

**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. 149/DB/2023

Ramesh Chandra Bhatt, s/o Late Shri Jagdish Prasad Bhatt, aged about 62 years, r/o Bhagirathi Colony, Uppar Nathanpur, Near Ambiwala Gurudwara, Dehradun, Uttarakhand.

.....Petitioner

VS.

1. State of Uttarakhand through Secretary, Drinking Water Department, Govt. of Uttarakhand, Dehradun.
2. The Managing Director, Uttarakhand Peyjal Sansadhan Vikas evam Nirman Nigam, 11 Mohini Road, Dehradun.
3. Chief Engineer (HQR), Uttarakhand Peyjal Sansadhan Vikas evam Nirman Nigam, 11 Mohini Road, Dehradun.
4. The Executive Engineer, Uttarakhand Peyjal Sansadhan Vikas evam Nirman Nigam, 11 Mohini Road, Dehradun.

....Respondents.

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

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

Dr. N.K.Pant, Advocate, for Respondents No. 2, 3 & 4..

JUDGMENT

DATED: AUGUST 18, 2023

Justice U.C.Dhyani (Oral)

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

- “i) To call the records and set aside the order dated 17.4.2023 vide which the respondent instead of Superannuation Pension has sanctioned Provisional Pension. (Annexure No. A-1).
- ii) Direct the respondents to sanction Superannuation Pension to the petitioner from 1.11.2022 i.e. date of retirement, commutation of pension, leave encashment & gratuity.
- iii) Direct the respondent to regularize the suspension period from 24.7.2015 to 15.3.2021 into duty in terms of service rules and pay consequential benefits.
- iv) Direct the respondent to pay interest @ 12% due to delay in payment.
- v) Award the cost of the petition to the petitioner.”

2. Petitioner retired as Chowkidar (Class-IV employee) from the Respondent Corporation on 31.10.2022. He has been sanctioned provisional pension, but petitioner prays for Superannuation Pension and gratuity. Petitioner’s services were suspended from 24.07.2015 to 15.03.2021. Although he was paid subsistence allowance during this period, but no orders have been passed on regularization of the suspension period.

3. A criminal case under Sections 420, 467, 468, 471 120-B, 504 and 506 IPC is pending against him in the Court. The criminal case relates to P.S. Raipur, Dehradun.

4. So far as complete salary during the suspension period is concerned, the Tribunal finds that there is a provision in Para 54-B, Financial Hand Book (Vol. 2 to 4), which reads herein below for convenience:

“54-B (1) When a Government servant who has been suspended is reinstated or would have been so reinstated but for his retirement on superannuation while under suspension, the authority competent to order reinstatement shall consider and make a specific order—
 (a) regarding the pay and allowances to be paid to the Government servant for the period of suspension ending with reinstatement or the date of his retirement on superannuation as the case may be; and

(b) whether or not the said period shall be treated as a period spent on duty.
(2).....”

5. Petitioner may make an application to the competent authority under Para 54-B, Financial Hand Book (Vol. 2 to 4). If such application is filed, the competent authority is directed to decide such application with utmost expedition, preferably within eight weeks of presentation of certified copy of this order.

6. So far as the grant of Superannuation Pension and Gratuity is concerned, Ld. Counsel for the petitioner submitted that petitioner will file a representation to The Managing Director, Uttarakhand Peyjal Sansadhan Vikas evam Nirman Nigam, Respondent No.2, who should be directed to decide the same at the earliest possible, as per law, to which Sri V.P.Devrani, Ld. A.P.O. and Dr. N.K.Pant, Ld. Counsel for Respondents No. 2, 3 & 4, have no objection.

7. The claim petition is disposed of, at the admission stage, by further directing the Respondent No.2 to decide the representation of the petitioner by a reasoned and speaking order in accordance with law, at the earliest possible, preferably within eight weeks of presentation of certified copy of this order along with fresh representation and documents in support thereof.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: AUGUST 18, 2023.
DEHRADUN

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