

**UTTARAKHAND PUBLIC SERVICES TRIBUNAL,
DEHRADUN**

Present: Sri V.K. Maheshwari

----- Vice Chairman (J)

&

Sri D.K. Kotia

----- Vice Chairman (A)

CLAIM PETITION NO. 24/DB/2013

Hari Singh Negi, S/o Sri Lakhi Ram Singh Negi, Amin, Public Works
Department, Construction Division, District Uttarkashi, Uttarakhand

.....Petitioner

VERSUS

1. State of Uttarakhand through Principal Secretary, P.W.D.,
Secretariat, Dehradun,
2. Chief Engineer Level-I, P.W.D, Dehradun,
3. Executive Engineer, Construction Division, P.W.D, Dehradun.

.....Respondents

Present:

Sri M.C.Pant, Counsel
for the petitioner

Sri Umesh Dhaundiyal, P.O
for the respondents

JUDGMENT

DATE: OCTOBER 15, 2014

DELIVERED BY SRI V.K. MAHESHWARI, VICE CHAIRMAN (J)

1. The petitioner has challenged the orders dated 07.09.1999
and 04.05.2010 by which the petitioner has been denied the revised
scale of pay.

2. The facts in brief are that after joining as a regular employee in work charged establishment on 01.11.1987, the petitioner was regularized as Amin in the Public Works Department. The Govt. of the then State of U.P. on report of a Committee known as Samta Samiti sanctioned the revised scale of pay to various cadres in the P.W.D. vide its order no. 4706 Eng./23. Saa.nee.-5-100(1) eng/88 (T.C.) dated 08.12.1989. The cadre of Amins was placed in the pay scale of Rs. 825-15-900-20-1200. The said Govt. Order was amended on 30.12.1989 and pay scale of Drivers and other equivalent posts were raised to 950-1500 in place of 825-1200. The Chief Engineer again clarified vide its letter dated 08.11.1993 that the other equivalent posts mean all cadres placed at Sl. No. 46 to 59 in the Govt. Order dated 08.12.1989. Consequently, the scale of pay of the petitioner were also revised, but the said Govt. order dated 08.12.1989 was modified by a subsequent Govt. Order dated 16.3.1998 and the cadres mentioned in the earlier Govt. Orders were separated and scale of some cadres including that of the petitioner was reduced to 850-1200 and recovery of the amount paid in pursuance to earlier order to such cadres were initiated. Some of the employees including petitioner had challenged this Govt. Order before the Hon'ble Allahabad High Court, which was transferred to Hon'ble High Court of Uttarakhand, but was dismissed on 11.08.2008 on the ground of availability of alternative remedy. The petitioner thereafter preferred a claim petition before this Tribunal numbered as 131/2008, Hari Singh Negi and others Vs. State & others, but the same was disposed of at the stage of admission with a direction to the respondents to decide the representation of the petitioner. The petitioner consequently, made a representation to the respondents, which was also dismissed by the impugned order dated 04.05.2010. Hence this petition.

3. It is further stated that the Hon'ble Allahabad High Court has already quashed the order dated 16.3.1998, therefore, petitioner thus, have become entitled for revised scale of pay and respondents have illegally deprived him the scale of pay.

4. Despite affording several opportunities, no written reply was filed on behalf of the respondents. Therefore, the matter proceeded in the absence of any written statement. Even no rejoinder is filed on behalf of the petitioner.

5. We have heard both the parties and perused the record carefully. It is revealed from the record that in accordance with the report of the Samta Samiti dated 08.12.1989, the salary of the petitioner was fixed in the scale of 950-1500 but later on, the said fixation was not found correct and a new Govt. Order was issued on 16.03.1998 stating that the pay scale of 950-1500 was wrongly fixed in regards to several categories of employees and a direction was issued to re-fix the salary in the scale of Rs. 825-1200 and further to recover the amount already paid to these categories of employees. This order was challenged before the Hon'ble High Court of Allahabad. The Hon'ble High Court had allowed the writ petition and quashed the Govt. order dated 16.03.1998. Thus, re-fixation of pay on the basis of Govt. Order dated 16.3.1998 is not said to be correct. Moreover, a categories of employees had preferred a claim petition before this Tribunal numbered as 49/T/2009(Old no. 1651/1998), Bhagat Ram Mishra & others Vs State of U.P. and others, which was also allowed and it was held that the Electricians are equivalent to that of Roller Drivers and Truck Drivers etc. Same is the case with the petitioner. The petitioner is Amin. Earlier he was equivalent to the Electricians, Roller Drivers and Truck Drivers in the matter of pay. Therefore, it is not appropriate and justified to deprive the petitioner from the

scale of pay, which was granted to the employees, which were placed similar to that of the petitioner. The impugned order dated 04.05.2010 reveals that the petitioner has been deprived from the scale of pay only on the ground that a Special Appeal has been filed against the judgment of the Hon'ble High court, but record reveals that the respondents had challenged the order of the Hon'ble High Court of Uttarakhand before the Hon'ble Supreme Court in SLP (Civil) no. 13577 of 2011, which was also dismissed. Thus it becomes clear that at present Govt. order dated 16.3.1998 does not exist, so fixation of pay or recovery of any amount on the basis of said G.O cannot be held justified.

6. Under the above circumstances, the petition deserves to be allowed and petitioner is entitled to get the pay scale 950-1500 since the period, the similarly situated persons were granted this scale and the impugned order passed on the representation of the petitioner is liable to be set aside.

ORDER

The claim petition is allowed. The impugned order dated 04.05.2010 is set aside. The respondents are directed to grant the pay scale of Rs. 950-1500/- as well as subsequent scale, if any, to the petitioner since the date from which similarly situated employees were granted the same scale. No order as to costs.

Sd/-

D.K.KOTIA
VICE CHAIRMAN (A)

Sd/-

V.K.MAHESHWARI
VICE CHAIRMAN (J)

DATE: OCTOBER 15, 2014.

DEHRADUN

KNP