

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

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

WRIT PETITION NO 57 (S/B) OF 2022

[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 82/NB/DB/2022]

Ramesh Chandra Punetha, aged about 62 years, s/o Late Sri Narayan Dutt Punetha, r/o Village Khati Gaon, Post Office Totanoula, district Pithoragarh.

.....Petitioner

vs.

1. State of Uttarakhand through Secretary, Public Works Department, Govt. of Uttarakhand, Dehradun.
2. Engineer-in-Chief/Head of Department, Public Works Department, Government of Uttarakhand, Dehradun.
3. Finance Controller, Office of the Engineer-in-Chief/Head of Department, Public Works Department, Accounting Group, Government of Uttarakhand, Dehradun.
4. Chief Engineer (Level-II), Public Works Department, Pithoragarh.
5. Executive Engineer, Provincial Division, Public Works Department, Pithoragarh, district Pithoragarh.
6. Senior Treasury Officer, Pithoragarh, district Pithoragarh.

.....Respondents

Present: Sri Harendra Belwal, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

JUDGMENT

DATED: JANUARY 09, 2023

Justice U.C.Dhyani (Oral)

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 07.09.2022 in WPSB no. 57 of 2022, Ramesh Chandra Punetha vs. State of Uttarakhand and others, which reads as under:

“The reliefs sought in the present Writ Petition are the following:-

- (i) Issue a writ, order or direction in the nature of mandamus commanding the respondents to

received the pension to the petitioner and pay him arrears of the salary.

(ii) (ii) Issue a writ order or direction in the nature of mandamus commanding the respondents to release amount of Leave Encashment, G.I.S. and other admissible dues in favour of the petitioner.

(iii) Issue a writ order or direction in the nature of mandamus commanding the respondents to award the interest on the delayed of the payment @ 18% per annum.

2. The petitioner is a government servant. The subject matter of the Writ Petition squarely falls within the jurisdiction of the Uttarakhand Public Services Tribunal.

3. We direct the Registry to transmit the complete record of present Writ Petition to the Tribunal forthwith to be registered as a Claim Petition.

4. The writ petition is disposed of accordingly.

5. In sequel thereto, all pending applications stand disposed of.”

2. The original record of the writ petition has been transferred to this Tribunal vide Letter No. 12990/UHC/Service (S/B) 2022 dated 13.09.2022 of the Deputy Registrar (Judicial) of the Hon’ble High Court. The same has been registered as Claim Petition No. 82/NB/DB/2022. Since the reference in this Tribunal shall be of the writ petition filed before the Hon’ble High Court, but shall be dealt with as claim petition, therefore, the claim petition shall be referred to as ‘petition’ and petitioner shall be referred to as ‘petitioner’, in the body of the judgment.

3. The petitioner is claiming the revised pension and prays for recalculation on the ground, *inter-alia*, that similarly situated employees are getting more pension than the petitioner. The detailed facts have been mentioned by the petitioner in the petition itself. The Tribunal does not think it necessary to reproduce all the facts. Suffice will it be to say that the petitioner, through present petition, prays for post retiral dues, *i.e.*, leave encashment, GIS etc. and revision of pension along with arrears of salary.

4. Counter Affidavit has been filed on behalf of the respondents no. 2 to 5. In para no. 5 of the same, it has been mentioned that the petitioner has received excess payment of salary due to the wrong fixation of pay-scale. Therefore, a recovery order for recovery of Rs. 77,222/- was issued by respondent no. 5 on 04.12.2020 and the recovery was made from

the gratuity. A description of amount of pension, gratuity, GPF, GIS, Leave encashment has been given in para no. 6. In para 7 of the C.A., it has been indicated that the salary of the petitioner has rightly been fixed. The Tribunal need not reproduce the same as they are already part of record.

5. Basically, the petitioner is claiming parity with a similarly situated employee, namely Shri Hansa Dutt Pandey. It is the submission of learned Counsel for the petitioner that the petitioner is getting lesser pension than Shri Hansa Dutt Pandey on account of the fact that petitioner's salary was wrongly fixed which has affected his quantum of arrears also. Although, it has been indicated in para 7 of the Counter Affidavit that there is no difference in the salary of the petitioner and Shri Hansa Dutt Pandey but the fact remains, as projected in the petition, that there is disparity in the pay structure of the petitioner *vis-à-vis* similarly situated Shri Hansa Dutt Pandey, which, in view of the facts brought on record, requires to be re-examined at the level of Engineer-in-Chief (HOD), respondent no. 2. The petitioner and Shri Hansa Dutt Pandey have retired from the service.

6. The petition is disposed of by directing respondent no. 2 to re-examine the issue of disparity in the pay structure of the petitioner *vis-à-vis* Shri Hansa Dutt Pandey, in accordance with law, after affording an opportunity of personal hearing to the petitioner. In case it is found, after re-examination of the issue that there is disparity in the pay structure of the petitioner in comparison to Shri Hansa Dutt Pandey, an appropriate order shall be passed and arrears thereof shall be released in favour of the petitioner, without unreasonable delay, preferably within 12 weeks of presentation of certified copy of this order. No order as to costs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATED: JANUARY 09, 2023
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