

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
AT DEHRADUN**

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

CLAIM PETITION NO. 135/DB/2022

Rajendra Singh, s/o Sri Vijay Singh, aged about 49 years, at present working and posted on the post of Senior Staff Officer in the office of Engineer-in-Chief, Public Works Department, Uttarakhand, Yamuna Colony, Dehradun.

.....Petitioner

VS.

1. State of Uttarakhand through Secretary, P.W.D., Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Secretary, Finance, Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.
3. Engineer-in-Chief and H.O.D., Public Works Department, Uttarakhand, Yamuna Colony, Dehradun.

....Respondents.

Present: Sri L.K.Maithani, Advocate, for the petitioner
Sri V.P.Devrani, A.P.O., for the Respondent No.1.

JUDGMENT

DATED: NOVEMBER 25, 2022

Justice U.C.Dhyani (Oral)

By means of present claim petition, the petitioner seeks the following reliefs:

“a) To quash the impugned order dated 22.11.2018 of respondent no.1, order dated 24.01.2018 of respondent no. 2 and order dated 27.12.2018 of the respondent no.3 and declare that denial of upgraded pay scale/ grade

pay Rs. 8700/- under the benefit of ACP to the Assistant Engineer recruited through direct recruitment is wrong, illegal, discriminatory and arbitrary and have created an anomaly in pay between the Assistant Engineers of both sources i.e. promoted and direct recruited, thus the act of the respondent is unconstitutional.

b) To issue an order or direction to the respondent to consider the matter of the Assistant Engineers, direct recruited for the benefit of upgraded pay scale/ grade pay of Rs.8700/- since the date when it is granted to the other Engineers and junior persons to the petitioner, as direct recruited Assistant Engineers having the higher qualification than of the Junior Engineers and after promotion of Junior Engineer to the post of Assistant Engineer, all the Assistant Engineers, if promoted or direct recruited, performed the same duties, thus keeping difference in pay scale is not permissible in the eyes of law.

c) To issue any other suitable order of direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

d) To award the cost of the petition to the petitioner.”

[Extracted from the claim petition]

2. Facts of the case, in brief, are that the petitioner was initially selected and appointed on the post of Assistant Engineer *vide* order dated 31.07.1999 of the erstwhile State of Uttar Pradesh. After five years' satisfactory service, the petitioner was granted pay scale of Rs.10,000-15,200 of Executive Engineer on 11.11.2005, under the provisions of G.O. No. 373 dated 11.04.1990 and G.O. No. 210 dated 07.06.2005. Thereafter, *vide* order dated 22.07.2016, the petitioner was promoted to the post of Executive Engineer (Civil) in the pay scale of Rs.15,600-39,100/- grade pay Rs.6600/-. *Vide* order dated 06.02.2018 petitioner was given benefit of 1st ACP and benefit of 2nd ACP of pay scale of Rs.15600-39100/- grade pay Rs. 7600/- of Superintending Engineer was given to the petitioner *vide* order dated 28.02.2018 *w.e.f.* 13.08.2015.

2.1 The pay scale/ grade pay of Rs.7600/- of the post of S.E. was revised to the grade pay of Rs.8700/- in the Central Govt. services. The State Govt. also referred the matter to the pay anomaly committee. The anomaly committee recommended the pay scale of Rs.37400-67000/- grade pay

Rs.8700/- in place of grade pay of Rs.7600/- to the S.E. of the State services. Such recommendation was accepted by the State Govt., and the State Govt. *vide* order dated 31.10.2017 directed the concerned Secretary of the State Department to execute the recommendation of the committee. In compliance of order dated 31.10.2017, Secretary, P.W.D., *vide* G.O. dated 07.12.2017 and Secretary, Pey Jal, *vide* order dated 01.02.2018, sanctioned the benefit of upgraded pay scale of Rs.37400-67100/- grade pay Rs.8700/- *w.e.f.* 31.10.2017.

2.3 Prior to the year 2017, under the cadre structure of Engineering services the pay scale/ grade pay of promotional posts of Engineers were the grade pay of Rs. 6600, 7600 and 8700/- and under the ACP, the promotional pay scales/ next pay scales were also the same. When the grade pay of Rs.7600/- of S.E. was granted to the petitioner as 2nd ACP, all the Assistant Engineers promoted or direct recruited, got the same grade pay of Rs.7600/- of S.E. as 3rd ACP, but only petitioner is getting less pay than his counterpart. When the grade pay Rs. 7600/- was upgraded/ revised and grade pay Rs.8700/- was sanctioned to the post of S.E., the petitioner was also entitled to it, but the respondents have not granted the same to the petitioner. The petitioner moved representation to the respondent no.2 on 06.12.2018, but the respondent no.2 did not grant such benefit to the petitioner.

3. At the very outset, Ld. A.P.O. objected to the maintainability of the claim petition, *inter alia*, on the ground that the same is barred by limitation.

4. After arguing the claim petition at some length, Ld. Counsel for the petitioner confined his prayer only to the extent that a direction be given to the respondents to decide the representation of the petitioner, in accordance with law. Ld. A.P.O. has no objection to such innocuous prayer of Ld. Counsel for the petitioner.

5. Without prejudice to rival contentions, a direction is given to the respondent department to decide the representation of the petitioner, by a reasoned and speaking order, in accordance with law, without unreasonable delay, on presentation of certified copy of this order along with fresh

representation enclosing the documents in support thereof. No order as to costs.

6. Needless to say that the decision so taken shall be communicated to the petitioner soon thereafter.

7. It is made clear that the Tribunal has not expressed any opinion on the merits of the claim petition.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)
[virtually from Nainital]

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: NOVEMBER 25, 2022
DEHRADUN

VM