

**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/DB/2021

Om Prakash Arya, aged about 63 years, s/o Sri Nand Lal Arya, r/o Yamunotri Enclave, lane no. 1, Sewla, Kalan, Chandrabani Road, District Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Urban Development Department, Uttarakhand Secretariat, Subhash Road, Dehradun.
2. Director, Urban Development Department, Uttarakhand, Dehradun.

..... Respondents

Present: Dr. N.K. Pant, Advocate, for the petitioner
Sri V.P. Devrani, A.P.O. for the respondents

Judgement

Dated: 17th August, 2023

Justice U.C. Dhyani (Oral)

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

“(i) Issue an order or direction calling for the record and directing the respondents to count the services of centralized and non centralized for the purpose of pension and other retirement benefits similarly to other employees/officers.

(ii) Issue an order or direction calling for the record and to direct the respondent to payment of unnecessarily/ without rules and regulations deducted gratuity amount of Rs. 41171/- and other retirement benefits with interest.

(iii) The petitioner is aggrieved by unruly and irresponsible behavior of the respondent and sought such sum as the Hon'ble Tribunal thinks fit for causing mental harassment and pain.

(iv) Issue any suitable claim, order or direction which the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

(v) Award the cost of claim petition in favour of the petitioner."

2. Brief facts, giving rise to present claim petition, are as follows:

2.1 Petitioner retired as Account Officer Grade-II on 30.06.2017. He was working in Urban Development Directorate (respondent-department). Petitioner started his service on 16.12.1977 in non-centralized service and after that from 18.02.1988 upto 30.06.2017 in centralized service. Total tenure of service of the petitioner is 38 years 06 months and 14 days. It has been mentioned in the petition that the petitioner's service is counted for pensionary benefit from 18.02.1988 (copy Annexure: A3).

2.2 There was no break between petitioner's non-centralized and centralized services, hence for non counting of non-centralized services, the petitioner is facing irreparable loss. It is on account of this fact that the petitioner is getting lesser gratuity than the similarly situated employees and officers.

2.3 Drawing analogy from one Sri Atiq Ahmed Khan, who was working in the similar post from 18.02.1988 and his non-centralized services were counted for the pensionary benefits, learned Counsel for the petitioner submitted that one Sri Nathi Lal Uniyal was also getting benefit of pension from the date of his initial appointment counting his non-centralized services. Both Sri

Khan and Sri Uniyal were given gratuity from the initial date, but the petitioner has not been given the same (copy of note sheet and appointment letter enclosed as Annexures: A4 and A5).

2.4 In para 4(f), the petitioner has given details of his pension contribution and in para 4(g), it has been mentioned that the respondent has not paid the amount of revised pension and gratuity due to the petitioner on account of the recommendations of the 7th Pay Commission. Petitioner is entitled to get interest on the delayed payment of revised pension and gratuity. Petitioner continuously approached the department for payment of pension and gratuity and other payments. He moved various representations but no action has been taken on the same (copy of representation enclosed as Annexure: A7).

2.5 The Director, Urban Development Directorate, wrote a letter to Nagar Nigam, Dehradun, Haldwani and Haridwar but no action has been taken by the concerned local bodies. In para 4(j), it is mentioned that the Govt. also wrote a letter to the Director, Urban Development Directorate, Uttarakhand, for payment of pension and other benefits of the petitioner but no action has been taken on the same.

2.6 Aggrieved by the inaction on the part of respondents, the petitioner has filed present claim petition.

3. Petitioner has filed documents in support of the claim petition.

4. The counter affidavit has been filed on behalf of the respondents. Sri Lalit Mohan Rayal, Director, Urban Development Directorate, Dehradun has filed counter affidavit on behalf of the respondents. Material facts contained in the claim petition have been denied.

4.1 In para 3 of such counter affidavit, it has been mentioned that to count the non-centralized services rendered by the petitioner as Account Clerk *w.e.f.* 16.12.1977 to 17.12.1988 under Palika Non-Centralized Services with Palika Centralized Services, the representation given by the petitioner was sent to the competent authority (respondent no. 1) on 07.11.2020 by respondent no. 2. The decision on the same is still awaited. Without waiting for the decision upon the said representation, the petitioner preferred the present claim petition hence, the claim petition is liable to be dismissed. Moreover, during the span of about 33 years' service tenure, the petitioner has not made any request either in writing or orally to the department to count his non-centralized services with the centralized services.

5. Thus, it is admitted to both the parties, in their pleadings, that no decision has taken by respondent no. 1 on the representation of the petitioner forwarded by respondent no. 2 on 07.11.2020. The petitioner, in his claim petition, has stated that he moved various representations but no decision has been taken on the same. In the counter affidavit, it has been stated that the petitioner's representation has been forwarded by respondent no. 2 to respondent no. 1 on 07.11.2020 but no decision has been taken on the same as yet.

6. Thus, learned Counsel for the petitioner submitted, which submission is not opposed by learned A.P.O., that respondent no. 1 be directed to take suitable decision, as per law, on representation of the petitioner, which has been forwarded by respondent no. 2 to respondent no. 1 on 07.11.2020 (copy Annexure: CA7).

7. Annexure: CA7 has been brought on record to indicate that the Directorate of Urban Development has, by mentioning detailed facts relating to the services rendered by the petitioner, has written a letter to the Govt. in Urban Development Department

for considering the service rendered by the petitioner in non-centralized services for the purpose of pension. It is admitted that no decision has been taken on such letter so far.

8. The Tribunal, therefore, deems it appropriate to direct respondent no. 1 to take suitable decision on Annexure: CA7, which is a letter written by Sri Ashok Kumar Pandey, Additional Director (for Director, Urban Development Directorate) to the Under Secretary to the Govt. in Urban Development Department for release of various dues on retirement of the petitioner, without unreasonable delay, in accordance with law.

9. Order accordingly.

10. The claim petition is disposed of by directing respondent no. 1 to take suitable decision on Annexure: CA7, which is a letter written by Sri Ashok Kumar Pandey, Additional Director (for Director, Urban Development Directorate) to the Under Secretary to the Govt. in Urban Development Department for release of various dues on retirement of the petitioner, without unreasonable delay, in accordance with law. In the circumstances, there shall no order as to costs.

11. The claim petition is thus disposed of with the consent of learned Counsel for the parties.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: 17th August, 2023
DEHRADUN
RS