

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**WRIT PETITION (S/S) No. 523 of 2016**

Bhupal Singh Rajwar .....Petitioner  
Versus  
State of Uttarakhand and others .....Respondents

**WRIT PETITION (S/S) No. 2577 of 2015**

Mahender Singh Bisht .....Petitioner  
Versus  
State of Uttarakhand and others .....Respondents

**WRIT PETITION (S/S) No. 2578 of 2015**

Nanda Ballabha Mishra .....Petitioner  
Versus  
State of Uttarakhand and others .....Respondents

**WRIT PETITION (S/S) No. 2579 of 2015**

Chavi Dutt Sanwal .....Petitioner  
Versus  
State of Uttarakhand and others .....Respondents

**WRIT PETITION (S/S) No. 2580 of 2015**

Ramesh Chander Pant .....Petitioner  
Versus  
State of Uttarakhand and others .....Respondents

**WRIT PETITION (S/S) No. 2581 of 2015**

Devi Dutt Pande .....Petitioner  
Versus  
State of Uttarakhand and others .....Respondents

**WRIT PETITION (S/S) No. 2582 of 2015**

Trilochan Bhatt .....Petitioner  
 Versus  
 State of Uttarakhand and others .....Respondents

**WRIT PETITION (S/S) No. 2583 of 2015**

Rajender Singh Bora .....Petitioner  
 Versus  
 State of Uttarakhand and others .....Respondents

Present : Mr. Deep Chandra Joshi, Advocate for the petitioners.  
 Mr. B.P.S. Mer, Brief Holder for the State/respondents.

**Hon'ble Sudhanshu Dhulia, J. (Oral)**

Since the issue raised in all the above bunch of writ petitions is similar, all these writ petitions were heard together and are being decided by this common judgment.

2. The petitioners before this Court in the above bunch of writ petitions were initially appointed as jail warder. Thereafter all of them were promoted to the post of Chief Jail Warder. All the petitioners have since retired from service after attaining the age of superannuation. The grievance of the petitioners is that after the completion of 24 years of service, they were entitled to be promoted on the post of Sub-Jailor, which carries the pay-scale of Rs. 5000 – 8000/-, however, the said benefit has been denied to them.

3. According to the petitioners, after the creation of the State of Uttarakhand and the present structure

adopted in Uttarakhand, there is no post of Chief Jail Warder and, therefore, the petitioners were liable to be promoted to the post of Sub-Jailor or the next higher scale of Sub-Jailor. Learned State Counsel admits that in the State of Uttarakhand, there is no post of Chief Jail Warder but still justifies giving the pay scale of Chief Jail Warder to the petitioner, as the said post continues to exist in the rules.

4. The contention of the State Counsel seems to be wrong, particularly in view of the fact that now the post of Mukhya Pradhan Bandi Rakshak or Chief Jail Warder has been abolished in the State of Uttarakhand and this post does not exist in the structure of the department. Meaning thereby, Pradhan Bandi Rakshak is now liable to be promoted to the post of Sub-Jailor or where there is no vacancy of Sub-Jailor, after completion of 24 years of service he is liable to be given the pay-scale of the Sub-Jailor. On similar consideration, Writ Petition (S/S) No. 199 of 2009 (Bhuwan Chandra Pathak v. State of Uttarakhand and others) has been allowed by this Court vide judgment and order dated 19.07.2013 on the above reasoning. The order dated 19.07.2013 reads as under:

“1. The petitioner was appointed as Prison Guard in U.P. Jail Services in the year 1991. His services are governed by the rules known as U.P. Reserve Guard/Jail Warder Service Rules. As per the rules, the petitioner was liable to be given the first selection grade after 8 years of service and thereafter promotion pay-scale after 14 years of service. The next higher post, as per the rules, from Prison Guard is Head Prison Guard and the petitioner was given the promotional pay-scale of Head Prison Guard. The next promotional post is that of Chief Jail Warder which carries a pay-scale of Rs. 4000 – 6000. The petitioner now contends that he is liable to be given the

pay-scale of Rs. 5000 – 8000. The reason being that in Uttarakhand there is no post of Chief Jail Warder. Since under U.P. Reserve Guard/Jail Warder Service Rules the post of Chief Jail Warder still continues to exist, the respondent has given the scale of Rs. 4000 – 6000 to the petitioner and has justified the same.

2. The petitioner, on the other hand, contends that after the creation of the State of Uttarakhand and in the present structure adopted in Uttarakhand, there is no post of Chief Jail Warden and therefore the petitioner is liable to be promoted to Sub-Jailor or given the next higher scale of Sub Jailor. Learned State counsel admits that in Uttarakhand there is no post of Chief Jail Warder but still justifies giving the pay-scale of Chief Jail Warder to the petitioner, as the post continues to be on the books!

3. This contention of the respondent seems to be arbitrary particularly in view of the fact that there is a recommendation of the Pay Committee to the Government that the two posts be merged in Uttarakhand. In view of the above, since there is no post of Chief Jail Warder, the next higher post or pay scale after 24 years of service, which is of Sub Jailor, is liable to be given to the petitioner.

4. Writ petition succeeds and is hereby allowed. Mandamus is issued to the respondents to give the petitioner the pay-scale of Rs. 5000 – 8000 from the date he has completed 24 years of service.

5. No order as to costs.”

5. This Court has further been informed that pursuant to the aforesaid order, the petitioner has already been given the pay-scale of Sub Jailor though admittedly Special Appeal has been filed, which is still pending. Learned counsel for the state admits that the legal position in this case is similar to that of Writ Petition (S/S) No. 199 of 2009.

6. In view of the above, writ petitions are disposed of with the direction to the respondent authorities to give the petitioners the pay-scale of Sub Jailor i.e. Rs. 5000 – 8000 from the date they have completed 24 years of service.

**(Sudhanshu Dhulia, J.)**

30.06.2016

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