

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
BENCH AT NAINITAL**

Present: Hon'ble Mr. Rajendra Singh
-----Vice Chairman(J)

CLAIM PETITION NO.10/NB/SB/2023

Constable 406, Civil Police Vijay Raj Singh, aged about 57 years, s/o Late Sri Jagdish Singh, presently posted at Police Station Banbasa, District Champawat, Uttarakhand, permanent r/o Village Nandaur Police Station, Paraspur, District Gaunda, Uttar Pradesh.

.....Petitioner

vs.

1. State of Uttarakhand through Principal Secretary, Home, Govt. of Uttarakhand, Secretariat, Dehradun.
2. Inspector General of Police, Police Headquarters, Dehradun.
3. Deputy Inspector General of Police, Kumaon Region, Nainital.
4. Senior Superintendent of Police, District Nainital.
5. Superintendent of Police, District Champawat.

.....Respondents

Present: Sri Harish Adhikari, Advocate, for the Petitioner.
Sri Kishor Kumar, A.P.O., for the Respondent(s)

JUDGMENT

DATED: JANUARY 06, 2023

By way of present claim petition, the petitioner has prayed for that this Hon'ble Tribunal be pleased to pass an order to pay him the earlier salary from 05.01.1993 to 11.04.2006 along with interest, on the basis of the order dated 27.04.2004 (Annexure-2), passed by this Hon'ble Tribunal and also pleased to pass an order to relieve the petitioner to State of Uttar Pradesh because of the allottee to the State of Uttar Pradesh in terms of the order dated 06.08.2019, passed by the respondent no. 3. Petitioner has further prayed that he be provided other service benefits including promotion after competing three years from the punishment order dated 18.02.2018 passed by Senior Superintendent of Police, by which petitioner was reduced to the

minimum pay scale of Rs. 21,700/-. Mentioning all these facts, petitioner has moved representations to the authorities concerned, which are pending for consideration. In support of his contention, the petitioner has also relied upon a judgment of Hon'ble Supreme Court, in Civil Appeal No. 7607 of 2021 [SLP (Civil) no. 21346 of 2017] Pradeep vs. Manganese Ore (India) Ltd. & Ors. Relevant para of the judgment has also been quoted, as below:

"In a case where it is found that the employee was not at all at fault and yet, he was visited with illegal termination or termination which is actually activated by malice, it may be unfair to deny him the fruits of the employment which he would have enjoyed but for the illegal /malafide termination. The effort of the Court must be to then to restore the status quo in the manner which is appropriate in the facts of each case. The nature of the charges, the exact reason for the termination as evaluated and, of course, the question as to whether the employee was gainfully employed would be matters which will enter into the consideration by the Court."

2. After arguing the claim petition at some length, Ld. Counsel for the petitioner confined his prayer only to the extent that petitioner's representation dated on 17.10.2022 (Annexure no. 1), may kindly be directed to be decided by the Respondent No. 2, as per law, and also in the light of the above decision of the Hon'ble Apex court, in Pradeep vs. Manganese Ore (India) Ltd. & Ors, at an early date, to which learned A.P.O. has no objection.

3. Considering the facts of the case and oral submissions made in this behalf, this Tribunal is of the view that innocuous prayer made by learned Counsel for the petitioner is worth accepting.

4. Claim petition is, accordingly, disposed of, at the admission stage, by directing Respondent No. 2, to decide pending representation dated 17.10.2022 (Annexure: 1) of the petitioner, by a reasoned and speaking order, in accordance with law, and also in the light of decision of the Hon'ble Apex Court, in Pradeep vs. Manganese Ore (India) Ltd. & Ors (*supra*), at an earliest possible, preferably within a period of two months of presentation of certified

copy of this order along with copy of representation dated 17.10.2022
(Annexure: 1).

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

6. It is made clear that the Tribunal has not expressed any opinion on the merits of the case. No order as to costs.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

DATE: JANUARY 06, 2023
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KNP