

**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. 08/DB/2023

Virendra Mohan Uniyal, aged about 68 years, s/o Sri T.R. Uniyal, retired Accounts Officer, M.D.D.A., Dehradun, r/o 236 Ring Road, Jogiwala, District Dehradun, Uttarakhand.

.....Petitioners

vs.

1. The State of Uttarakhand through Secretary, Housing, Government of Uttarakhand, Secretariat, Subfhash Road, Dehradun.
2. Vice Chairman, Mussoorie-Dehradun Development Authority, Dehradun, Uttarakhand.

.....Respondents

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

JUDGMENT

DATED: JAUNARY 06, 2023

Justice U.C.Dhyani (Oral)

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

- a) To quash the impugned order dated 03.06.2022 of respondent no.1 and an order or direction be issued to the respondent no.1 to review the previous order of merger dated 27.11.2002 of the petitioner and deem and treat the petitioner in the government service till the date of issuance of the order dated 27.11.2002 and accordingly re-fix the pay and pension and other retiral dues of the petitioner of Govt. service.
- b) To issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.
- c) To award the cost of the petition to the petitioner.”

2. The petitioner retired as Accounts Officer from Mussoorie-Dehradun Development Authority (for short, MDDA) on 31.03.2006. He was an employee of Local Fund Audit Department. His services were stated to be merged in MDDA *w.e.f.* 29.11.1990 *vide* order dated 30.01.2003.

2.1 Grievance of the petitioner is that the MDDA has not given retiral benefits to him from 1990 till 2002.

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. According to Ld. A.P.O., petitioner is claiming the relief which pertains to the year 2006, which is highly time barred in view of Section 5(1)(b) of the Uttar Pradesh Public Services (Tribunal) Act, 1976 (for short, the Act).

3.1 Ld. A.P.O. further pointed out that the claim petition is not maintainable, also on the ground that the petitioner is challenging a letter dated 03.06.2022, which is written by the Secretary In-charge, Housing, Govt. of Uttarakhand to the Secretary, Finance, Local Fund Audit Department, Govt. of Uttar Pradesh (Annexure: A-1). According to Ld. A.P.O., it is simply a correspondence between two authorities of the State Govt., which cannot be challenged by means of claim petition before this Tribunal. Sub-section (1) of Section 4 of the Act reads as under:

“Reference of claims to Tribunal: 4 (1) Subject to the other provision of this Act, a person who is or has been a public servant and is aggrieved by an order pertaining to a service matter within the jurisdiction of the

Tribunal, may make a reference of claim to the Tribunal for the redressal of his grievance.”

[Emphasis supplied]

Explanation appended to Section 4(1) of the Act and subsequent provisions are also relevant in the context of present claim petition, which provisions read as under:

“Explanation: For the purpose of this sub-section “order” means an order or omission or in-action of the State Government or a local authority or any other corporation or company referred to in clause (b) of section 2 or of an officer, committee or other body or agency of the State Government or such local authority or Corporation or company: Provided that no reference shall, subject to the terms of any contract, be made in respect of a claim arising out of the transfer of a public servant; Provided further that in the case of the death of a public servant, his legal representative and where there are two or more such representative, all of them jointly, may make a reference to the ‘Tribunal for payment of salary’ allowances, gratuity, provident fund, pension and other pecuniary benefits relating to service due to such public servant.

[Emphasis supplied]

Section 4(5): The Tribunal shall not ordinarily admit a reference unless it is satisfied that the public servant has availed of all the remedies available to him under the relevant service rules, regulations or contract as to redressal of grievances.

Section 4(6): For the purposes of sub-section (5) a public servant shall be deemed to have availed of all the remedies available to him if a final order has been made by the State Government, an authority or officer thereof or other person competent to pass such order under such rules or regulations or contract rejecting any appeal preferred or representation made by such public servant in connection with the grievance.”

[Emphasis supplied]

4. Whereas, according to Ld. Counsel for the petitioner, there is omission or inaction on the part of State Govt., Ld. A.P.O. submitted that the letter has been sent by the Secretary of the State of Uttarakhand to the Secretary of Govt. of U.P., for obtaining certain information, which cannot be said to be an ‘Order’. There is no omission or inaction on the part of the State Govt. either. Such letter has been sent for procuring certain information, on the basis of which an order could be passed in future. Section 4(3) of the Act stipulates that, “On receipt of a reference under sub-section (1), the Tribunal shall, if satisfied after such inquiry as it may deem necessary that the reference is fit for adjudication or trial by it, admit such

reference and where the Tribunal is not so satisfied, it shall summarily reject the reference after recording its reasons.”

5. The Tribunal finds that Annexure: A-1, which is in the teeth of present claim petition, is simply a correspondence and is not an ‘Order’ within the meaning of Section 4(1) of the Act and explanation appended thereto.

6. The claim petition appears to be premature. Reference is not fit for adjudication. The Tribunal is unable to admit such reference. The reference is summarily disposed of under Section 4(3) of the Act.

7. At the stage of dictation, Ld. Counsel for the petitioner made an innocuous prayer that the Respondent State may be directed to take a decision on the matter, at an early date. Ld. A.P.O. has no objection, if a direction is given to the Respondent State to take a decision on the matter of the petitioner, in accordance with law.

8. Respondent State is, accordingly, directed to bring the matter to its logical conclusion, without unreasonable delay. The claim petition thus stands disposed of. No order as to costs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JANUARY 06, 2023
DEHRADUN

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