

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			WPSS No. 1672 of 2024 <u>Hon'ble Manoj Kumar Tiwari, J.</u> Mr. Abhijay Negi, Ms. Snigdha Tiwari & Ms. Ketki Chaudhary, Advocates for the petitioner. 2. Mr. Ganesh Dutt Kandpal, Deputy Advocate General for the State of Uttarakhand/respondent nos. 1, 3, 4 & 5. 3. Mr. Pankaj Miglani, Advocate for respondent no. 2 through video conferencing. 4. Mr. Shashank Pandey, Advocate for the applicant in IA No. 9 of 2025. 5. Petitioner was appointed as Forester under the State in the year 1995. He was promoted as Deputy Forest Ranger in 2013 and lastly he was promoted as Forest Range Officer on the recommendation of Uttarakhand Public Service Commission, <i>vide</i> order dated 10.06.2024. Petitioner joined duties on the promoted post on 12.06.2024, however, two days thereafter, an order was passed on 14.06.2024, whereby the promotion granted to the petitioner to the post of Forest Range Officer was kept in abeyance. The reason assigned for doing so was that charge-sheet was issued against him on 04.05.2024. 6. Petitioner has challenged the said order passed on 14.06.2024. It is contended that Uttarakhand Public Service Commission held promotion exercise on 06.05.2024 and even though the charge-sheet is said to

			have been issued on 04.05.2024, however, the same was served upon the petitioner on 13.05.2024, therefore, in view of the law declared by Apex Court in the case of <i>Bank of India and another v. Degala Suryanarayana</i>, reported as (1999) 5 SCC 762, the charge-sheet served subsequent to holding of promotion exercise cannot take away the right of the petitioner to hold the promoted post. Relevant extract of paragraph no. 14 of the judgment rendered in <i>Bank of India and another v. Degala Suryanarayana (supra)</i> is extracted below:- <i>“14. ...The departmental enquiry proceedings were initiated with the delivery of the charge-sheet on 3-12-1991. In the year 1986-87 when the respondent became due for promotion and when the Promotion Committee held its proceedings, there were no departmental enquiry proceedings pending against the respondent. The sealed cover procedure could not have been resorted to nor could the promotion in the year 1986-87 be withheld for the DE proceedings initiated at the fag end of the year 1991. The High Court was therefore right in directing the promotion to be given effect to to which the respondent was found entitled as on 1-1-1986. In the facts and circumstances of the case, the order of punishment made in the year 1995 cannot deprive the respondent of the benefit of the promotion earned on 1-1-1986.”</i> 7. Reliance is also placed upon paragraph no. 32 of the law laid down by Apex Court in the case of <i>Union of India and others v. K.V. Jankiraman and others</i>, reported as (1991) 4 SCC 109. Paragraph No. 32 of the said judgment is extracted below:- <i>“32. In this case, no charge-sheet was served on the respondent-employee when the DPC met to consider the respondent's promotion. Yet, the sealed cover procedure was adopted. The Tribunal has rightly directed the authorities to open the sealed cover and if the respondent was found fit for promotion by the DPC, to give him the promotion from the date his immediate junior Shri M. Raja Rao was promoted pursuant to the order dated April 30, 1986. The Tribunal has also directed the authorities to grant to the respondent all the consequential benefits. The Tribunal has further stated in the impugned order that its order would not mean that the disciplinary proceedings instituted against the respondent-employee should not go on. We see no reason to interfere with this order. The appeal, therefore, stands dismissed. In the circumstances of the case, however, there will be no order as to costs.”</i>
--	--	--	--

		8. Mr. Pankaj Miglani, learned counsel appearing for the Uttarakhand Public Service Commission refers to the stand taken in paragraph no. 7 of the counter affidavit filed by Mr. Giridhari Singh Rawat, Secretary, Uttarakhand Public Service Commission, which is extracted below:- <i>“7. The contents of paragraph nos. 3 & 4 of the writ petition are matters of record, hence need no reply. It is however reiterated that during the selection year 2023- 24, based on the requisition and relevant records provided for the promotion of Deputy Forest Officers to the vacant posts of Forest Officers in the Forest Department, the answering respondent convened a meeting of the selection committee on 06.05.2024. A certificate confirming that no disciplinary proceedings were ongoing or pending against the petitioner i.e. Shri Kuldeep Singh was submitted by the Government of Uttarakhand along with the requisition. Since no information about any disciplinary proceedings against the petitioner was provided to the Uttarakhand Public Service Commission until the date of the selection committee meeting i.e. 06.05.2024, the name of the petitioner was recommended for promotion by the selection committee. Based on the committee's recommendations the answering respondent further forwarded the selection recommendation to the Uttarakhand Government on 13.05.2024.”</i> 9. This Court finds substance in the submission made on behalf of the petitioner. Since petitioner’s claim for promotion was considered at a time when no charge-sheet was served upon him, therefore, withholding of benefit of promotion from him only on the ground that charge-sheet was issued on a date anterior to holding of promotion exercise cannot be sufficient for passing the impugned order. 10. Respondent nos. 1, 3, 4 & 5 may file detailed counter affidavit within four weeks. 11. List on 16.02.2026. 12. Till the next date of listing, effect and operation of impugned order dated 14.06.2024 shall remain stayed. 13. Stay Application (IA No. 1 of 2024) stands disposed of.
--	--	---

			14. Mr. Sanjiv Chaturvedi, Chief Conservator of Forest has moved an application for his impleadment. 15. Since the applicant has no personal interest in the matter and whatever order he has passed was passed in his official capacity, therefore, this Court do not find any good ground to allow his prayer for impleadment as party respondent in the writ petition. 16. Accordingly, Misc. Application (IA No. 9 of 2025) is rejected. (Manoj Kumar Tiwari, J.) 11.12.2025 Navin
--	--	--	---