

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

Present: Hon'ble Mr. Rajendra Singh

-----Vice Chairman (J)

CLAIM PETITION NO. 15/NB/SB/2020

Jagdish Chandra Pathak, aged about 65 years, s/o Sri Laxmi Dutt Pathak, r/o S.R.Puram, Dhar Bithoriya No. 1, Post Haripur Nayak, Haldwani, District Nainital.

.....Petitioner

vs.

1. State of Uttarakhand through Secretary, Irrigation Govt. of Uttarakhand, Civil Secretariat, Dehradun.
2. Joint Secretary, Irrigation, Govt. of Uttarakhand, Civil Secretariat, Dehradun.
3. Chief Engineer, Level-I, Irrigation, Uttarakhand, Yamuna Colony, Dehradun.
4. Chief Engineer Level-II, Irrigation, Uttarakhand, Haldwani, Nainital.
5. Executive Engineer, Project Division, Irrigation Department, Haldwani, Nainital.

.....Respondents

Present: Sri N.K.Papnoi, Advocate, for the Petitioner
Sri Kishore Kumar, A.P.O., for the Respondents

JUDGMENT

DATED: JULY 13, 2023

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

(i) To quash the impugned order dated 22.04.2019 in league with letter No. 349/11(1)-2019-01(77)2016 dated 25.03.2019 passed by the respondent No. 2 by which the extension of service of petitioner for one year is d further challenging the impugned order dated 05 September 2011 by which the representation of the petitioner rejected without going through the merit of the case

(ii) To direct the respondents directing the respondents to release the amount of salary of the petitioner w.e.f. 01.07.2014 to May 2017 for which the respondent department took the work from the petitioner after his superannuation on 30.06.2014, after calling the entire rounds from the respondents in view of the facts highlight in the body of the writ petition

(iii) To award damages and compensation in tune of Rupees Twenty lacks or such amount which this Hon'ble Court may deem Ex and proper for harassment of the applicant by the respondent authorities and same may be recovered from the salary of the erring persons.

(iv) Issue any other writ rule or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case.

(v) Award cost of petition.

2. The facts, as per the claim petition, in brief, are as follows:

2.1 The petitioner was appointed on 28.02.1978 on the post of Work Supervisor as a work charge employee and thereafter promoted in the respondent department on post of Store Keeper by due process of law on 09.07.1985. The petitioner retired on 30.06.2014 after attaining the age of superannuation. He made repeated representations to the authorities on 27.05.2011, 01.07.2011 18.05.2012 requesting to transfer new store keeper so that the process of handing and taking over charge may be completed before his superannuation, but the process of handing and taking over the charge was not started by the respondents. The petitioner again orally requested the authorities to relieve him and give no objection certificate so that his pension be released but no heed or attention was paid towards his request.

2.2 On 13.05.2015, the Chief Engineer, Kumoun directed the Superintendent Engineer to hand over the charge of Store Keeper to Mr. Satayendra Yadav. When the respondents did not release the pension and did not pay the salary w.e.f. 01.07.2014, the petitioner made a complaint on Samadhan Portal on 23.06.2015. In pursuance to his complaint,

explanation was called from the respondents. The respondent no.4 *vide* letter dated 27.06.2015 informed the District Magistrate that due to not handing over the charge, he was allowed provisional pension and after completing the process of handing over charge and thereafter issuance of no due certificate, his pension will be released but the Salary w.e.f. 01.07.2014 will be paid after decision of the Govt.

2.3 The Superintending Engineer wrote a letter on 27.07.2015 to Chief Engineer, Kumaon stating that since newly appointed Store Keeper Mr. Satyendra Yadav is not willing to take the charge thus, disciplinary proceedings may be initiated against him and further stated that it is not possible to complete the handing over of charge within one month thus, a direction be issued to the concerned office to continue the petitioner on his post. In the noting, the respondent no.4 *vide* its order dated 28.07.2015 directed the petitioner to continue to discharge his duties till handing over the charge. The respondent no 4 *vide* its letter dated 17.08.2015 informed the petitioner to hand over the charge to Mr. Stayendra Yadav and his case for extension of service has been forwarded to the higher authorities.

2.4. On the assurance of the respondent authorities, the petitioner discharged his duties, but they have not paid the salary to the petitioner on monthly basis. When Mr. Stayendra Yadav did not take interest in taking the charge, then respondent no.4 *vide* letter dated 14.01.2016 requested the Chief Engineer, Kumaon to issue direction to Mr. Satayendra Yadav to take charge immediately. Ultimately in the month of May, 2017, the process of handing over of charge was completed and no dues certificate was given to the petitioner and his pension was released.

2.5 When petitioner's salary was not released w.e.f. 01.07.2014 to May 2017, he made several representations to the authorities and the respondent no.4 *vide* its letter dated 09.12.2018 informed the petitioner that his case is under consideration before the government and when the same was decided then his salary with D.A. and T.A will be released, but

the salary of the petitioner w.e.f. 01.07.2014 to May 2017 has not been released.

2.6 The petitioner submitted representations to the higher authorities for releasing his salary immediately in the month of August 2014 and thereafter repeatedly submitting to the respondents. The petitioner on 23.06.2015 registered his complaint regarding non releasing of salary on Samadhan Portal and on the said complaint the respondent no.4 *vide* its letter dated 27.06.2015 informed that his retrial dues will be paid after giving no objection certificate and also stated that till handing over of the charge his salary, D.A. and T.A proposal has been sent to the higher authorities. On 09.12.2018, the respondent no.4 informed the petitioner that his case for salary for the period w.e.f. 01-07-2014 to May 2017 is under consideration before the government and after decision on the same, the salary and other benefits will be released. But till date no decision had been taken by the government on the issue of the petitioner and his case is still pending.

2.7 Feeling aggrieved to the inaction of the respondent authorities, the petitioner filed a writ petition before Hon'ble High Court of Uttarakhand bearing No.880 of 2019(S/S), Jagdish Chandra Pathak vs. State of Uttarakhand and others, which was disposed of by the Hon'ble Court *vide* order dated 15.04.2019, with liberty to make a fresh representation and if such representation is made, Secretary, Irrigation Department shall examine the petitioner's claim and pass a specking order, in accordance with law, within a period of eight weeks. After receiving the certified copy of the order, same was sent to the respondents through Registered post alongwith fresh representation. But the respondent did not take any action on the same. The petitioner again sent a reminder to the respondent on 12.07.2019 through registered post, for releasing his salary for the services given by him after his retirement, but the respondent did not decide the same.

2.8 The petitioner has to file contempt petition No. 757of 2019 before the Hon'ble Court that the respondent No. 1 rejected the representation *vide* impugned order dated 05.09.2019 saying that they have not taken any work from the petitioner after his retirement as such he is not liable to any pay and salary for that period.

2.9 After retirement, the respondents did not release the pension of the petitioner within time and in the noting the respondent no.4 *vide* its order dated 28.07.2015 directed the petitioner to continue to discharge his duties till handing over the charge, for which the petitioner continuously requesting the respondent authorities since 2011, three years before his retirement, but due to inaction on the part of respondents, the handing over charge was not completed before his superannuation and he has to serve three year more after his superannuation, which is a punishment and harassment of the petitioner without any fault.

2.10 Due to inaction of the respondents, the transfer of charge was not completed timely and his pension was withheld and he has to serve/take responsibility of these stores till May 2017. It is also submitted that if the respondents did not take any work from the petitioner after his superannuation, then what kind of work they have taken from him prior to his retirement? And if the responsibility of the articles of all stores has discharged at the time of retirement, then why the respondents have not granted the retiral dues of petitioner within time and without any hindrance?

2.11 Inaction on the part of the respondents will cause grave injustice towards the petitioner as they are duty bound to take a decision on the case of the petitioner. The petitioner represented the respondents *vide* his various representations time to time to release the salary and also represented the authorities regarding his grievances but all in vain. The time lapsed in filing of the petition due to the bonafide hope of the

petitioner that his representation be considered in accordance with law by the respondents.

3. The respondents have opposed the claim petition by filing C.A./W.S. They have stated that the petitioner, earlier also filed a writ petition no. 880 (S/S) of 2019 before Hon'ble High Court, Nainital, which was decided by the Hon'ble Court *vide* order dated 15.04.2019 directing the answering department to pass a speaking order, in accordance with law, within a period of eight weeks from the date of receipt of such representation along with certified copy of this order. In compliance of the order passed by the Hon'ble High Court, the Secretary, Irrigation Department, Irrigation Section-1, Government of Uttarakhand, Dehradun *vide* letter no 1426/11(1)-2019-06 (32)/2019 dated 05.09.2019 has finally disposed of the representation of the petitioner by passing a speaking order. Apart from this, the petitioner also preferred contempt petition no. 757 of 2019 in Hon'ble High Court of Uttarakhand, Nainital (Jagdish Chandra Pathak vs. Dr. Bhupinder Kaur Aulakh, Secretary, Irrigation, Government of Uttarakhand, Dehradun), and the Hon'ble Court was pleased to dismiss the same *vide* its order dated 12.02.2020.

3.1 It is submitted that the petitioner was promoted on the post of Storekeeper on 09.07.1985 in regular establishment of Irrigation Department. During his service tenure, when the petitioner remained posted as storekeeper at Project Division, Haldwani, he was also having the additional charge of the store situated at Gularbhoj, in which, there were eight thousand items. The petitioner completed age of superannuation on 30.06.2014, however, since the petitioner was having the excess work, therefore, through communication dated 22.05.2014, he was directed to handover the charge prior to his retirement and for this purpose, Chief Engineer (Kumaon), Irrigation Department, Uttarakhand, Haldwani *vide* office letter no. 2173/CEK/E-10 (Storekeeper) dated 22.05.2014 ordered to Shri Gopal Dutt Joshi, Storekeeper, Irrigation Division, Rudrapur to take over the charge from the petitioner. But, Shri

Joshi due to his family circumstances, did not take over the charge. Thereafter, Chief Engineer (Kumaon), Irrigation Department, Uttarakhand, Haldwani *vide* office letter no. 2905/CEK/E 10 (Storekeeper) dated 30.06.2014 ordered to Shri Satyendra Singh Yadav, Storekeeper, to take over charge from the petitioner, but he also refused to take over the charge, in which, the department has taken serious cognizance of the matter of defying the order of superior authority as well as dereliction of duty by Shri Satyendra Singh Yadav, Storekeeper, therefore, a departmental proceeding was recommended to the Chief Engineer, Level-1. Consequently, Shri Satyendra Singh Yadav, Storekeeper, took over the charge of Storekeeper from the petitioner on 10.8.2015.

3.2 It is also submitted that after his retirement on 30.06.2014, the petitioner did not show any Interest in handing over the charge of Storekeeper and did not get the T & P register matched in time, therefore, withholding some retiral dues of the petitioner, the payment equal to invoked leave in proportionate to leave encashment of earned leave of 300 days was made to the petitioner by the Project Division Haldwani *vide* office memo dated 11.08.2014. It is further submitted that on the basis of application dated 30.09.2014 made by the petitioner, the office of Project Division, Haldwani *vide* letter dated 17.10.2014 sanctioned the interim pension to the petitioner as the handing over of the charge was not done by the petitioner. Thereafter, on submission of no dues certificate, the entire retiral dues have been paid to the petitioner.

3.3 It is further submitted that the matter of the petitioner for extension of his service for one year and handing over the charge within one month, was directed through *video* conferencing on 24.07.2015 from the level of the then Chief Minister wherein after due consideration, since there was no propriety in extending the service of the petitioner after his superannuation, therefore, *vide* Government order no. 349/(1)-2019- 01-77)/2016 Irrigation Section-1 Dehradun dated 25.03.2019, the order for not granting service extension after his superannuation from 01.07.2014

to 30.06.2015 had been passed. It is further submitted that after retirement of the petitioner on 30.06.2014, no further service from him was taken, however, through *video* conferencing, on the direction of the then Hon'ble Chief Minister, he was merely directed to remain present to hand over the Charge of T&P, for which the presence of the petitioner was necessary.

3.4 No service from the petitioner was taken after his retirement, however, on directions given by the then Hon'ble Chief Minister through *video* conferencing, he was directed to remain present to hand over the Charge of T&P, which was necessary. After retirement of the petitioner on 30.06.2014, no further services from him were taken by the department. It is submitted that after the order of the then Hon'ble Chief Minister through *video* conferencing he was directed to remain present merely for handing over the charge of T&P register, inasmuch as, for handing over the charge, the presence of the petitioner was necessary. So far as the delay in pension matter of the petitioner is concerned, in this regard, it is submitted that the perusal of letter no. 1119 dated 09.12.2018 issued by the Executive Engineer, Jamrani Dam Construction Division-2. Haldwani makes, it clear that since the petitioner did not hand over charge of T&P Register, therefore, the pension matter of the petitioner was delayed.

3.5 It is further submitted that the petitioner pursuant to the order dated 15.04.2019 passed by the Hon'ble High Court of Uttarakhand made his representation dated 12.07.2019, for grant of pension, for his alleged after retirement service, before the Secretary, Irrigation, Government of Uttarakhand, Dehradun who in compliance of the order dated 15.04.2019 has considered the matter of the petitioner and after due consideration found the same without any substance and improper and has accordingly passed a speaking order *vide* letter no. 1426/11(1)-2019-06 (32)/2019 dated 05.09.2019 and thereby disposed of the representation of the petitioner, with the specific comment that since the petitioner after attaining the age of superannuation retired from service on 30.06.2014

and merely on the basis of handing over of charge, for which he had not shown any interest while in service, therefore, *vide* Government letter no 349/11)-2019-01-(77)/2016 Irrigation Section-1 Dehradun dated 25-03-2019 it was decided not to extend the services of the petitioner.

3.6 Thereafter, aggrieved by the order dated 05.09.2019, the petitioner filled a contempt petition no. 757/2019 (Jagdish Chandra Pathak vs. Dr. Bhupinder Kaur Aulak, Secretary, Irrigation, Government of Uttarakhand, Dehradun) in Hon'ble High Court of Uttarakhand, Nainital, which was dismissed by the Hon'ble Court *vide* its order dated 12.02.2020 with the following observation: the judgment and the direction dated 15.04.2019 as issued by this Court has been complied with Consequently, the Contempt Application as closed. Notices this issued by this Court to the respondents are hereby discharged.

3.7 It is further submitted that the petitioner made his representation dated 12.07.2019 for grant of pension for his alleged after retirement service pursuant to the order dated 15.04.2019 passed by the Hon'ble High Court of Uttarakhand, and the Secretary, Irrigation, Government of Uttarakhand, Dehradun in compliance of the order dated 15.04.2019 has considered the matter of the petitioner and after due consideration found that there was no propriety for extending the same without any substance and, as such passed a speaking order *vide* letter no. 1426/11(1)-2019-06 (32)/2019 dated 05.09.2019 and thereby disposed of the representation of the petitioner, with the specific comment that since the petitioner after attaining the age of superannuation retired from service on 30.06.2014 and merely on the basis of handing over of charge, for which, the petitioner did not show any interest during his service tenure, consequently since there was no propriety to extend the services of the petitioner after his retirement, therefore, *vide* the Government letter no. 349/11(1)-2019- 01-(771/2016 Irrigation Section-1 Dehradun dated 25.03.2019 the decision, not extend the services of the petitioner was taken.

3.8 It is further submitted that there is no rule to *provide* the service extension to the superannuated employees after the retirement, moreover, since in the rule (3) of the Government order no. 173/xxxx(2)/2013-03 (1) 2012 dated 20.01.2013, there is no provision for providing service extension after retirement merely on the basis of handing over of charge, as such there was no propriety to give reappointment to the petitioner. In view of the facts and circumstances stated above, the present claim petition of the petitioner being devoid of merit deserves to be dismissed with costs.

4. Rejoinder Affidavit has been filed on behalf of the petitioner reiterating the same facts as have been mentioned in the claim petition.

5. I have heard learned Counsel for the parties and perused the record.

6. It has been argued on behalf of the petitioner that after attaining the age of superannuation, the petitioner was retired on 30.06.2014. The petitioner made representations to the authorities on 27.05.2011 and 01.07.2011 that when he took the charge of the Store keeper at Gular Bhoj at that time three years time was lapsed during the process of handing and taking over the charge because in the store there are 10000 spare parts. Since 30.06.2014, the process of handing and taking over of charge was not started by the respondents, the petitioner orally requested to the authorities to relieve him and give no objection certificate so that his pension be released but no heed or attention was paid his request. On 13.05.2015, the Chief Engineer Kumoun directed the Superintendent Engineer to hand over the charge of Store Keeper to Mr. Stayendra Yadav. When the pension was not released and salary was not paid w.e.f. 01.07.2014, the petitioner made a complaint to Samadhan Portal on 23.06.2015 and in pursuance to his complaint, explanation was called from the respondents and the respondent no.4 *vide* letter dated 27.06.2015 informed the District Magistrate that due to not handing over of charge, he was allowed provisional pension and after completion of handing over

charge process and thereafter issuance of no due certificate his pension will be released but the salary w.e.f. 01.07.2014 will be paid after decision of the Govt.

7. It is further argued that the respondents did not release the pension of the petitioner within time and in the noting the respondent no.4 *vide* its order dated 28.07.2015 directed the petitioner to continue to discharge his duties till handing over the charge, for which, the petitioner continuously requesting to the respondent authorities since 2011, but due to inaction of the respondents, the handing over charge was not completed before the superannuation of the petitioner and he has to serve three year more after his superannuation which is a punishment and harassment of the applicant without any fault and his pension was withheld and he has to serve/take responsibility of these stores till May 2017. If the respondent has not taken any work from the petitioner after his superannuation, then what kind of work they have taken from the applicant prior to his retirement? And if the responsibility of the articles of all stores has discharged at the time of retirement, then why the respondents not granted the retiral dues of applicant within time and without any hindrance?

8. It has further been argued that inaction on the part of the respondents will cause grave injustice towards the petitioner as they are duty bound to take a decision on the case of the petitioner and compelled the petitioner to approach this Hon'ble Court. The petitioner has represented to the respondents *vide* his various representations time to time to release the salary and also represented to the authorities regarding his grievances but all in vain.

9. It has been argued on behalf of the respondents that after the retirement of the petitioner on 30.06.2014, no further services from the petitioner were taken by the department. It is further submitted that after the order of the then Hon'ble Chief Minister through *video* conferencing he was directed to remain present merely for handing over the charge of

T&P register inasmuch as for handing over the charge the presence of the petitioner was necessary. So far as the delay in pension matter of the petitioner is concerned, in this regard it is submitted that the perusal of letter no. 1119 dated 09.12.2018 issued by the Executive Engineer, Jamrani Dam Construction Division-2. Haldwani makes it clear that since the petitioner did not hand over charge of T&P Register, therefore, the pension matter of the petitioner was delayed. It is further submitted that the petitioner pursuant to the order dated 15.04.2019 passed by the Hon'ble High Court of Uttarakhand made his representation dated 12.07.2019, for grant of pension, for his alleged after retirement service, before the Secretary, Irrigation, Government of Uttarakhand, Dehradun who in compliance of the order dated 15.04.2019 has considered the matter of the petitioner and after due consideration found the same without any substance and improper and has accordingly passed a speaking order *vide* letter no. 1426/11(1)-2019-06 (32)/2019 dated 05.09.2019 and thereby disposed of the representation of the petitioner, with the specific comment that since the petitioner after attaining the age of superannuation retired from service on 30.06.2014 and merely on the basis of handing over of charge, for which he had not shown any interest while in service, therefore, *vide* Government letter no 349/11)-2019-01-(77)/2016 Irrigation Section-1 Dehradun dated 25.03.2019 it was decided not to extend the services of the petitioner.

10. This Tribunal *vide* order dated 06.12.2021, an opportunity was given to the respondents to provide evidence, if any, to show when and how the delay in handing over of the charge was caused by the petitioner. In compliance of the order of this Tribunal, Supplementary Affidavit dated 20.12.2021 has been filed on behalf of the respondents. They have stated that pursuant to the directions of the Superintendent Engineer, *vide* order dated 30.07.2015 ordered to Sri Sarvendra Kumar Yadav (Deceased) to take the charge from the petitioner and thereafter the above named person took the charge from the petitioner and in this process on 14 days time was taken *i.e.* from 28.07.2015 to 10.08.2015. The respondents have

further stated that the pension papers of the petitioner to the treasury on 17.10.2014 and 16.02.2016 for the payment of provisional pension and same was paid to the petitioner by the treasury office. But due to non submission of Stock and T&P Register (due to non-validation of register) to the office of the respondent by Sarvendra Kumar Yadav, the pension matter of the petitioner was delayed but after getting the verification of stock the final pension and gratuity of the petitioner was released and the treasury vide order dated 08.12.2017 paid the amount of gratuity of Rs. 5,28,670.00 and arrears of pension of Rs. 3,58,504.00 to the petitioner. The relevant Copies of papers regarding the delayed sanction of the pension of the petitioner and the payment of pension & Gratuity have been collectively annexed as Annexure No. SCA-3 to the affidavit. The delay caused in releasing the final pension of the petitioner is due to the non-submission of the verification of the stock and Tools & Plant register by Mr. Sarvendra Kumar Yadav (Deceased). It is further submitted that the respondent department did not call the petitioner for physical appearance, but the petitioner in connivance with Mr. Sarvendra Kumar Yadav (Now Deceased) got delayed the stock verification and T&P Register, thus due to that, the delay in caused in payment of final pension and gratuity.

11. Learned Counsel for the petitioner also replied to the supplementary affidavit filed by the respondents, in which, he has repeated the averments, which have already mentioned in the claim petition.

12. Perusal of Annexure No. 8, which is letter dated 27.07.2015, written by Superintending Engineer to Chief Engineer, Kumaon. In last para of this letter, it is written that at Mr. Satyendra Yadav, Store Keeper is still not taking the task of taking over the charge from Sri Jagdish Chandra Pathak, Storekeeper seriously due to which it is not possible to take over the charge within one month. Therefore, it is requested to direct the officers of Irrigation Division Kashipur at your level to be present at the store at Gularbhoj, till entire charge is taken over by the

concerned Storekeeper and the copy to Mr. Jagdish Chandra Pathak, retired Storekeeper, Dhar Bithoria No. 1 S.R. Puram P.O. Haripurayak, Haldwani for information and with instructions that you may be present at the store at Gularbhoj, till the entire charge. The petitioner completed age of superannuation on 30.06.2014, however, since the petitioner was having the excess work, therefore, through communication dated 22.05.2014 he was directed to handover the charge prior to his retirement and for this purpose the Chief Engineer (Kumaon), Irrigation Department, Uttarakhand, Haldwani *vide* his office letter no. 2173/CEK/E-10 (Storekeeper) dated 22.05.2014 ordered to Shri Gopal Dutt Joshi, Storekeeper of Irrigation Division, Rudrapur to take over the charge from the petitioner. But, Shri Joshi due to his family circumstances did not take over the charge. Thereafter Chief Engineer (Kumaun), irrigation department, Uttarakhand, Haldwani *vide* his office letter no. 2905/CEK/E 10 (Storekeeper) dated 30.06.2014 ordered to Shri Satyendra Singh Yadav, Storekeeper, to take over charge from the petitioner, but he also refused to take over the charge, in which, the department has taken serious cognizance of the matter of defying the order of superior authority as well as dereliction of duty by Shri Satyendra Singh Yadav, Storekeeper, therefore, a departmental proceeding was recommended to the Chief Engineer, Level-1. Consequently, Shri Sarvendra Kumar Yadav, Storekeeper, lastly took over the charge of Storekeeper from the petitioner on 10.8.2015. In this process 14 days' time took i.e. from 28.07.2015 to 10.08.2015.

13. The pension papers of the petitioner to the treasury on 17.10.2014 and 16.02.2016 for the payment of provisional pension and same was paid to the petitioner by the treasury office. But due to non submission of Stock and T&P Register (due to non-validation of register) to the office of the respondent by Shri Sarvendra Kumar Yadav, the pension matter of the petitioner was delayed but after getting the verification of stock the final pension and gratuity of the petitioner was released and the treasury *vide* order dated 08.12.2017 paid the amount

of gratuity of Rs. 5,28,670.00 and arrears of pension of Rs. 3,58,504.00 to the petitioner. The relevant Copies of papers regarding the delayed sanction of the pension of the petitioner and the payment of pension & Gratuity are collectively filed as Annexure No. SCA-3 of the affidavit. The delay caused in releasing the final pension of the petitioner is due to the non-submission of the verification of the stock and Tools & Plant register by Mr. Sarvendra Kumar Yadav (Deceased). It is also pertinent to mention here that the respondent department did not call the petitioner for physical appearance, but the petitioner in connivance with Mr. Sarvendra Kumar Yadav (Now Deceased) got delayed the stock verification and T&P Register, thus due to that the delay in caused in payment of final pension and gratuity.

14. The petitioner pursuant to the order dated 15.04.2019 passed by the Hon'ble High Court of Uttarakhand, made his representation on 12.07.2019, for grant of pension, for his alleged service after retirement, before the Secretary, Irrigation, Government of Uttarakhand, Dehradun, who in compliance of the order dated 15.04.2019 has considered the matter of the petitioner and after due consideration found the same without any substance and improper and has accordingly passed a speaking order *vide* letter no. 1426/11(1)-2019-06 (32)/2019 dated 05-09-2019 and thereby disposed of the representation of the petitioner, with the specific comment that since the petitioner after attaining the age of superannuation retired from service on 30.06.2014 and merely on the basis of handing over of charge, for which he had not shown any interest while in service, therefore, *vide* Government letter no 349/11)-2019-01-(77)/2016 Irrigation Section-1 Dehradun dated 25.03.2019, it was decided not to extend the services of the petitioner.

15. The petitioner does not have a vested right to receive the salary after having attained the age of superannuation. Salary is paid for services rendered in accordance with rules. Any service rendered beyond the period of retirement is in violation of rules which cannot entitle the

petitioner to claim salary as a vested or accrued right. There being no right to continue in service, there is occasion to infer entitlement of payment of salary. The petitioner in fact and in law shall be presumed to have knowledge about his date of retirement according to the service conditions applicable. The petitioner, having knowledge, has voluntarily chosen to continue which in turn cannot confer a legal right to claim salary. Since the petitioner after attaining the age of superannuation retired from service on 30.06.2014 and merely on the basis of not handing over of charge, the benefit of service extension cannot be granted. Hence, the claim petition is liable to be dismissed.

16. The claim petition is hereby dismissed. No order as to costs.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

DATE: JULY 13, 2023
DEHRADUN
KNP