

**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)

Sri Singh Ram Verma, Ziledar (Retd.), s/o Sri Kabaj Singh, aged about 62 years, r/o Ward No. 15, Danda Basti, Jeewan Grah, Distt. Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Ministry of Irrigation, Secretariat, Subhash Road, Dehradun.
2. Pramukh Abhiyanta/ Vibhaga Adhyaksha, Irrigation Department, Uttarakhand, Yamuna Colony, Dehradun.
3. Adhisashi Abhiyanta (Aaharan Evam Vitran Adhikari) Irrigation Division, Purola, Uttarkashi.
4. Mukhya Koshadhikari, Uttarkashi.
5. Director, Pension & Haqdari, Laxmi Road, Dehradun.
6. Accountant General of Uttarakhand, Accountant General Office, Kaulagarh Road, Dehradun.
7. Executive Engineer, Infrastructure Division, Irrigation Department, Dakpathar.

..... Respondents

Present: Sri L.D. Dobhal, Advocate, for the Petitioner
Sri V.P. Devrani, A.P.O. for the Respondents

Judgement

Dated: 11th September, 2023

Justice U.C. Dhyani, Chairman
Rajeev Gupta, Vice Chairman (A)

Present claim petition has been filed by the petitioner for directing the respondents to pay interest to the petitioner, on late payment of his retiral dues from the date of retirement till the date of actual payment. Petitioner has also prayed for directing the respondents to release amount of G.P.F. along with interest from the date of its accrual till the date of actual payment.

2. Petitioner was an employee (*Ziledar*) of the Irrigation Department. He retired on 31.10.2019 from the Irrigation Construction Division, Purola, Uttarkashi. He was released retiral dues only after making several requests to the respondent department for releasing the same. The retiral dues were not released to him on time. He has not yet received the full amount of G.P.F. Learned Counsel for the petitioner submitted that a direction be given for releasing the same.

3. During the pendency of present claim petition, petitioner made certain amendments in the petition. It is the submission of learned Counsel for the petitioner that when the petitioner was in Class IV cadre of his service and was serving as *Seechpal*, he was posted in the office of respondent no. 7. Thereafter, he was posted in the office as *Ziledar* and was transferred to the office of respondent no. 3. Service record of the petitioner regarding G.P.F. deduction, while he was working in class IV cadre, was not made available to the office of respondent no. 3. Corresponding amount of Rs. 27,655/- with interest is also claimed by way of present claim petition.

4. Counter affidavit has been filed on behalf of respondents no. 1 to 3. Separate counter affidavits have been filed on behalf of respondents no. 4 and 5. Rejoinder affidavits thereto have been filed by the petitioner. Petitioner and respondents have filed documents in support of their pleadings.

5. During hearing before the Tribunal, learned Counsel for the petitioner filed a calculation memo of the amount due to him by way of interest and balance of G.P.F., on which response was sought from the respondents. On behalf of the respondent department, learned A.P.O. has filed the G.P.F. interest calculation done by the department for the G.P.F. for the class IV cadre service *w.e.f.* 1995-96. This sheet starts with the opening balance of Rs. 27,655/- and shows the closing balance of March, 2023, as Rs. 3,08,400/-. In today's hearing, learned Counsel for the petitioner agrees to this calculation. Learned A.P.O. submits that 90% of this amount shall be paid to the petitioner within 45 days from today by the respondent department and the remaining 10 % will be paid after sanction of the Accountant General (A.G.) is received for the same. The respondent department may ensure that the balance 10 % of this amount is also paid to the petitioner within four months from today. Balance 10 % amount of the G.P.F. for the service of class III be also paid within four months to the petitioner after effective follow up with the A.G.

6. Regarding delay in the payment of other retiral dues, the respondent department has submitted that in the pension papers submitted by the petitioner, in the family information nominee column, the pension share was recorded as 0 %. The Treasury had put their objection and returned the same on 22.02.2020. The petitioner removed the objections on 04.07.2020 and thereafter the pension matter of the petitioner was sanctioned by the Treasury Officer on 29.10.2020. However, only the objection of the Treasury has been filed by the respondents and no correspondence with the petitioner has

been filed or shown to the Tribunal regarding the removal of this objection by the petitioner. The Tribunal also observes that it is the duty of the employer to get the pension papers properly filled by the employee much before his retirement so that the pension may be sanctioned immediately to the employee after retirement. Therefore, the Tribunal holds that the responsibility for the delay lies squarely on the department. Therefore, the respondent department may pay interest to the petitioner on the delayed payments in the following manner:

- i. According to the C.A. of the respondent no. 3, leave encashment of Rs. 7,38,270/- has been paid to the petitioner on 27.01.2020. The petitioner had retired on 31.10.2019 and this amount should have been paid to him in the month of November, 2019. Therefore, the interest on this amount for two months at the then prevalent rate of G.P.F. be paid to the petitioner for this delayed payment.
- ii. The amount of Rs. 65,336/- of GIS has been paid to the petitioner on 28.02.2020. Learned A.P.O. submits that the sanction of GIS comes with the upto date interest and therefore no further interest be ordered to be paid on the payment of GIS which has been only delayed by three months. The Tribunal accepts such argument of the learned A.P.O.
- iii. The amounts of commutation of Rs. 12,40,899/-, gratuity of Rs. 11,99,689/-, basic pension of Rs. 3,78,600/- and D.A. on pension of Rs. 64,368/- have been paid to the petitioner on 19.11.2020 while these amounts should have been paid to him within November 2019 itself. Learned A.P.O. submits that three months' time is taken by the Pension Directorate in sanction of pension and therefore, the interest for only 9 months may be ordered to be paid on these amounts. The Tribunal agrees to such argument of learned A.P.O. and orders that interest at the then

prevalent rates of G.P.F. for the period from 01.02.2020 to 19.11.2020 be paid to the petitioner on these amounts.

- iv. The 90 % G.P.F. (class III cadre) amount of Rs. 2,17,985/- has been paid to the petitioner on 08.09.2022. Learned A.P.O. submits that the interest on such delayed payment must have been accounted for in the finally calculated amount of G.P.F. as has been done in the case of the calculation of his G.P.F. for the service of class IV cadre. Therefore, no further interest should be payable on such amount. The Tribunal finds this argument of learned A.P.O. to be in order and therefore, no further interest is payable on this amount.

7. The Tribunal has already ordered in para 5 above that the 90 % amount of the petitioner's G.P.F. of service in class IV cadre be paid within 45 days from today and the balance 10 % amount of G.P.F. for his services in both class III and class IV cadre be paid to him within four months from today. The Tribunal further orders that interests for delayed payments of other retiral dues as detailed in para 6 above be also paid to the petitioner within a period of four months from today. Further delays in any payments would attract further interest @ 8 % per annum.

8. The claim petition is disposed of as above. No order as to costs.

9. Let a copy of this order be given to learned Counsel for the parties within 48 hours.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: 11th September, 2023
DEHRADUN
RS