

**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)

**CONTEMPT PETITION NO. C-05 /DB/2023**

*(Arising out of, Claim petition No. 76/DB/2023, decided on  
01.05.2023)*

Prakash Chandra Gautam.

.....Petitioner

vs.

The Managing Director, Uttarakhand Pey Jal Sansdhan Evam Vikas Nigam.

.....Respondent

Present: Sri M.S.Rawat, Advocate for the petitioner. (online)  
Sri V.P.Devrani, A.P.O., in assistance of the Tribunal.  
Dr. N.K.Pant, Advocate, for Uttarakhand Pey Jal Sansdhan  
Evam Vikas Nigam (online)

**JUDGMENT**

**DATED: AUGUST 04, 2023.**

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

Present contempt petition has been filed by the petitioner, against the respondent (alleged contemnor), for the following reliefs:

“i) To initiate the contempt proceedings and summon the respondent in person and to punish him for deliberate and intentional non-compliance of the judgment and order dated 01.05.2023 passed by this Hon'ble Court in Claim Petition No. 76/DB/2023, Prakash Chandra Gautam vs. State of Uttarakhand and others, otherwise the petitioner shall suffer irreparable loss and injury.

ii) To direct the respondent to comply the judgment and order dated 01.05.2023 passed by this Hon'ble Court in Claim Petition No. 76/DB/2023, Prakash Chandra Gautam vs. State of Uttarakhand and others, in letter and spirit.

iii) To issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of this case.

iv) Award cost of the petition.”

2. Considering the facts of the case, the Tribunal does not think it expedient and proper to take action against the respondents under the provisions of the Contempt of Courts Act, 1971, as of now.

3. The contempt petition is, accordingly, converted into Execution Application, in the interest of justice.

4. It will be useful to reproduce the entire text of the judgment rendered by this Tribunal on 01.05.2023 in Claim Petition No. 76/DB/2023, Prakash Chandra Gautam vs. State and others, herein below for convenience:

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

A) In view of the facts and grounds as mentioned above the applicant prays that this Hon'ble Tribunal may graciously be pleased to set aside the impugned show cause notice dated 10-02-2023 passed by respondent No. 3 (Annexed as Annexure No. 1 to this petition.) and impugned charge-sheet dated 25-02-2023 passed by the respondent No. 2 (Annexed as Annexure No. 2 to this petition), otherwise the petitioner shall suffer irreparable loss and injury.

B) To Issue a writ order or direction in the nature of Mandamus commanding the Respondents to forthwith release the outstanding retiral benefits to the petitioner along with interest of 18% from the date of retirement, details whereof is given herein below:-

A) Gratuity = Rs. 20,00,000/- (approx.) (sanctioned but not paid)

B) Leave Encashment (300 days) = Rs. 20,00,000/- (approx.)  
(sanctioned but not paid)

C) Arrears of 7th Pay Commission = Rs. 1,98,222/- (approx.)  
(sanctioned but not paid).

D) Traveling Allowances = Rs. 30,136/- (approx.)  
(sanctioned but not paid)

E) Dearness Allowances = Rs. 40,636/- (approx.)  
(sanctioned but not paid)

Total Amount = Rs. 42,68,994/- (Approx)

C) To issue any other suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

D) To issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

E) Award cost of the petition.”

2. Petitioner, an Executive Engineer in the respondent department, retired on 31.08.2022. He moved various representations for release of his retiral dues, but to no avail.

3. After six months of his retirement, he received show cause notice dated 10.02.2023 and a charge-sheet dated 25.02.2023, which are under challenge in present claim petition.

4. It is the submission of Ld. Counsel for the petitioner that impugned show cause notice and charge-sheet, after six months of his retirement, were issued under the Uttarakhand Peyjal Nigam Personnel (Discipline and Appeal) Rules, 2017, just to harass the petitioner. It is also the submission of Ld. Counsel for the petitioner that the departmental proceedings, after retirement of the petitioner, have been initiated in clear violation of Article 351-A of Civil Service Regulations.

5. Ld. Counsel for the petitioner further submitted that in *State of Jharkhand vs. Jitendra Kumar Srivastava and another, (2013)12 SCC 210*, it has been observed that the right to receive pension is recognized as a right to 'Property'. The petitioner has enclosed copies of judgments passed by Hon'ble High Court in WPSB No. 541/2022 on 12.09.2022, in WPSB No. 170/2020 on 28.03.2023, in support of his contention for release of retiral dues along with interest.

6. Petitioner approached Hon'ble High Court for redressal of his grievances. In WPSB No. 140/2023, the Hon'ble Court *vide* order dated 19.04.2023, observed as under:

“The petitioner is a public servant. The reliefs sought in the petition squarely fall for consideration by the Uttarakhand Public Services Tribunal.

Accordingly, we dismiss this petition with liberty to the petitioner to approach the Public Services Tribunal to claim his reliefs, as sought in this petition.”

7. Petitioner has, therefore, filed present claim petition for the reliefs which have been mentioned in the inaugural paragraph of this judgment. It has been mentioned in Para 05 of the claim petition that the petitioner has approached respondents for several times and requested the authorities to make payment of gratuity, leave encashment and other benefits, which have not been released so far. The last representation for release of pending retiral dues was moved by the petitioner on 27.03.2023.

8. The submission of Ld. Counsel for the petitioner is that the petitioner's representation may kindly be directed to be decided by the respondent department by a reasoned and speaking order, as per law. Ld. Counsel for the petitioner also submitted that the respondent department be also directed to release all the admitted retiral dues of the petitioner with admissible interest, at the earliest possible. Innocuous prayer of Ld. Counsel for the petitioner is worth accepting.

9. The claim petition is disposed of, at the admission stage, by directing Respondent No.2 ( Managing Director, Uttarakhand Peyjal Sansdhan Evam Vikas Nigam, Dehradun), to decide pending representation of the petitioner, at the earliest possible, in accordance with law. Respondent department is also directed to release the admitted retiral dues along with admissible interest to the petitioner with utmost expedition, preferably within 08 weeks of presentation of certified copy of this order. Rival contentions are left open. No order as to costs.”

5. Ld. Counsel for the petitioner submitted that respondent department was served with the copy of the judgment dated 01.05.2023 of this Tribunal, on 03.05.2023, but the department is not complying with the judgment of the Tribunal. Petitioner moved reminders after serving copy of the judgment dated 01.05.2023, but the department has not released the dues of the petitioner, except arrears of 7<sup>th</sup> Pay Commission w.e.f. 01.01.2016 to 31.12.2026. It is the submission of learned counsel for the petitioner that casual approach on the part of respondent department should not be tolerated and strict action should be initiated against it.

6. Dr. N.K.Pant, Ld. Counsel for Respondent Pey Jal Sansdhan Evam Vikas Nigam, stated that suitable orders, as per law, shall be issued and representation of the petitioner shall be decided at the earliest.

7. The Tribunal records the aforesaid statement of Dr. N.K.Pant, Ld. Counsel for Uttarakhand Pey Jal Sansdhan Evam Vikas Nigam and closes the execution application with the direction to the respondent department to take suitable action without further loss of time, failing which the concerned authority may be liable to face appropriate action under the relevant law governing the field.

8. Petitioner/ executioner is directed to place a copy of this order before the authority concerned by 14.08.2023, to remind that a duty is cast upon said authority to do something, which has not been done.

9. Execution application is, accordingly, disposed of at the admission stage.

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

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

*DATE: AUGUST 04, 2023*  
*DEHRADUN*

VM