



2025:UHC:2924-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Service Bench No. 28 of 2017

23 April, 2025

Ashok Kumar Gupta & others

... Petitioners

Versus

State Of Uttarakhand & others

... Respondents

Presence:-

None present for the petitioner.

Mr. P.S. Bisht, learned Additional C.S.C. for the State of Uttarakhand

Mr. L.K. Verma, learned counsel for the respondents.

Hon'ble Manoj Kumar Tiwari, J.

Hon'ble Ashish Naithani, J.

(Per: Hon'ble Manoj Kumar Tiwari, J.)

JUDGMENT

1. Petitioners have challenged judgment dated 17.12.2016, rendered by Uttarakhand Public Services Tribunal in Claim Petition No. 51/DB/2014. By said judgment, claim of petitioners for benefit of past services, rendered in a different organization, for purposes of seniority in Uttarakhand Jal Sansthan was turned down. Relevant extract of the judgment rendered by learned Tribunal is reproduced below:

"17. The petitioners had joined the services on deputation on their own accord and sweet-will without imposing any condition in respect of protection of their past services rendered by them in their parent department in Arunachal Pradesh before joining their post on deputation or while absorption of their services in Jal Sansthan and, therefore, after having been absorbed in the services of the Sansthan, their past services rendered in Arunachal Pradesh or Jal Sansthan cannot be counted for the purpose of determination of seniority as in the order of absorption itself it was clearly mentioned that the petitioners will be placed below the Junior Engineers (who were already working in the Sansthan) in the seniority list after their absorption.



18. Had the petitioners not consented to the terms of absorption, they would not have been absorbed in the first place. Thus, the petitioners first agreed to the terms and conditions in order to avail the benefit of absorption and then they are denying those very terms and conditions, to seek a benefit they are not entitled to after their absorption. In the circumstances, the petitioners are estopped from claiming contrary to the terms and conditions agreed pursuant to which they were absorbed in the Jal Sansthan.

19. As service rules did not recognize deputation of the petitioners as a mode of recruitment and a special one time provision was made to absorb the petitioners in the Jal Sansthan under proviso to Rule 6(1) of the Rules of 2011 empowering the State Government to frame norms/ conditions of absorption, the seniority of the petitioners depended on the arrangement/ terms which were made by the State Government. The petitioners would thus, be borne in the Cadre of Junior Engineers in terms of the conditions laid down by the State Government in exercise of power under the said Rules.

20. The State Government made an offer to the petitioners for absorption with certain terms and conditions. The petitioners exercised their "right of election". They could have accepted the said offer or rejected the same. While making the offer, the State Government clearly stated in the absorption order that the deputed Junior Engineers who are seeking absorption shall be placed below the Junior Engineers appointed in the cadre till the date of absorption. The petitioners accepted the said offer without any demur. The petitioners, therefore, exercised their right to option. Once they obtained entry on the basis of election, they cannot be allowed to turn round and contend that the conditions are illegal.

21. It is also pertinent to note that the petitioners have also not sought relief to quash the terms and conditions laid down in their absorption order dated 12.05.2012. In the absence of prayer to quash the absorption order and conditions therein, the petitioners' prayer to quash the seniority list cannot be sustained."

2. The relief claimed by petitioners in the claim petition filed before learned Tribunal, is reproduced below: -

"(i) In view of the facts stated in para 4 and grounds taken in para 05 above particularly the criteria adopted by the Uttarakhand Govt. in drawing up the final seniority list in respect of the petitioners may kindly be declared invalid and illegal and the impugned seniority list be quashed and set aside and respondent no. 1 be ordered to issue a fresh seniority list placing the petitioners senior to the private respondents no. 02, 03 and 04 respectively."



3. It is not in dispute that petitioners were earlier serving as Junior Engineer in Public Works Department/Public Health Engineering Department of State of Arunanchal Pradesh. On their request, they were taken on deputation by Government of Uttarakhand during 2002-2003, initially for three years and were posted in Uttarakhand Jal Sansthan. After serving for a while in Uttarakhand Jal Sansthan, petitioners requested that their services be absorbed in the Sansthan as Junior Engineer.

4. Uttarakhand Jal Sansthan, in its Board meeting held in October, 2006 recommended the case of petitioners for absorption of their service with the condition that petitioners shall be placed at the bottom of seniority list of Junior Engineers. Subsequently, a communication was sent by Competent Authority in Uttarakhand Jal Sansthan to Government of Uttarakhand, in which it was mentioned that there is no provision for absorption of petitioners as Junior Engineer.

5. Government of Uttarakhand, thereafter, framed Uttarakhand Jal Sansthan Engineering Service Rules, 2011 and in Rule 6(1) of said Rules, provision was made for absorption of Junior Engineer, serving on deputation in Uttarakhand Jal Sansthan.

6. Subsequently, services of the petitioners were absorbed against the post of Junior Engineer in Uttarakhand Jal Sansthan vide order dated 10.05.2012, subject to the condition that petitioners shall be placed at the bottom of the seniority list after the existing



members of service. Petitioners gave an affidavit that they have no objection against the conditions mentioned in the absorption order.

7. Before the Tribunal, petitioners relied upon the law declared by Hon'ble Supreme Court in the case of **S.I. Rooplal and another Vs. Lt. Governor through Chief Secretary, Delhi and others, AIR 2000 SC 594**, wherein it was held that the services rendered by deputationist in parent department, are also to be counted towards seniority after absorption on the deputed post.

8. Learned Tribunal hold that the judgment rendered in the case of S.I. Rooplal and another (supra), is distinguishable on facts, as in the said case, appointment on deputation basis was one of the mode of recruitment in Delhi Police and Rule 17 of the Delhi Police (Appointment and Recruitment) Rules, 1980 empowered the Commissioner of Police, Delhi to absorb officials who came on deputation to Delhi Police.

9. Learned Tribunal held that at the time when petitioners came on deputation and even at the time when request made by petitioners was considered by Board of Uttarakhand Jal Sansthan, there was no provision for appointment on deputation as Junior Engineer in Uttarakhand Jal Sansthan or for absorption of the deputationist. The reasoning given by learned Tribunal for holding that the judgment rendered in S.I. Rooplal's case (supra) is distinguishable, is valid.



10. Petitioners came on deputation to Uttarakhand on request and it is nobody's case that they were taken on deputation after following any process of selection. The Board of Uttarakhand Jal Sansthan granted in principle approval to the request made by petitioners for their absorption in October, 2006 with the condition that they will be treated as junior most in the cadre of Junior Engineer and their names will be placed at the bottom of seniority list after existing members.

11. In 2011, a provision was made for absorption of deputationist as Junior Engineer in Uttarakhand Jal Sansthan and in terms of 2011 Rules, Government of Uttarakhand granted permission to absorb services of petitioners with certain conditions. One of the condition was that they will be treated as junior-most in the cadre and petitioners did not raise any objection to the said condition at the time of their absorption. After having accepted absorption with the rider that they will be placed at the bottom of seniority list, they cannot later turn around for claiming seniority above the junior engineers who were appointed in Uttarakhand Jal Sansthan before absorption of services of the petitioners.

12. The judgment relied by petitioners before learned Tribunal is distinguishable on facts. The private respondents were appointed as Junior Engineer several years before absorption of petitioners on the post of Junior Engineer. Since petitioners were desirous of absorption in the service of Uttarakhand Jal Sansthan and they had agreed to the conditions mentioned in the order passed by State Government, whereby



permission was granted, therefore, petitioners cannot later turn around to say that benefit of past service rendered by them in State of Arunachal Pradesh should be given for determining their inter-se seniority with other members of the cadre of Junior Engineer.

13. There was no compulsion for the petitioners to join services of Uttarakhand Jal Sansthan and they could have gone back to their parent department upon completion of deputation period; however, they were not willing to go back and on their request, the provision for absorption of their service was made in the service rules. They had consented to be placed at the bottom of seniority list by filing an affidavit. In such view of the matter, they cannot complain that benefit of past services for seniority was wrongly denied to them. Petitioners had accepted absorption in Uttarakhand Jal Sansthan knowing fully well that they will not be given benefit of past services for seniority. In such view of the matter, learned Tribunal was justified in dismissing their claim petition.

14. We do not find any reason to interfere with the impugned judgment. The writ petition fails and is dismissed. No order as to costs.

(Ashish Naithani, J.) **(Manoj Kumar Tiwari, J.)**

23.04.2025

Aswal