

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

Present: Hon'ble Mr. Rajendra Singh

----- Vice Chairman (J)

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

**CLAIM PETITION NO. 18/NB/DB/2019**

Smt. Kalpna Manral, w/o Sri J.S.Manral, presently posted as Superintendent, Government Probation, Home, (Women) Almora.

.....Petitioner

**Vs.**

1. State of Uttarakhand through Secretary, Social Welfare, Dehradun, Uttarakhand.
2. Director, Women Welfare, Uttarakhand through Director, Social Welfare Department, Dehradun, Uttarakhand.
3. Chief Probation Officer, Women Welfare Department, Dehradun.

.....Respondents

Present: Sri Amish Tiwari, Advocate, for the petitioner  
Sri Kishore Kumar, A.P.O., for the State respondents

**JUDGMENT**

**DATED: AUGUST 11, 2023**

**Mr. Rajeev Gupta, Vice Chairman(A)**

1. This claim petition has been filed seeking the following reliefs:

*"It is, therefore most respectfully prayed that this Hon'ble Tribunal may be pleased to issue:-*

- (i) An order or direction to quash the order dated 03-12-2016 i.e. Annexure No. 1 along with the order dated 27.08.2018 i.e. Annexure No. 2 passed by the Director, Social Welfare Uttarakhand, Haldwani, District- Nainital i.e. respondent no. 2.

*(ii) An order or direction to the respondents to give the benefit of upgraded revised pay scale of Rs. 15000/-39500/ Grade pay Rs. 5400/- in consequence of change of promoted/next pay scale under G.O. dated March 8, 2011 i.e. Annexure No. 4 from September 09, 2011 and also to give benefit of pay scale of Rs 15600/-39100/- Grade pay Rs. 6600/- after completion of service of 16 years from date 01-02-2015.*

*(iii) An order or direction may be passed as the Hon'ble Court deems fit and proper in the circumstances of the case.*

*(iv) Award the cost of the petition to the petitioner."*

2. The facts according to the claim petition are briefly, as under:

2.1 The petitioner was appointed on the post of Superintendant at Government Ashram Type School (girls) Almora, which she joined on 01.02.1999. The appointment of the petitioner was made on the post of Superintendant under the Department of Women Welfare. The post of the petitioner was a Gazetted post and the Department of Women Welfare was a separate department in State of Uttar Pradesh before reorganization of State of Uttarakhand.

2.2 The State Govt. of Uttarakhand issued an order dated 26.12.2001 whereby Women Welfare Department was merged into Social Welfare Department and the post of the Superintendent in district level was merged in Social Welfare Department at district level. After merger of the petitioner's original department in Social Welfare Department, the Social Welfare Rules 1991 became applicable regarding the service and promotion of the petitioner. The petitioner became entitled for the benefit of first financial upgraded pay scale of post of District Social Welfare Officer. It is also relevant to mention here that as per Rules 1991, the next promotional post to the petitioner's post was District Social Welfare Officer for which the petitioner became entitled. As the petitioner could not be promoted, the petitioner became entitled to pay scale of next promotional post under the benefit of Assured Career Progression

Scheme. After completion of 10 years service, the petitioner was given the benefit of first financial upgraded pay scale and pay grade of Rs. 4600/- according to the Assured Career Progression Scheme and the petitioner has been getting the upgraded pay grade of Rs. 4600/- as per A.C.P. scheme from year 2009 onwards.

2.3 The pay scale of the post relating to District Social Welfare Officer was revised on 27 May, 2011 whereby the District Welfare Officer was given the revised pay scale of Rs. 15600/ - 39100/-grade pay Rs. 5400/- and it was implemented from the date 09.09.2011. The petitioner sought the benefit of revised pay scale applicable for post of District Social Welfare Officer, which was revised in year 2011 from pay scale 9300/- 34800/ grade pay Rs. 4200/ to pay scale Rs. 15600/ - 39100/ grade pay Rs. 5400/- The petitioner also gave reference to Government Order dated March 08, 2011 wherein it was very specifically mentioned that if the promotional /next pay scale and grade pay is changed, then the promotional/next pay scale and grade pay consequent to time pay scale will also be permitted to be changed accordingly. The petitioner gave a representation dated 17-9-2013 to the Chief Probation Officer, Uttarakhand, Dehradun to increase her Grade pay from Rs 4600/- to Rs 5400/-.

2.4 On 6 August 2014, the Chief Probation Officer wrote a letter to the petitioner that she has already got benefit of Grade pay Rs 4600/- under A.C.P. scheme. The Chief Probation Officer also apprised the petitioner that she is an employee of the Woman Welfare Department and the next post of promotion is District Probation Officer.

2.5 The Uttarakhand Government issued a letter dated 19-12-2011 whereby the Woman Welfare (Probation Sector) was again separated from Social Welfare Department and separate department was created which was headed by Chief Probation Officer. The letter dated 19.12.2011 revealed that though the Women Welfare Department will be

administered by the Chief probation Officer but the office shall be under control of Director, Social Welfare Department. Also District Social Welfare Officer shall act in the capacity of District Probation Officer till the same is appointed in Women Welfare Department. In spite of Women Welfare (Probation Sector) Department being separated from Social Welfare Department on 19.12.2011, the rule and regulations of Social Welfare Department are applicable and also when the pay grade of District Social Welfare Department was revised and upgraded on 27.05.2011, both the departments were same and united. Thereby the petitioner had become entitled to the upgraded revised pay scale and grade pay of the post of District Social Welfare Officer in month of May 2011.

2.6 Writ Petition no. 381/2016 (S/B) Smt. Kalpna Manral Vis State of Uttarakhand and others was filed before the Hon'ble High Court at Nainital seeking a relief in the nature of mandamus and the Hon'ble Court was pleased to pass an order dated 21.10.2016 directing the respondent no. 2 to decide the representation made by the petitioner. However, the respondent no. 2 did not consider the representation of the petitioner in the light of the Government Order dated 27.05.2011 and passed the impugned order dated 03.12.2016. The petitioner filed second civil writ petition no. 30/2017 (S/B) Smt. Kalpna Manral Vs. State of Uttarakhand before the Hon'ble High Court and the court was pleased to pass an order dated 12.06.2018 directing the respondents to consider the case of the petitioner in view of the office order dated 26.12.2001. The respondent no. 2 i.e. Director, Women/Social Welfare. Uttarakhand, Dehradun considered but rejected the case of the petitioner vide order dated 27.08.2018 on the ground that though the Women Welfare Department was merged in Social Welfare Department in year 2001 vide letter/order dated 26.12.2001 but the rules relating to the officers and ministerial cadre applicable to the Women Welfare and Social Welfare Department as well as the seniority list of the officers are nowhere stated to be merged.

2.7 The petitioner again filed a writ petition no. 678 of 2018 (S/B), Smt. Kalpana Manral Vs. State of Uttarakhand, but the Hon'ble Court was pleased to pass an order dated 12.02.2019 whereby she was directed to approach the Public Service Tribunal.

Hence the claim petition.

3. C.A. has been filed on behalf of the respondents no. 2 & 3 mainly stating the following:

3.1 As per the provisions of Uttar Pradesh Probation Officer (Gazetted) Services Rules 1991, Superintendents of Women Welfare Department are promoted to the post of District Probation Officers. The pay scale of District Probation Officer was Rs 9300-34800/- grade pay Rs 4600/-. Mrs. Kalpana Manral (Petitioner) was sanctioned grade pay of Rs. 4600/- after completion of 10 years of satisfactory service. The Social Welfare Gazetted Officers Service Rules have been issued in 2013 after creation of the present state of Uttarakhand, which are applicable on employees of Social Welfare Department of Uttarakhand. On the other hand, employees of Women Welfare Department are governed by Uttar Pradesh Probation Officer (Gazetted) Services Rules, 1991. Both the above mentioned Service Rules are quite separate.

3.2 Mere bringing Women Welfare Department once under the umbrella of Social Welfare Department does not entitle the petitioner to seek benefits available to Social Welfare Officers because employees of Social Welfare Department and employees of Women Welfare Department have always been governed by separate Service Rules. Without framing of a single Service Rule covering both the Departments together, the employees of these two Departments will continue to be governed by their separate set of service conditions.

3.3 Mrs. Kalpana Manral (Petitioner) is an employee of Women Welfare Department therefore her service conditions are to be governed by service rules of Women Welfare Department and not by those of Social

Welfare Department. Hence the demand of Mrs Kalpana Manral (Petitioner) to be governed by service conditions of Social Welfare Department is unjustified and the claim petition is based on such basis which have no legal force and devoid of any legal merit, the same is liable to be dismissed with exemplary cost.

4. R.A. has been filed mainly stating the following:

4.1 The department of Women Welfare was merged in the Department of Social Welfare vide order dated 26.12.2001. When Govt. of Uttarakhand has merged the Women Welfare Department into Social Welfare Department, it is very natural that the Rules of Social Welfare Department (Rules 1991) would be applicable and the Rules 1991 pertaining to Women Welfare Department made by the Govt. of Uttar Pradesh cannot be applicable as for the reason that the State of Uttarakhand had been reorganized in year 2000 and the department was merged. Thereby no question arises to apply the rules of Women Welfare Department prevailing in Uttar Pradesh in State of Uttarakhand after merger of the two Departments.

4.2 Though the rules were framed in year 2013 by the Govt. of Uttarakhand pertaining to Social Welfare Gazetted Officers, but the Rules 1991 named as Uttar Pradesh Harijan and Social Welfare Gazetted Officer Service Rules 1991 were applicable in the department after merger of Women Welfare Department in Social Welfare Department from year 2001, till coming into force of the Rules 2013. The Rules named as Uttar Pradesh Probation Officer (Gazetted) Service Rules 1991, were applicable to the Women Welfare Department but after merger of Women Welfare Department in Social Welfare Department in year 2001, the aforesaid Rules 1991 for Women Welfare Department became defunctus.

4.3 Though the petitioner has been given the pay grade of Rs. 4600 according to the ACP scheme from year 2009 onwards, but the next promotional avenue of the petitioner was post of District Social Welfare

Officer as per the Service Rules 1991. Meanwhile, the pay scale of the District Social Welfare Officer was revised on 27.05.2011 and he was given the revised pay scale of Rs. 15,600-39,100/- grade pay Rs. 5400/- which was implemented from 09.09.2011. The petitioner had also stated the reasons in paragraph no. 9 and 10 of the claim petition that petitioner was also entitled to get the benefit of pay scale as per Govt. order dated 08-03-2011. The Govt. order 08.032011 (i.e. annexure no. 6 of claim petition) reveals that if the promotional / next pay scale and grade pay is changed then the promotional/next pay scale and grade pay consequent to the time pay scale will also be permitted to be changed accordingly.

5. Supplementary affidavit was also filed on behalf of the petitioner, according to which, Govt. letter dated 27.05.2011 regarding restructuring of the organizational structure of the Social Welfare Department and Govt. letter dated 09.09.2011 regarding the revision of grade pay of District Social Welfare Officer from Rs. 4200 to Rs. 5400 have been annexed as Annexure: SA-1 and SA-2 respectively.

6. This Tribunal passed the following order on 29.08.2022:

*“On perusal of the file, it is found that the order dated 13.02.2013, vide which the 1<sup>st</sup> ACP to the petitioner has been sanctioned, is annexed as Annexure No.CAR-2 to the C.A. This order states the following about the petitioner:*

*(i) Date of appointment-01.02.1999*

*(ii) Date of completion of 10 years' satisfactory service- 31.01.2009.*

*(iii) The Pay Band and Grade Pay admissible on the date before 01.02.2009, the date of application of 1<sup>st</sup> ACP - Pay Band Rs. 9300-34800/- , Grade Pay Rs. 4200/-.*

*(iv) Upgradation/amendment as a result of sanction of 1<sup>st</sup> ACP from 01.02.2009- Pay Band Rs. 9300-34800, Grade Pay Rs. 4600/-*

*This order does not say whether the grade pay of Rs. 4600/ has been given as the Grade Pay of the next post of promotion as District Social Welfare Officer or District Probation Officer. According to the pleadings, on 01.02.2009, the Grade Pay of District Social Welfare Officer as well as Grade pay of District Probation Officer was Rs. 4200 only. This 1<sup>st</sup> ACP of Rs. 4600 has been given in accordance with sub para (3) of para 1 of the G.O. dated 08.03.2011 about ACP (Annexure no. 6 to the claim petition) which states that the Grade Pay admissible as ACP shall be the grade pay*

*next to the earlier pay according to column (4) and (5) of Annexure 1 of the G.O. No. 395/XXXVII (7)/2008, Dated 17.10.2008. Though this Annexure: 1 of this G.O. has not been filed with Annexure-6, a perusal of this Annexure in the collection of important orders of the Finance Department shows that Rs. 4600/- is the next Grade Pay after Grade Pay of Rs. 4200/- which the petitioner was getting before ACP. Thus, ACP has been sanctioned according to the G.O. dated 08.03.2011 which has no linkage to any promotional post, either District Social Welfare Officer or District Probation Officer.*

*Learned Counsel for the parties may explain on the next date hereby fixed, why they are linking this ACP to promotional post. Learned Counsel for the respondents may also inform the action taken about grant of 2<sup>nd</sup> ACP to the petitioner."*

7. Pursuant to this order, Supplementary C.A. has been filed on behalf of the respondent no.2 mainly stating that vide G.O. dated 26.12.2001, the Women Welfare Department was merged in the Social Welfare Department but the seniority lists of personnel and Service Rules were kept separate for both. The petitioner is covered under the U.P. Probation Officer (Gazetted) Service Rules, 1991 (as applicable in Uttarakhand) and has worked on the post of Superintendent under the provisions of these Rules, under which, provision for promotion to the post of District Probation Officer is provided. According to the provisions of these Rules, the first promotion from Superintendent cadre, grade pay Rs. 4200 is to the post of District Probation Officer, grade pay Rs 4600, second promotion is to the post of Deputy Chief Probation Officer, grade pay Rs. 5400 and 3<sup>rd</sup> promotion is to the post of Chief Probation Officer, grade pay Rs. 6600.

8. The petitioner has been sanctioned first ACP after completion of 10 years of service from Grade Pay Rs. 4200 to grade pay Rs. 4600, according to G.O. dated 08.03.2011 which is equal to the present grade pay of Rs. 4600 of the next promotional post of District Probation Officer. For second ACP, action is being taken to provide grade pay of Rs. 5400 to the petitioner, which is the grade pay to the post of Deputy Chief Probation Officer. The petitioner is an employee of Women Welfare Department and her demand for the grade pay of District Social Welfare



Officer is not justified. The petition is based on false and misleading facts and deserves to be dismissed with cost.

9. After hearing learned Counsel for the parties and perusing the record, the Tribunal observes the following:

(i) The G.O. dated 08.03.2011 regarding ACP does not provide that as the 1<sup>st</sup> ACP, the pay scale/grade pay of the promotion post shall be given. The relevant clause reads as under:

“1(3) निधारित सेवावधि पर वित्तीय स्तरान्तरण के रूप में अनुमन्य होने वाला ग्रेड वेतन, शासनादेश संख्या-395/XXVII(7)/2008 दिनांक 17 अक्टूबर, 2008 के संलग्नक-1 के स्तम्भ-4 एवं 5 के अनुसार अनुमन्यता की तिथि से पूर्व दय ग्रेड वेतन से अगला ग्रेड वेतन होगा। इस प्रकार किसी पद पर वित्तीय स्तरान्तरण के रूप में प्राप्त होने वाला ग्रेड वेतन कुछ मामलों में संबंधित पद तथा उसके पदोन्नति के पद के ग्रेड वेतन के मध्य का ग्रेड वेतन हो सकता है। ऐसे मामलों में संबंधित पदधारक का पदोन्नति के पद का ग्रेड वेतन उसे वास्तविक रूप से पदोन्नति प्राप्त होने पर ही अनुमन्य होगा।”

(ii) As mentioned in this Tribunal's order dated 29.08.2022, which has been reproduced in para 6 of this judgment, vide order dated 13.02.2013, the next grade pay of Rs. 4600 has been sanctioned to the petitioner as 1<sup>st</sup> ACP and there is no linkage of this grade pay with any promotional post in this order.

(iii) It is in the knowledge of the Tribunal as derived from other claim petitions that the linkage of ACP with pay scale/grade pay of promotional posts came vide G.O. no. 770/XXVII(7)40(ix)/2011 dated 06.11.2013. Though this G.O. has not been filed in the present claim petition, a perusal of the same, in the collection of important orders of the Finance Department shows that the relevant portion of this G.O. is as under:

“2. शासन द्वारा विचारोपरान्त लिये गये निर्णय के क्रम में मुझे यह कहने का निदेश हुआ है कि राज्य कर्मचारियों के लिये

ए0सी0पी0 की लागू पूर्व व्यवस्था के स्थान पर रू0 4800 ग्रेड वेतन या उससे न्यून पाने वाले मौलिक रूप से नियुक्त राज्य कर्मचारियों के लिए जहां पदोन्नति का पद उपलब्ध है, वहां पदोन्नति के पद का ग्रेड वेतन एवं सुसंगत वेतन बैंड वैयक्तिक रूप से प्रोन्नतीय वेतनमान के रूप में तथा जहां पदोन्नति का पद उपलब्ध नहीं है, वहां शासनादेश संख्या—395/XXVH(7)/2008 दिनांक 17 अक्टूबर, 2008 के संलग्नक—1 में उपलब्ध तालिका के अनुसार अगला ग्रेड वेतन एवं सुसंगत वेतन बैंड वैयक्तिक रूप अगले वेतनमान के रूप में दिनांक 01 नवम्बर, 2013 से संशोधित व्यवस्था के अन्तर्गत तत्काल प्रभाव से अनुमन्य किये जान की श्री राज्यपाल सहर्ष स्वीकृति प्रदान करते हैं।

3. इस प्रकार दिनांक 01 नवम्बर, 2013 को जो कर्मचारी प्रथम या द्वितीय या तृतीय ए0सी0पी0 पा रहा है, उसका वेतन निर्धारण प्रथम या द्वितीय या तृतीय पदोन्नत पद के वेतन बण्ड एवं ग्रेड वेतन जैसा कि प्रस्तर—2 में वर्णित है पर निर्धारित कर दिया जायेगा।.....”

(iv) This G.O. also says that if grade pay/pay scale of the promotional post is same as the grade pay/pay scale of the post of the person whose ACP is being considered, then the next grade pay as per the Pay Matrix of G.O. dated 17.10.2008 shall be given as the ACP. As stated in this Tribunal's order dated 29.08.2022, when the 1<sup>st</sup> ACP became admissible to the petitioner on 01.02.2009, the grade pay of the post of District Social Welfare Officer as well as the grade pay of the post of District Probation Officer was Rs. 4200 only. Therefore, according to this G.O. also, only the next grade pay of Rs. 4600 according to the Pay Matrix (Annexure:1 to the G.O. dated 17.10.2008) was admissible to the petitioner as the 1<sup>st</sup> ACP.

(v) The Women Welfare Department was separated from the Social Welfare Department again in 2011. Even if it is argued that the 1<sup>st</sup> ACP of the petitioner should have been revised on 01.11.2013 according to the pay scale/grade pay of the promotional post, the promotional post on 01.11.2013 for the petitioner was the post of District Probation Officer and not the post of District Social Welfare Officer as the two departments had

been separated in 2011 itself. Therefore, the petitioner cannot claim the grade pay of the post of District Social Welfare Officer on this ground as well.

10. The Tribunal further observes that even during the merger of two departments, separate Service Rules continued to prevail for the functionaries of Women Welfare Department and the functionaries of Social Welfare Department. The petitioner was covered under the U.P. Probation Officer (Gazetted ) Service Rules, 1991. Even if it is assumed for the sake of arguments, that during merger period between 2001 to 2011, she was covered under the Rules pertaining to Social Welfare Department, she cannot get any benefit of ACP on that ground as the sanction of 1<sup>st</sup> ACP w.e.f. 01.02.2009 was not linked to any promotional post either in the Women Welfare Department or Social Welfare Department and on 01.11.2013, the promotional post for the petitioner was District Probation Officer with grade pay of Rs. 4600/-.

11. The petitioner after promotion, would have become District Probation Officer and the grade pay of this Post is Rs. 4600/-. The ACP is a compensation in lieu of promotion and by no stretch of imagination, the compensation by way of ACP can be more than the benefit of actual promotion.

12. According to the above analysis, the Tribunal holds that the petitioner has been rightly sanctioned the grade pay of Rs. 4600/- as the 1<sup>st</sup> ACP. Thus, the claim petition is hereby dismissed. No order as to costs.

**(RAJENDRA SINGH)**  
VICE CHAIRMAN(J)

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

*DATE: AUGUST 11, 2023*  
*DEHRADUN*  
*KNP*