

**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. 146/DB/2023

Dayashankar Gupta, aged about 61 years, s/o Late Sri Babu Lal Gupta, r/o Village Sujiya Maholiya, Police Station Khatima, District Udham Singh Nagar, Uttarakhand.

.....Petitioner

VS.

1. State of Uttarakhand through Secretary, Medical Health and Family Welfare, Govt of Uttarakhand, Dehradun.
2. Director General, Medical Health and Family Welfare, Govt of Uttarakhand, Dehradun.
3. Chief Medical Officer, Champawat, District Champawat.

....Respondents.

Present: Sri Amar Murti Shukla, Advocate, for the petitioner. (virtually)
Sri V.P.Devrani, A.P.O., for the Respondent / State.
Sri Kishore Kumar, A.P.O., for the Respondent / State. (virtually)

JUDGMENT

DATED: AUGUST 11, 2023

Justice U.C.Dhyani (Oral)

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

“i. Issue an order or direction directing the respondents to forthwith release petitioner’s retiral dues such as G.P.F., Gratuity, Leave Encashment, House Rent Allowance and Border Allowances etc. arrears of salary *w.e.f.* 25.07.2018 to 30.09.2022 (remaining half salary) and pension and its arrears along with interest.

ii) Issue any suitable order or direction, which this Hon’ble Tribunal may deem fit and proper on the basis of the facts and circumstances of the case.”

2. Petitioner was an accused in a criminal case pertaining to P.S. Banbasa, District Champawat. He was tried for the offence of sexual assault. Petitioner was convicted under Section 376 (2) (e) IPC and was sentenced to undergo rigorous imprisonment for a period of 10 years along with a fine of Rs.10,000/- *vide* judgment and order dated 04.05.2022 (Annexure: 4), passed by Ld. Sessions Judge, Champawat in S.T. No. 02/219. The convict-petitioner filed CrLA No. 139/2022 before the Hon’ble High Court. The criminal appeal was admitted *vide* order dated 13.05.2022 (Annexure: 5). Appellant-petitioner was directed to be released on bail subject to certain condition(s) by Hon’ble High Court *vide* order dated 06.09.2022 (Annexure: 6). Petitioner retired on 30.09.2022.

3. It is the submission of Ld. Counsel for the petitioner that petitioner is entitled to retiral dues. Ld. A.P.Os. vehemently opposed the submission of Ld. Counsel for the petitioner and submitted that petitioner is not entitled to the retiral dues in view of the above noted facts, therefore, the same should not be released to him.

4. After arguing the claim petition at some length, Ld. Counsel for the petitioner submitted that petitioner will file a representation to Respondent No.2 / H.O.D., who may kindly be directed to decide the same at an early date, in accordance with law. Ld. A.P.Os. have no objection to such innocuous prayer.

5. Without prejudice to rival contentions, the claim petition is disposed of, at the admission stage, by granting liberty to the petitioner to make a representation to Respondent No.2 for release of his retiral dues. If such representation is filed, Respondent No.2 is directed to take a decision

on the same by a reasoned and speaking order, in accordance with law, on presentation of certified copy of this order along with representation, without unreasonable delay.

5. It is made clear that the Tribunal has not expressed any opinion on the merits of the case.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: AUGUST 11, 2023.
DEHRADUN

VM