

**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. 77/DB/2023

Deen Dayal Kukreti, aged 59 years, s/o Sri Bhavanand Kukreti, r/o Khadi Khadag Marg, near Shiv Mandir, Post Office, Satyanarayan Shyampur, Rishikesh, District- Dehradun.

.....Petitioner

VS.

1. State of Uttarakhand through Secretary, Ministry of Forest, Dehradun, Uttarakhand, Dehradun.
2. Principal Chief Conservator of Forest, Uttarakhand, 85 Rajpur Road, Dehradun.
3. Principal Chief Conservator of Forest, Wild Life, Uttarakhand, 85 Rajpur Road, Dehradun.
4. Conservator/ Director, Rajaji Tiger Reserve, 551- Ansari Marg, Dehradun.

....Respondents.

Present: Sri A.D.Tripathi, Advocate, for the petitioner (virtually)
Sri V.P.Devrani, A.P.O., for the Respondent No.1.

JUDGMENT

DATED: MAY 04, 2023

Justice U.C.Dhyani (Oral)

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

“i) Issue an order or direction to the respondents to count the past 18 years’ un-interrupted services rendered by the petitioner in the department since 1985 to 2003 on the post of Cultural Jamadar, and after regularization since 23.10.2023 to till date as Forest Guard/ Forester, as such he will be able to get full pension after retirement.

ii) To issue an order or direction to the respondent to consider the past un-interrupted services rendered as Cultural Jamadar in the department and be counted for pension benefits only.

iii) To issue an order or direction to the respondent to consider the claim of the petitioner and decide the representation of the petitioner pending undecided since 04.07.2018 in their office forthwith.

iv) To pass any other or further order which this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.

v) Cost of the petition may be awarded in favour of the petitioner.”

2. The petitioner was initially appointed as Cultural Zamadar (seasonal employee) in the Forest Department *vide* order dated 11.11.1985 in the pay scale of Rs.345-510/- (Annexure: A-3). In view of G.O. issued by the then State Govt., he has continuously been working on the same post even during off season also.

3. Hon’ble High Court of Judicature at Allahabad, in a writ petition No. Nill/ 1991, U.P. Sahayak Van Karamchari Sangh, Kumaon through its Joint Secretary Sri Jodh Singh Dhek vs. State of U.P. through Secretary, Ministry of Forest Council House, Lucknow and others, passed the order on 27.06.1991, as below:

“Until further order, member of Van Karamchari Sangh (seasonal employees) those who have completed three or more years’ service, their service shall not be terminated.”

4. In another writ petition No. 22817 of 1992, Sher Singh & others vs. State of U.P. and others, Hon’ble High Court of Judicature at Allahabad passed the order on 28.08.1995, as below:

“ ...Having heard the Ld. Counsel for the petitioner and Ld. Standing Counsel, a fresh order is being passed directing the respondents to take work from the petitioners and not to dispense with their services till disposal of the present writ petition.”

5. *Vide* order of Conservator of Forest, Western Circle, U.P., Nainital, dated 01.07.1995, services of seasonal employees were continued for the months of July and August, 1995 and September and October, 1995 and thereafter such employees were continuously working for whole of the year till regularization on the post of Forest Guard in the year 2003.

6. It is the submission of Ld. Counsel for the petitioner that after regularization of his services on the post of Forest Guard in the year 2003, which is a lower grade post, the pay of the petitioner has not been protected. The submission of Ld. Counsel for the petitioner is that the representation of the petitioner for counting the past 18 years of services, rendered by the petitioner for pensionary benefits, be directed to be decided by the respondent department, in accordance with law.

7. This is the second round of litigation. In earlier round of litigation, claim petition No. 10/NB/DB/2018, Deen Dayal Kukreti vs. State and others was decided by this Tribunal *vide* order dated 20.06.2018. The judgment dated 20.06.2018 is reproduced herein below for convenience:

“The petitioner has filed the present claim petition for seeking reliefs with the following words:-

“(i) To issue an order/direction to the respondents to count the past 18 years uninterrupted service rendered by the petitioner in the department since 1985 to 2003 as cultural Jamadar, and after regularization since 32.10.2003 to till date as Forest Guard/Forester, as such he will be able to get full pension after retirement.

(ii) To issue direction/order to the respondent to consider the past uninterrupted service rendered as export moharir/road zamadar/plantation/cultural zamadar in the department and be counted for pension benefits only.

(iii) To issue direction/order to the respondent to consider the claim of the petitioner for pension as they have completed 15 years continuous and satisfactory regular service, including the past 18 years uninterrupted service rendered as export moharir/road zamadar/plantation/cultural Zamadar in the department and be counted for pension benefits only.

(iv) To pass any other or further order which this Hon’ble Court may deem fit and proper in facts and circumstances of the case.

(v) Cost of the petition may be awarded in favour of the petitioner.”

2. Case was heard at the admission stage.

3. Learned counsel for the petitioner has stated that the petitioner has already filed a representation to the respondents from time to time and reminders were also given by the petitioner but his representation remains undecided.

4. After arguing for a while, learned counsel for the petitioner confined his prayer only to this extent that the petitioner may be allowed to file a fresh representation and the respondents may be directed to decide the representation as early as possible.

5. Learned A.P.O. has no objection for accepting this innocuous prayer of the learned counsel for the petitioner.
6. In view of above, the petitioner is directed to file a representation afresh within a period of two weeks from today and the respondents are directed to decide the representation within eight weeks after receiving the representation.
7. The claim petition is disposed of accordingly at the admission stage.”

8. It is the submission of Ld. Counsel for the petitioner that the representation moved by the petitioner in view of the above judgment and order passed by the Tribunal, is still pending before the respondents. Ld. Counsel for the petitioner prayed that a direction be given to the respondents to decide the pending representation of the petitioner, in accordance with law. Innocuous prayer of Ld. Counsel for the petitioner should be accepted.

9. Without prejudice to rival contentions, the claim petition is disposed of, at the admission stage, by directing the appropriate authority to decide the representation of the petitioner, by a reasoned and speaking order, in accordance with law, at an early date, preferably within four weeks of presentation of certified copy of this order along with fresh copy of the representation

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

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MAY 04, 2023.
DEHRADUN

VM