2026:UHC:9839-DB

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE ACTING CHIEF JUSTICE SRI MANOJ KUMAR TIWARI
AND
HON'BLE SRI JUSTICE SUBHASH UPADHYAY

29th October, 2026

SPECIAL APPEAL NO. 295 OF 2016

Jagdish ----Appellant

Versus

State of Uttarakhand and others. ---Respondents

Counsel for the appellant	:	Sri C.S. Rawat, learned counsel.
Counsel for the respondents	:	Sri B.P.S. Mer, learned Standing Counsel for the State of Uttarakhand. Ms. Menka Tripathi, learned counsel for respondent Nos. 6 to 10.

JUDGMENT : (PER : SRI MANOJ KUMAR TIWARI, A.C.J.)

1. This intra-Court Appeal is directed against judgment dated 05.10.2016 rendered by learned Single Judge in WPSS No. 1495 of 2015 titled '*Jagdish Vs. State of Uttarakhand and others*'. In the said writ petition, amendment to Rule 5(d) of Uttarakhand Treasury, Pension and Haqdari Subordinate Cadre Rules made in 2015 was challenged by appellant. By the impugned judgment, learned Single Judge dismissed the writ petition by holding that the separate quota was available for promotion to the Accountants serving in Directorate of Treasury even earlier. Operative portion of the impugned judgment is reproduced below:-

> *"12. The main challenge of the petitioner is to the Uttarakhand Treasury, Pension and Haqdari Sub Ordinate Cadre Rules, (Amended) Rules 2015. The petitioner has not been able to explain as to how the validity of these Rules can be challenged. The main argument of the petitioner rests on violation of Article 14 of the Constitution of India, wherein the learned counsel for the petitioner would submit that by giving 4% quota to all the employees working in the Directorate Treasury, what is being done is that under this quota such employees who are much junior to the*

petitioner in service will be considered for promotion to the post of ATO and will take a march over the petitioner, even though they are very junior to the petitioner. This contention of the petitioner, however, cannot be accepted for the simple reason that this was always the condition even earlier, and the recruitment from the 4% quota is from a different source. The petitioner had no right for consideration under 4% quota. There may be a possibility where an employee under 4% quota may be considered and selected even though he would be junior to the petitioner but under these circumstances it is not in violation of any law and in any case it will not be a violative of Article 14 of the Constitution of India."

2. We are not inclined to interfere in the matter. Impugned Rules, amended in 2015, provide that the post of Assistant Treasury Officer shall be filled by promotion from two separate feeding cadres, namely (1) Accountants serving in Directorate of Treasury and, (2) Accountants serving in District Treasury. Since there were two different sources of promotion, therefore the rule-making authority decided to prescribe a quota and, accordingly, 4% vacancies were reserved for Accountants serving in Directorate of Treasury and remaining 96% vacancies were available for promotion to Accountants serving in District Treasury.

3. Appellant has questioned 4% quota made available for Accountants serving in Directorate of Treasury on the ground that because of that quota, Accountants, who are serving in Directorate of Treasury, would steal march over Accountants serving in District Treasury and senior person working in District Treasury would, thus, become junior.

4. Learned Single Judge has dealt with the said contentions of learned counsel for appellant in Paragraph-12 of the impugned judgment.

5. Even otherwise also, we are not impressed by the said contention made by learned counsel for appellant. Service conditions of government servants are determined by statutory rules and the rule-making authority has plenary power of making changes in the service conditions by exercising its rule-making power provided under proviso to Article 309 of the Constitution of India. Even otherwise also, where promotions are made from more than one feeding cadres, then it is desirable to provide separate quota for persons who come from different sources, so that no heartburning is caused to members of such different feeding cadres.

6. Hon'ble Supreme Court in the case of ***State of Maharashtra vs. Chandrakant Anant Kulkarni*** reported in ***(1981) 4 SCC 130*** has held as follows:-

> *"16. Mere chances of promotion are not conditions of service and the fact that there was reduction in the chances of promotion did not tantamount to a change in the conditions of service. A right to be considered for promotion is a term of service, but mere chances of promotion are not."*

7. Similarly, in the case of ***Air Commodore Naveen Jain vs. Union of India and others, (2019) 10 SCC 34,*** Hon'ble Supreme Court has held as under:-

> *"13) In **State of Mysore & Anr. v. G.B. Purohit & Ors., (1967) SLR 753**, this Court held that a right to be considered for promotion, is a condition of service but mere chances of*

promotion are not. The rule which merely affects the chances of promotion cannot be regarded as varying a condition of service. The said judgment was quoted with approval in later judgment reported as Ramchandra Shankar Deodhar & Ors. v. State of Maharashtra & Ors., (1974) 1 SCC 317, wherein this Court held as under:

> *"15…..All that happened as a result of making promotions to the posts of Deputy Collectors division wise and limiting such promotions to 50 per cent of the total number of vacancies in the posts of Deputy Collector was to reduce the chances of promotion available to the petitioners. It is now well settled by the decision of this Court in State of Mysore v. G.B. Purohit [CA No. 2281 of 1965, decided on January 25, 1967] that though a right to be considered for promotion is a condition of service, mere chances of promotion are not. A rule which merely affects chances of promotion cannot be regarded as varying a condition of service. In Purohit's case the district wise seniority of sanitary inspectors was changed to State wise seniority, and as a result of this change the respondents went down in seniority and became very junior. This, it was urged, affected their chances of promotion which were protected under the proviso to Section 115, sub-section (7). This contention was negatived and Wanchoo, J. (as he then was), speaking on behalf of this Court observed:*
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> > *"It is said on behalf of the respondents that as their chances of promotion have been affected their conditions of service have been changed to their disadvantage. We see no force in this argument because chances of promotion are not conditions of service….."*

14) In ***Dwarka Prasad & Ors. v. Union of India & Ors. (2003) 6 SCC 535****, the argument examined was that the promotion opportunities have to be provided in ratio with the strength of the feeder cadre. It was held as under:*

> *"16. Fixation of quotas or different avenues and ladders for promotion in favour of various categories of posts in feeder cadres based upon the structure and pattern of the Department is a prerogative of the employer, mainly pertaining to the policy-making field. The relevant considerations in fixing a particular quota for a particular post are various such as the cadre strength in the feeder quota, suitability more or less of the holders in the feeder post, their nature of duties, experience and the channels of promotion available to the holders of posts in the feeder cadres. Most important of them all is the requirement of the*

> *promoting authority for manning the post on promotion with suitable candidates. Thus, fixation of quota for various categories of posts in the feeder cadres requires consideration of various relevant factors, a few amongst them have been mentioned for illustration. Mere cadre strength of a particular post in the feeder cadre cannot be a sole criterion or basis to claim parity in the chances of promotion by various holders of posts in feeder categories."*

8. Thus, challenge thrown by petitioner to Rule 5(d) of the applicable service rules is without any substance.

9. Appellant has also sought a mandamus directing respondents not to hold DPC, which was scheduled to be held on 27.07.2015.

10. We are informed that the said DPC was held as per schedule and persons, recommended for promotion by that DPC, were promoted as Assistant Treasury Officer and, thereafter, they were given further promotion to next higher positions. Therefore, the second relief, as claimed in the writ petition, also does not survive.

11. Appellant has also sought a direction to the Authorities to revert respondent No. 5 and other similarly situate persons to their original departments/cadres.

12. Learned Single Judge, in the impugned judgment, has given liberty to appellant to challenge the appointment of respondent No. 5, or any other like person.

13. Thus, we do not find any reason for making interference in the matter. The Special Appeal fails and is, accordingly, dismissed.

14. No order as to costs.

15. Pending application, if any, also stands dismissed.

MANOJ KUMAR TIWARI, A.C.J.

SUBHASH UPADHYAY, J.

Dt: 29th October, 2026
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PRAVINDRA SINGH RATHOUR