

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

CLAIM PETITION NO. 174/SB/2023

Sukhveer Singh, aged about 61 years, s/o Sri Mathber Singh, r/o 78/83, Shivlok Colony, MDDA Road (Defence Colony), District Dehradun, Uttarakhand.

.....Petitioner

versus

1. State of Uttarakhand through Home Secretary, Police Department, Government of Uttarakhand, Dehradun.
2. Director General of Police, Uttarakhand, Dehradun.
3. Inspector General of Police (*Karmik*), Police Headquarters, Dehradun, District Dehradun, Uttarakhand.
4. Senior Superintendent of Police, District Dehradun, Uttarakhand.
5. Senior Treasury Officer, District Dehradun, Uttarakhand.

..... Respondents

Present: Sri M.C. Upadhyaya, Advocate, for the Petitioner (*online*)
Sri V.P. Devrani, A.P.O., for the Respondents

JUDGEMENT

Dated: 20th October, 2023

Justice U.C. Dhyani (Oral)

Petitioner is retired Assistant Sub Inspector (A.S.P.). He has filed present claim petition for seeking the following reliefs:

- (i) Issue an order or direction in the nature of certiorari for quashing the impugned order dated 17.02.2010 passed by the respondents (contained as No.6 to this claim petition).
- (ii) Issue an order or direction in the nature of mandamus commanding / directing the respondents to re-fix the pay of the petitioner in the pay scale of Rs. 14430/- (10230+4200), fixed as vide order dated 23.04.2009 and re-fix the pension of the petitioner and also pay the amount which was recovered by the

respondents from the petitioner, along with 18% interest and further direct to pay the difference of salary and pension along with other applicable benefits.

(iii) Issue an order or direction in the nature of mandamus commanding or directing to respondents to give the arrears of the pay and recovered amount of the petitioner along with 18% interest from its recovery till the date of payment of the aforesaid arrears.

(iv) Issue any other relief, which this Hon'ble Tribunal may deemed fit and proper in the circumstances of the case, be passed in favor of the petitioner.

(v) Cost of the claim petition be awarded in favor of the petitioner."

[emphasis supplied]

2. Learned A.P.O. submitted that the claim petition in respect of relief (i) is barred by limitation in view of Section 5(1)(b)(ii) of the U.P. Public Services (Tribunal) Act, 1976 (as applicable to the State of Uttarakhand).

3. In reply, learned Counsel for the petitioner submitted that the petitioner has continuous cause of action.

4. Learned Counsel for the petitioner has, however, made an innocuous prayer that the petitioner's representation may kindly be directed to be decided by respondent no. 4 by a reasoned and speaking order, in accordance with law.

5. Learned Counsel for the petitioner submitted that similarly situated police officials are getting higher pay scale than the petitioner; Hon'ble High Court has decided various writ petitions, which decisions help the petitioner; and recovery from the retiral dues cannot be made from the petitioner in view of the decision rendered by Hon'ble Apex Court in State of Punjab & others vs. Rafiq Masih, 2015(4) SCC 334. The recovery has been done from the retiral dues of the petitioner, which requires to be refunded to him. Learned Counsel for the petitioner, therefore, submitted that petitioner's representation may kindly be directed to be decided by respondent no. 4 in the light of decisions rendered by Hon'ble High Court of Uttarakhand in WPSS No. 2876 of 2017, Raj Singh Negi vs. State of Uttarakhand and others, and other connected writ petitions; WPSS No. 609 of 2020, Ramchandra Tomar vs. State of

Uttarakhand and others, and other connected writ petitions. Whereas WPSS No. 2876 of 2017, Raj Singh Negi vs. State of Uttarakhand and others, and connected writ petitions were decided on 27.09.2018, WPSS No. 609 of 2020, Ramchandra Tomar vs. State of Uttarakhand and others, and connected writ petitions were decided on 13.08.2021. Copies of such decisions have been filed by the petitioner.

6. Learned Counsel for the petitioner further submitted that a direction to decide the representation of the petitioner will not come within the meaning of "heard and finally decided" (expression which is used in schedule to the U.P. Public Services (Tribunal) Act, 1976), therefore, the claim petition may be disposed of by the Single Bench

7. Learned A.P.O. has no objection, if a direction is given to respondent no. 4 to decide the representation of the petitioner, in accordance with law.

8. Without prejudice to rival contentions, the Claim Petition is disposed of, at the admission stage, with the consent of learned Counsel for the parties, by directing respondent no. 4 to decide the representation of the petitioner by a reasoned and speaking order, in the light of above-noted decisions rendered by Hon'ble High Court of Uttarakhand, without unreasonable delay, preferably within 10 weeks of presentation of certified copy of this order along with fresh representation. No order as to costs.

(JUSTICE U.C. DHYANI)
CHAIRMAN

DATE: 20th October, 2023
DEHRADUN
RS