

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
AT DEHRADUN**

**CLAIM PETITION NO. 179/SB/2023**

Dr. Viraj Shah, aged about 66 years, s/o Late Sri P.L.Shah, r/o 201, Engineers Enclave, Dehradun-248001.

.....Petitioner

**vs.**

1. State of Uttarakhand through Secretary, Medical Health and Family Welfare, Secretariat, Subhash Road, Dehradun, and others.
2. Director General, Medical, Health and Family Welfare, Village Dandalakhond, Post Office Gujrada, Sahastradhara Road, Dehradun.
3. Chief Medical Officer, 105, Chander Nagar, Dehradun.
4. Medical Superintendent, Community Health Centre, Sahaspur, Dehradun.

.....Respondents.

Present: Sri Rajesh Kumar Thapa, Advocate, for the petitioner.  
Sri V.P.Devrani, A.P.O., for Respondents.

**JUDGMENT**

**DATED: OCTOBER 19, 2023**

**Justice U.C.Dhyani (Oral)**

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

“(1) The Hon'ble Public Services Tribunal may be pleased to order to respondents no. 1 to 4 to pay petitioner/ applicant unpaid salary

for the month of March, 2020 to July, 2020 and incentive as declared by the Hon'ble Chief Minister of Uttarakhand for performing Covid-19 duty to Doctors, to petitioner.

(2) The Hon'ble Tribunal may be pleased to order to respondents no. 1 to 4 to pay the petitioner salary calculated as per G.O. dated 13.12.2018.

(3) The Hon'ble Tribunal may be pleased to order to respondents no. 1 to 4 to pay the petitioner the amount deducted on account of HRA from petitioner's salary amounting to Rs.61,944/-.

(4) The Hon'ble Tribunal may be pleased to order to respondents no. 1 to 4 to pay the petitioner interest @ 06% on the amount mentioned in Prayers No. 2, 3 & 4.

(5) The Hon'ble Tribunal may be pleased to order to respondents no. 1 to 4 to pay the petitioner full salary after calculation as per order dated 13.12.2018 of Medical Section-2 of Secretary, Govt. of Uttarakhand, as follows- Last drawing salary i.e. Rs.1,92,215/- (Annexure: L is attached), Less gross pension Rs.86,765/- (Annexure: M is attached), from the date of first reappointment (Pratiniyukti till today).

(6) The Hon'ble Tribunal may be pleased to order to respondents no. 1 to 4 to pay the petitioner compensation for harassment amounting to Rs. 10,00,000/-"

2. The petitioner filed two petitions in the Tribunal earlier. Claim Petition No.82/SB/2022 was decided by the Tribunal vide order dated 18.07.2022 as follows:

“.....At the very outset, Ld. Counsel for the petitioner submitted that the petitioner has moved several representations for seeking the reliefs, which have been prayed in present claim petition, but those representations have not been decided so far. Ld. Counsel for the petitioner, therefore, confined his prayer only to the extent that the petitioner's representations which are based on Govt. Order /XXVIII-2/2018-01(184) /2001 dated 13.12.2018 and other G.Os., may kindly be directed to be decided by Respondent No.2 by a reasoned and speaking order, at an earliest possible. Ld. A.P.O. has no objection to such innocuous prayer of Ld. Counsel for the petitioner.

3. The claim petition is, accordingly, disposed of at the admission stage, with the consent of the parties, by directing Respondent No.2 to decide the fresh representation of the petitioner, enclosing copy of G.O. dated 13.12.2018 and other G.Os., at an earliest possible and without unreasonable delay, in accordance with law, on presentation of certified copy of this order along with fresh representation. No order as to costs.

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

3. When the representation of the petitioner was not decided, the petitioner moved execution application being Execution Petition No.

03/DB/2023. The same was disposed of by the Tribunal vide order dated 16.02.2023, as follows:

“2. The execution application is supported by the affidavit of Dr. Viraj Shah.

...

4. It is the submission of Ld. Counsel for the petitioner that legal representation along with copy of judgment dated 18.07.2022 was sent to Respondent No.2 on 13.10.2022. Respondent No. 2 sent a letter on 21.10.2022 to C.M.O., Dehradun (Respondent No.3), to take action on the representation of the petitioner, in compliance of Tribunal’s order dated 18.07.2022, and further, in compliance of the direction of Respondent No.4 dated 21.10.2022 to Respondent No. 3, the Respondent No.3, wrote on 15.11.2022 to Medical Superintendent, Community Health Centre, Sahaspur, Dehradun (Respondent No.4) to take necessary action on the representation of the petitioner in compliance of Tribunal’s order dated 18.07.2022, passed in claim petition no. 82/SB/2022. But, still petitioner’s representation has not been decided. Respondent No. 4 is willfully disobeying the judgment and order dated 18.07.2022 of the Tribunal. It is the submission of learned counsel for the petitioner/ executioner that casual approach on the part of opposite parties/respondents should not be tolerated and strict action should be initiated against them.

5. Considering the facts of the case, this Tribunal directs the official respondent(s) concerned to comply with the order dated 18.07.2022, passed by this Tribunal in Claim Petition No. 82/SB/2022, Dr. Viraj Shah vs. State & others, if the same has not been complied with so far, without further loss of time, failing which the concerned respondent(s) may be liable to face appropriate action under the relevant law governing the field.

6. Petitioner/ executioner is directed to place a copy of this order before the authority(ies) concerned by 27.02.2023, to remind that a duty is cast upon said authority(ies) to do something, which has not been done.

7. Execution application is, accordingly, disposed of at the admission stage.”

4. It is the submission of Ld. Counsel for the petitioner that despite service of above noted two orders of the Tribunal, representation of the petitioner has not been decided. Ld. Counsel for the petitioner submitted that proceedings under the Contempt of Courts Act be initiated against the petitioner. Ld. A.P.O., on seeking instructions from the Director General, Medical, Health and Family Welfare, Uttarakhand, Dehradun, submitted that petitioner’s representation shall now be decided by the said respondent, as per law. In reply, Ld. Counsel for the petitioner submitted that a strict warning be given to the concerned respondent to decide the representation of the petitioner in the light of documents enclosed with the petition, at the earliest, failing which, she should be called to appear in person to show cause why proceedings under the Contempt of Courts Act, 1971 be not initiated against her.

5. The Tribunal deems it proper to grant one more opportunity to Director General, Medical, Health and Family Welfare, to decide the pending representation of the petitioner in the light of documents filed with the claim petition, as per rules, without further loss of time.

6. The claim petition is disposed of, at the admission stage, with the consent of Ld. Counsel for the parties, by directing Director General, Medical, Health and Family Welfare, Uttarakhand, Dehradun, to decide the representation of the petitioner by a reasoned and speaking order, as per rules, without further loss of time, preferably within 12 weeks of presentation of certified copy of this order along with representation, enclosing the documents in support thereof. Liberty is granted to the petitioner to make a mention if his representation is not decided by the Director General, Medical, Health and Family Welfare, on time. If the same is not done within the stipulated time, the respondent may be called either in person or through Counsel to show cause as to why the Contempt of Court proceedings be not initiated against her. No order as to costs.

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: OCTOBER 19, 2023.*  
*DEHRADUN*

*VM*