief facts of the present case are that petitioner was initially participated in the selection process in the recruitment year of 2017 - 18 and typing test was conducted on 08.04.2018 and petitioner secured 3972 key depression per hour, however, he could not be selected since the marks which was secured by the petitioner in the typing test was below the benchmark. Subsequently, the petitioner participated in the next selection process conducted in the recruitment year 2021 – 22, in which petitioner secured 8640 key depression per hour in typing test. Consequently, the petitioner was found fit and recommended and

promoted on 24.05.2022.

5. The grievance of the petitioner is that in the earlier round of selection for the recruitment year 2017 – 18 though the vacancies were available and some of the candidates, who could not qualify the typing test, were given opportunity to improve their typing speed and thereafter, they have been recommended for promotion but no such opportunity was given to the petitioner, therefore, his promotion should relate back retrospectively for the recruitment year 2017 – 18 with all consequential benefits.

6. On the other side, learned State Counsel has strongly opposed the submission of the learned counsel for the petitioner by submitting that petitioner only secured 3972 key depression per hour in the earlier selection though as per the minimum standard, minimum proficiency was 4000 key depression per hour. Since he failed to qualify the minimum standard required, therefore, he was not recommended for promotion, therefore, no right accrued in favour of the petitioner to get promotion with retrospective date.

7. Apart from this, it is submitted that left out vacancies of the previous recruitment year were carried forward to the next recruitment year in which petitioner qualified and recommended for promotion.

8. Heard learned counsel for the parties and perused the record.

9. There is no dispute that in the previous recruitment selection, petitioner failed to qualify the bench mark of 4000 key depression per hour and under the service jurisprudence, the candidate must fulfil all the eligibility criteria and clear the prescribed test and since the petitioner could not achieve the benchmark in typing test, therefore, this Court cannot presume that petitioner was found fit for promotion in the previous recruitment year, when his typing performance was below the statutory bench mark.

10. So far as availability of the vacancies is concerned, it is well settled principle that mere existence of vacancies cannot create any vested right for promotion.

11. Further the submission that in the previous selection year some candidates were given chance of

improvement of their proficiency in the typing test and subsequently, they were promoted but no such opportunity was given to the petitioner, is concerned, firstly, it does not confer any right in favour of the petitioner and secondly, it is well settled law that no negative parity can be given to a candidate who could not qualify the required test.

12. There is another aspect of the matter. If petitioner's promotion relates back to the previous selection year, it means that he is being placed in the cadre when he was not legally eligible to be promoted which would certainly disrupt the seniority.

13. In view of the discussion as above, since the petitioner failed to qualify typing test, he could not qualify the prescribed benchmark in the typing test in the previous recruitment year 2017 – 18, therefore, the subsequent promotion cannot be given effect to retrospectively and will take effect prospectively from the date of his actual promotion in the cadre. Consequently, petitioner fails to make out a case for issuance of writ of Mandamus, hence, the writ petition is dismissed being devoid of merits. No order as to costs.

(Rakesh Thapliyal, J.)
26.10.2026

Arti

