

**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. 99/SB/2023**

Binder Kumar, s/o Sri Rajpal Singh, Chief Assistant, Uttarakhand Jal Sansthan, r/o Village- Miragpur, Tehsil- Deoband, Saharanpur. Attached with Uttarakhand Jal Sansthan, New Tehri.

.....Petitioner

**VS.**

1. The State of Uttarakhand through Secretary, Peya Jal, Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. The General Manager (HQR), Uttarakhand Jal Sansthan, Jal Bhawan, B. Block, Nehru Colony, Dehradun.
3. The Superintending Engineer, 58, Rishikesh Road, Bhoopatwala, Haridwar, Uttarakhand 247663.
4. The Executive Engineer, Rural Engineering Service Department, Haridwar Division, Haridwar.
5. The Collector, District Haridwar, Uttarakhand.
6. The Collector, District Saharanpur, Uttar Pradesh.
7. The Assistant Engineer, Uttarakhand Jal Sansthan, Laksar, Haridwar.
8. The Junior Engineer, Uttarakhand Jal Sansthan, Laksar, Haridwar.

....Respondents.

Present: Sri Uttam Singh, Advocate, for the petitioner.

Sri V.P.Devrani, A.P.O., for the Respondent No.1.

Sri Deepak Singh, Advocate, for Respondents No.2, 3, 7 & 8.

**JUDGMENT**

**DATED: AUGUST 01, 2023**

**Justice U.C.Dhyani (Oral)**

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

- “i) To call the records of the respondent and quash the recovery order dated 02.05.2023 for Rs. 1,81,12,710/- (Annexure: A-1).
- ii) To call the records of the respondent and quash the order dated 06.05.2023 (Annexure: A-2).
- iii) To quash the report dated 28.12.2020 being violation of the principles of natural justice and violation of the Uttarakhand Government Servant (Discipline and Appeal) Rules 2003 as amended in 2010 (Annexure: A-10).
- iv) Any order the Hon’ble Tribunal may deem fit and proper
- v) Award cost of the petition to the petitioner.”

2. At the very outset, Ld. A.P.O. as well as Ld. Counsel for Uttarakhand Jal Sansthan raised objection that the petition in respect of Relief No. (iii) is not maintainable. According to them, such relief is premature.

2.1 In reply, Ld. Counsel for the petitioner seeks to withdraw the Relief No. (iii) with liberty to raise the same before the appropriate authority on an appropriate occasion.

2.2 Such liberty is granted. The claim petition, in respect of Relief No. (iii) is dismissed as withdrawn with liberty as above.

3. Petitioner is Chief Assistant in Uttarakhand Jal Sansthan. At present he is under suspension and has been attached to the office of Executive Engineer, Uttarakhand Jal Sansthan, New Tehri. It is the submission of Ld. Counsel for the petitioner that no charge-sheet has yet been issued to the petitioner. Formal enquiry has not yet started. Ld. Counsel for the petitioner also submitted that the order for recovery of Rs.1,81,12,710/- has been issued against him. A requisition has been sent by the Executive Engineer, Uttarakhand Jal Sansthan, Haridwar on 02.05.2023 to the Collector, Haridwar for recovery of the aforesaid amount. Since the petitioner hails from

Saharanpur, therefore, the Collector, Haridwar has forwarded the same to the Collector, Saharanpur on 06.05.2023.

4. Recovery order has been put to challenge in present claim petition, primarily on the ground that no recovery can be made as arrears of land revenue from the petitioner, who is a public servant and recovery has been ordered in his capacity as public servant. It is the submission of Ld. Counsel for the petitioner that petitioner is Chief Assistant and allegedly, he has misappropriated some money, recovery of which is being made from him as arrears of land revenue.

5. Replies/ objections have been filed on behalf of Respondents No. 2, 3, 7 & 8. Ld. A.P.O. submitted that Respondent No.1 is adopting the same replies/objections which have been filed on behalf of Respondents No. 2, 3, 7 & 8.

6. The Primary objection of the Respondent Jal Sansthan is that the instant claim petition is not maintainable and this Tribunal has no jurisdiction to entertain this petition.

7. The Tribunal gave anxious consideration to find out whether present reference is cognizable by the Tribunal or not. It will be appropriate to reproduce order dated 13.06.2023, passed by the Tribunal, herein below to reflect such anxiety:

“Petitioner has filed the petition for quashing recovery order dated 02.05.2023 (Annexure; A1), order dated 06.05.2023 (Annexure: A2) and report dated 28.12.2020 (Annexure: A11).

At the very outset, Sri V.P. Devrani, learned A.P.O. and Sri Sanjay Kumar, in-charge legal cell, Uttarakhand Jal Sansthan, objected to the maintainability of the claim petition, inter alia, on the ground that the matter is cognizable by Civil Court.

Sri Uttam Singh, learned Counsel for the petitioner, on the other hand, drew attention of this Tribunal towards sub-section (1) of Section 4 of the U.P. Public Services (Tribunal) Act, 1976 (as applicable to the State of Uttarakhand), to submit that the words used in the sub-section are "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."

Learned Counsel for the petitioner further submitted that a petitioner is an employee of Uttarakhand Jal Sansthan and he has approached this Tribunal for seeking relief against the recovery order.

In reply, Sri V.P. Devrani, learned A.P.O. and Sri Sanjay Kumar, in-charge legal cell, Uttarakhand Jal Sansthan, submitted that recovery order dated

02.05.2023 (Annexure: A1) is a letter written by Executive Engineer, Maintenance Division, Uttarakhand Jal Sansthan, Haridwar, to District Magistrate, Haridwar, for recovery of money, which has been embezzled by the petitioner, a Head Assistant (under suspension). Order dated 06.05.2023 (Annexure: A2) is a letter written by the Collector, Haridwar to Collector, Saharanpur, for recovery of Rs. 81,12,710.00 as arrears of land revenue under the Revenue Recovery Act, 1890. Annexure: A-II is report dated 28.12.2020 submitted by Sri D.K. Singh, enquiry officer/ S.E., Uttarakhand Jal Sansthan.

The contention of learned Counsel for the petitioner, therefore, is that a public servant can approach this Tribunal, who is aggrieved by an order pertaining to a service matter.

The contention of learned A.P.O. and Sri Sanjay Kumar, on the other hand, is that the petitioner should have approached Civil Court for seeking relief against the recovery certificate issued under the Revenue Recovery Act, 1890.

Sub-Rule (3) of Rule 4 of the U.P. Public Services (Tribunal) Act, 1976, provides 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."

The matter, therefore, requires to be probed further to find out whether the reference is cognizable by the Tribunal or not?

Learned Counsel for the parties are therefore, requested to file the documents in support of their submissions. The petitioner shall file the documents in support of his argument that the claim petition is cognizable by the Tribunal. Respondents may, on the other hand, file documents in support of their contention that the matter is cognizable by the Civil Court.

List on 23.06.2023 for hearing on admission, on the joint request of learned Counsel for the parties."

The parties have, accordingly filed documents in support of their respective contentions.

8. Sri V.P.Devrani, Ld. A.P.O. as well as Sri Deepak Singh, Ld. Counsel for Uttarakhand Jal Sansthan submitted that if cognizance of such type of petitions are taken by the Tribunal, there will be floodgate of such litigation before the Tribunal. Ld. Counsel for Uttarakhand Jal Sansthan and Ld. A.P.O. vehemently argued that present petition should be returned to the petitioner for presentation before Civil Court and should not be taken cognizance of by the Tribunal. It may be noted here that the Tribunal has replied to such anxiety of Ld. Counsel for the respondents, in piecemeal, in its order dated 13.06.2023. It may further be noted here that the petitioner is a public servant, who is aggrieved by an order pertaining to service matter and, therefore, can approach the Tribunal by virtue of sub-section (1) of Section 4 of the Uttar Pradesh Public Services (Tribunal) Act, 1976 (as applicable to State of Uttarakhand).

9. It may also be noted here that alleged misappropriation, for which recovery order has been issued against the petitioner, is in his capacity as Chief Assistant in Uttarakhand Jal Sansthan and not in his personal capacity. It is not a case in which the petitioner has taken a loan from some bank, committed default in repayment of the installments of the loan and, therefore, recovery order has been issued against him by the Collector to realize the loan obtained by the petitioner from such bank. Allegedly, it has been stated that the petitioner realized cost of the water from the consumers and did not deposit the same in the Treasury/ Bank and, therefore, caused loss to the State Govt./ Uttarakhand Jal Sansthan. An FIR under Section 409 IPC has been lodged against him for such offence. Had the recovery been for a loan from a bank, the matter would have definitely been cognizable by Civil Court, but here it is not so. The recovery order has been issued against the petitioner, in the capacity of a public servant, allegedly, for committing misappropriation in respect of some money (cost of water) realized from the consumers. Section 4 of the Revenue Recovery Act, 1890 reads as below:

**“4. Remedy available to person denying liability to pay amount recovered under last foregoing section-** (1) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may, if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit for the repayment of the amount or the part thereof so paid.

(2) A suit under sub-section (1) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at the place where the arrear accrued or the liability for the payment of the sum arose.

(3) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, but subject to the law in force at the place aforesaid, give evidence with respect to any matter stated in the certificate.

(4) This section shall apply if under this Act as in force as part of the law of Pakistan or] Burma, or under any other similar Act forming part of the law of Pakistan or] Burma, proceedings are taken against a person in [Pakistan or Burma, as the case may be, for the recovery of an amount stated in a certificate made by a Collector in [any State to which this Act extends].

10. There is no denying the fact that the Uttar Pradesh Public Services (Tribunal) Act, 1976 is a Special Act. It is settled law that Special

Law will prevail over General Law. Here, the petitioner has approached this Tribunal in the capacity of public servant, as, allegedly he has embezzled or misapplied the amount of cost of water collected from the consumers, and failed to deposit it in the Treasury or Bank, for which recovery order, as arrears of land revenue, has been issued therefore, the matter would be cognizable by this Tribunal.

11. This Tribunal is, therefore, of the considered view that the matter is cognizable by the Tribunal.

12. The question, whether such money can be recovered from the petitioner as arrears of land revenue or not, is no longer *res integra*. In decision rendered by Hon'ble Allahabad High Court in Civil Misc. Writ Petition No. 8761/1978, Satya Nand vs. The District Magistrate Saharanpur and others, on 28.08.1991 [reported in 1991 A.W.C. 1479], Hon'ble High Court has observed as under:

“The petitioner at the relevant time, was removed from service by order dated 18<sup>th</sup> December 1976 on the charges of embezzlement The petitioner was also awarded punishment that he would not be entitled to any pay during the period of suspension except the subsistence allowance and the period of suspension will not be considered as service. The petitioner was however, held liable to pay the amount of Rs 19328.70 paise and this was directed to be recovered from the security movable and immovable properties of the petitioner. The respondent no. 3 directed for the recovery of Rs. 19328.70 as the land revenue and the recovery proceedings were initiated, against the petitioner.

2. By the present petition under Article 226 of the Constitution the petitioner has prayed for necessary directions to restrain the respondents from recovering the amount of Rs. 19328.70 as arrears of land revenue.

3. According to the petitioner the recovery of this amount cannot be made from the petitioner as land revenue and, as such, proceedings initiated under the provisions of U. P. Zamindari Abolition and Land Reforms Act or under U P. Land Revenue Act are illegal and without jurisdiction. It has further been contended that in accordance with the Government order dated 18<sup>th</sup> December 1976 the amount was liable to be recovered towards loan from the security of movable and immovable properties of the petitioner.

4. In the counter affidavit filed on behalf of the respondents it has only been alleged that the amount was due from the petitioner, as government money and the same could he recovered as arrears of land revenue.

5. It is no doubt correct that the power to recover the public dues as arrears of land revenue, which are provided under the statutory provisions, may be recovered through the machinery provided under the provisions of U. P.

Zamindari Abolition and Land Reforms Act or U P Land Revenue Act or U. P. Public Money's (Recovery of dues) Act. But every public dues can not be recovered as arrears of land revenue unless they are provided to be recovered as arrears of land revenue under the statutory provisions, fulfilling certain conditions laid therein. Thus the question whether a particular amount is recoverable as arrears of land revenue or not, has to be answered with reference to other statutory provisions granting sanction for the same. For example Section 225 of U. P. Zamindari Abolition and Land Reforms Act, enjoins that arrears of rent, sayar or other dues due in respect of property vesting in the Central or the State Government or in a Gaon Sabha or a local authority or in respect of the area attached under the provisions of section 289 of the said Act, may be recovered as arrears of Land revenue.

6. Similarly, section 3 of U. P. Public Moneys (Recovery of dues) Act permits recovery of certain public dues when the following conditions are fulfilled :

(a) Where any person is party to any agreement relating to any Loan, advance or grant given to him or relating to credit in respect of, or relating to hire purchase of goods sold to him by the State Government or the Corporation, by way of financial assistance.

(b) Where any person is a party to an agreement relating to a loan, advance or grant given to him or relating to credit in respect of, or relating to hire purchase of goods sold to him by a banking company or a government company under a state sponsored scheme.

(c) Where any person is a party to an agreement relating to a guarantee given by the State Government or the Corporation in respect of a loan raised by an industrial concern.

(d) Where any person is a party to an agreement providing that any money payable there under to the State Government or the corporation shall be recoverable as arrears of land revenue.

Thus coercive process cannot be adopted for every Government dues unless there is statutory sanction or an agreement for the amount to be recovered as arrears of land revenue, formally such sanction is contained in special enactment under which or the particular amount falls, due.

7. There is nothing on record to indicate that the amount directed to be recovered from the security movable or immovable properties of the petitioner, could be recovered as arrears of land revenue. The respondents have not been able to place any statutory provision, which may give sanction for the recovery of this amount as arrears of land revenue. It would not be correct to say that every amount due to the State or the Central Government is recoverable as arrears of land revenue.

8. For the reasons stated above the petition succeeds and is allowed. The recovery proceedings initiated against the petitioner for recovery of the afore-said amount as arrears of land revenue are not in accordance with the law. The respondents are restrained from realising the amount of Rs. 19328.70 paise as arrears of land revenue. However, it will be open to the respondents

to recover the aforesaid amount by other processes, in accordance with the law.”

[This is complete text of the judgment]

13. The aforesaid view has been reiterated by Hon’ble Allahabad High Court in Civil Misc. Writ Petition No. 17360/2001, Bala Prasad Agnihotri vs. U.P. State Public Services Tribunal and others, decided on 08.05.2001[reported in 2001(2) AWC 1507]. Relevant portion of such judgment is reproduced herein below for convenience:

“4. The petitioner challenged the termination order before the U.P. Public Service Tribunal but his claim petition was dismissed on 28.3.2001. Hence this petition.

5. Admittedly the petitioner was given opportunity of hearing. Serious allegations have been made against the petitioner as is evident from a perusal of the impugned termination order dated 10.2.82. He has alleged to have caused a loss of Rs. 2,68,298.50 due to fictitious entries which he had made.

6. The findings in the enquiry that the petitioner has defalcated Government money are findings of fact and we cannot interfere with the same in writ jurisdiction. We therefore, upheld the termination order.

7. Learned counsel for the petitioner then submitted that recovery cannot be made as arrears of land revenue. This submission appears to be correct. Only those amount can be recovered as arrears of land revenue for which there is a statutory provision vide Ram Bilas Tibriwal v. Chairman, Municipal Board, 1998 (2) AWC 1468 and Anupam Sari Centre v. Collector, 1999 (1) AWC 237. However, no such statutory provision has been shown to us. Hence, we direct that the amount in question cannot be recovered as arrears of land revenue and the orders dated 08.03.1988 are quashed.”

14. The next question, which arises for consideration of this Tribunal is, whether any provision exists in the Uttar Pradesh Water Supply and Sewerage Act, 1975 (for short, Act of 1975), for realizing such money as arrears of land revenue or not ?

15. Sri Deepak Singh, Ld. Counsel for Respondents No. 2, 3, 7 & 8 relied upon Sections 51 and 64 of the Act of 1975, which provisions are quoted herein below for use:

“51. Surcharge.- (1) The Chairman and other members, officers and employees of the Nigam, or, as the case may be, of the Jal Sansthan, shall be liable to surcharge for the loss, waste or misapplication of any money or property of the Nigam or the Jal Sansthan if such loss, waste or misapplication is a direct



consequence of his neglect or misconduct while acting as such Chairman, or other member or officer or employee.

(2) The procedure of surcharge shall be such as may be prescribed.

(3) Any amount found to be involved in such loss, waste or misapplication as a result of proceedings for surcharge shall be recoverable as arrears of land revenue.

(4) Nothing in sub-section (3) shall prevent the Nigam or the Jal Sansthan from deducting any amount referred to therein from any sum payable by the Nigam or the Jal Sansthan on account of remuneration or otherwise to such Chairman or other member or officer or employee.

**64. Recovery of taxes and other sums due.-** (1) Any sum due to a Jal Sansthan on account of tax, fee, cost of water, cost of disposal of waste water, the meter-rent, penalty, damage or surcharge under this Act, shall be recoverable as arrears of land revenue.

(2) Nothing in sub-section (1) shall affect the power of Jal Sansthan to cut off in accordance with its bye-laws, the connection of water supply in the event of non-payment by the consumer of any dues referred to in that sub-section.”

16. Ld. Counsel for the Uttarkhand Jal Sansthan submitted that the impugned order dated 02.05.2023 has rightly been passed on the basis of act of embezzlement of cost of water received by the petitioner and this act does not fall under the service conditions of the petitioner, hence, the instant claim petition is liable to be dismissed on this ground alone.

17. It is further submitted by Ld. Counsel for the respondents that during the course of enquiry and also in pursuance to show Cause Notice dated 28.02.2020, the petitioner has admitted on oath, through his affidavit dated 05.03.2020, that he has received the amount against the receipts issued by him and had not deposited the amount received by him in the bank account of the Respondent Jal Sasthan. The Additional Chief Judicial Magistrate, Laksar has passed an order dated 11.04.2022 for attachment of property of the petitioner on the basis of the FIR filed by Respondent Department against the petitioner. The petitioner is evading his arrest, despite the fact that Police has filed the Charge-sheet in Court at Laksar, Haridwar. The petitioner has not reported to the place of his attachment *i.e.* Tehri Division office till June 2023, as instructed to him in his suspension order dated 05.01.2021. In fact, petitioner reported after about 2 years of passing his suspension-cum-attachment order. (Copy of Suspension order dated 05.01.2021:

ANNEXURE-7). The order dated 02.05.2023 to recover the embezzled cost of water to the tune of Rs. Rs. 1,64,66,100/- through land revenue has rightly been passed as per the provisions of Section 51 & 64 of the Uttar Pradesh Water Supply & Sewerage Act, 1975 to recover any loss or damage or cost of Water from its employee through land revenue.

18. Ld. Counsel for the respondents also submitted in the written objections that the use of word 'surcharge' under section 64 clearly demonstrates that both the section *i.e.* section 51 & section 64 are interconnected and accordingly the Legislation has vested rights in the Respondent Department to recover any amount payable to them as arrear of land revenue. Ld. Counsel for the respondents emphasized that if it was the intention of the Legislature while passing the Uttar Pradesh Water Supply & Sewerage Act, 1975 that the provisions of section 64 are applicable only on the consumers and not on the its employees, in that case the same would have been clarified. Therefore, in absence of any such clarification about applicability only upon consumers, it is implied that the provisions of section 64 of Uttar Pradesh Water Supply & Sewerage Act, 1975 are universally applicable upon employees of Respondent Jal Sasthan as well as upon consumers. Provisions of section 51 & 64 of Uttar Pradesh Water Supply & Sewerage Act, 1975 clearly demonstrate that it was the intention of the Legislature to give Respondent Department right to recover any amount due to Department as arrears of land revenue, and had this not been the case, in that eventuality, there would not have been mention of land revenue in the entire whole Uttar Pradesh Water Supply & Sewerage Act, 1975. Hence, the order dated 02.05.2023 has rightly been passed, according to the respondents.

19. Ld. Counsel for Uttarakhand Jal Sansthan vehemently argued that the cost of water may be recovered from the petitioner as arrears of land revenue in view of the aforesaid provisions of the Act of 1975. He would further submit that the intention of the Legislature, while drafting the Act of 1975, was to realize the cost of water from the defaulters as land revenue. He also submitted that the money in respect of which recovery order has been issued against the petitioner, relates to water tax, which the petitioner has collected from the consumers of water.

20. It is true that the petitioner, who is an employee of the Respondent Jal Sansthan, may be held liable to surcharge for misapplication of any money, if such misapplication is a direct consequence of his misconduct, while acting as employee of Jal Sansthan. It has been clearly specified in Section 51(1) of the Act of 1975.

21. The facts, which have been demonstrated before the Tribunal, are that the petitioner embezzled the money which he, along with others, collected as cost of water. This he did in the capacity of an employee. If such facts are true, there is clearly a case of misapplication of money by the petitioner for which the petitioner may be surcharged. The word 'surcharge' has been defined as follows:

‘Excessive burden, load or charge; additional amount or charge; over charge; extra amount of money that one has to pay for something, especially unlawful charge.’

22. “51 (3)- Any amount found to be involved in such loss, waste or misapplication as a result of proceedings for surcharge shall be recoverable as arrears of land revenue. .”

Sub- section (3) of Section 51 of the Act of 1975 (extracted above) provides that any amount found to be involved in such misapplication as a result of proceedings for surcharge shall be recoverable as arrears of land revenue. Sub-section (2) of Section 51 of the Act of 1975 provides that the procedure of surcharge shall be such as may be prescribed. No Regulations or orders have been brought to the notice of the Tribunal to show that procedure of surcharge has been laid down. Jal Sansthan cannot proceed unless the procedure of surcharge has been notified.

23. The benefit of Section 51, therefore, cannot be given to the Respondent Jal Sansthan.

24. Section 64 of the Act of 1975 provides that the cost of water, damage or surcharge etc. under the Act, shall be recovered as arrears of land revenue.

25. The Tribunal also heard the arguments of Ld. Counsel for the parties at length on, whether Section 64 applies to an employee or is confined

only to a consumer of Water Supply. While, on the one hand Ld. Counsel for Uttarakhand Jal Sansthan and Ld. A.P.O. made their best efforts to justify the departmental action, Ld. Counsel for the petitioner submitted that Section 64 is applicable only to consumers of Water Supply and not to an employee of Jal Sansthan. **According to Ld. Counsel for the petitioner, even if it is found that the petitioner, as an employee of Jal Sansthan, collected cost of water from the consumers but failed to deposit in the Treasury or Bank, the loss cannot be recovered from him as arrears of land revenue.**

26. The Tribunal gave anxious consideration to the aforesaid vital aspect of the case. In an endeavour to find the reply to the controversy, we lay our finger at sub-section (2) of Section 64 of the Act of 1975, which reads as below:

“64-(2) Nothing in sub-section (1) shall affect the power of Jal Sansthan to cut off in accordance with its bye-laws, the connection of water supply in the event of non-payment by the consumer of any dues referred to in that sub-section.”

*[emphasis supplied]*

It, therefore follows that sub-section (1) of Section 64 refers to the consumer, otherwise the Legislature, in its wisdom, would not have used words, ‘.....connection of water supply in the event of non-payment by the consumer of any dues referred to in that sub-section.’

The opening lines of sub-section (2) read as, “Nothing in sub-section (1) shall affect the power of Jal Sansthan...”. Sub-section (2) refers to the dues. The opening words of sub-section (1) of Section 64 read as, “Any sum due to a Jal Sansthan on account of .....”.

**It, therefore, follows that any sum due to Jal Sansthan under the Act, shall be recovered as arrears of land revenue in the event of non-payment by the consumer of any dues referred to in sub-section(1) of Section 64. The reply to this question, therefore, is that any sum may be recovered as arrears of land revenue from the consumer and not from a person like the petitioner, who is an employee in the instant case.**

27. It does not mean that the money, allegedly embezzled by the petitioner or money, allegedly misapplied by the petitioner, cannot be recovered from him. The same may be recovered from him, but only as per

law. Certainly, recovery as arrears of land revenue is not the mode in which such sum may be recovered from him.

28. In all humility, the Tribunal is unable to accept the contention of Ld. Counsel for Uttarakhand Jal Sansthan and Ld. A.P.O. that the petitioner is covered under the definition of 'consumer'. It is reiterated that coercive process can not be adopted for every Government dues unless there is a statutory provision for the amount to be recovered as arrears of land revenue.

29. For the reasons stated above, the claim petition is partly allowed, at the admission stage, but only after taking the counter version of the respondents on record, in respect of Reliefs No. (i) & (ii). Claim petition in respect of Relief No. (iii) has been dismissed as withdrawn. The recovery proceedings for recovery of Rs.1,81,12,710/- from the petitioner as arrears of land revenue are not in accordance with the law. The respondents are restrained from realizing such amount from the petitioner as arrears of land revenue by adopting coercive measures. However, it will be open to the respondents to recover the aforesaid amount by other procedures and processes, in accordance with law.

The claim petition is, accordingly disposed of. No order as to costs.

**(RAJEEV GUPTA)**  
VICE CHAIRMAN (A)

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: AUGUST 01, 2023.*  
*DEHRADUN*

*VM*