

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

CONTEMPT PETITION NO. 07/SB/2023

Prakash Chandra Gautam, s/o Sri Balram Gautam, aged about 61 years, r/o 1 B, Ankit Puram, G.M.S. Road, Post Kanwali, Dehradun, District-Dehradun, Uttarakhand-248001.

.....Petitioner

versus

Mr. Suresh Chandra Pant, s/o not known, presently posted as Managing Director, Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam, 11 Mohini Road, Dehradun.

..... Respondent
(alleged contemnor)

Present: Sri P.C. Gautam, Petitioner, along with
Sri M.S. Rawat, Advocate, for the petitioner (*online*)
Sri V.P. Devrani, A.P.O., in assistance of the Tribunal
Dr. N.K. Pant, Advocate, for alleged contemnor

JUDGEMENT

Dated: 30th October, 2023

Justice U.C. Dhyani (Oral)

A notice was issued to alleged contemnor for showing cause as to why proceedings under the Contempt of Courts Act, 1971, be not initiated against him for non-compliance of Tribunal's orders dated 01.05.2023 and 04.08.2023.

2. A direction was given *vide* order dated 01.05.2023 as follows:

“.....

9. The claim petition is disposed of, at the admission stage, by directing Respondent No. 2 (Managing Director, Uttarakhand Peyjal Sansadhan Evam Vikas Nigam, Dehradun),

to decide pending representation of the petitioner, at the earliest possible, in accordance with law. Respondent department is also directed to release the admitted retiral dues along with admissible interest to the petitioner with utmost expedition, preferably within 08 weeks of presentation of certified copy of this order. Rival contentions are left open. No order as to costs."

3. When order dated 01.05.2023 was not complied with, petitioner filed contempt petition No. 05/DB/2023, which was converted into execution petition and was decided *vide* order dated 04.08.2023, under intimation to the representative of respondents no. 2 & 3, in such petition, as below:

".....

6. Dr. N.K.Pant, Ld. Counsel for Respondent Pey Jal Sansdhan Evam Vikas Nigam, stated that suitable orders, as per law, shall be issued and representation of the petitioner shall be decided at the earliest.

7. The Tribunal records the aforesaid statement of Dr. N.K.Pant, Ld. Counsel for Uttarakhand Pey Jal Sansdhan Evam Vikas Nigam and closes the execution application with the direction to the respondent department to take suitable action without further loss of time, failing which the concerned authority may be liable to face appropriate action under the relevant law governing the field.

....."

4. When nothing was done, show cause notice, as has been mentioned above, was issued to alleged contemnor.

5. Response affidavit has been filed by Sri Suresh Chandra Pant, Managing Director, Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam. Relevant documents have been brought on record along with the response affidavit.

5.1 In para 6 of the response affidavit filed by Sri Suresh Chand Pant, M.D., Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam, it has been stated that orders dated 01.05.2023 and 04.08.2023 have been complied with. Copy of the said order dated 27.10.2023 has been filed as Annexure: CA1 to the response affidavit.

5.2 It has also been mentioned, in the response affidavit, that a departmental enquiry of serious nature is pending against the petitioner/ applicant and such enquiry relates to recovery of public money.

6. In office memorandum dated 27.10.2023, it has been mentioned (para 2) that an order has been issued for releasing retiral benefits along with admissible interest to the petitioner.

6.1 In para 3 of such O.M., it has been mentioned that orders have been issued to release pension worth Rs. 77,950/- and gratuity worth Rs. 20 lakhs, out of which Rs. 10 lakhs (gratuity) has already been released to the petitioner. Copy of the order has been enclosed by alleged contemnor.

6.2 In para 4 of the O.M. dated 27.10.2023, it has been mentioned that, in one of the departmental proceedings, a sum of Rs. 90,254/- has been directed to be recovered from the petitioner. In para 5 of such O.M., it has been mentioned that three other charge sheets have been issued to the petitioner. Departmental enquiry shall soon be concluded and final decision, as per law, shall be taken on the same.

7. One of the objectives of the contempt action is to enforce the compliance the orders of the Court (or Tribunal). **In the first round of claim petition, the claim petition was disposed of without calling for the counter affidavit.** A direction was given to decide the representation of the petitioner. When the representation was not decided, petitioner filed contempt petition, which was converted into execution application. **Now, the representation of the petitioner has been decided by the respondent.** Such decision may not be of the liking of the petitioner, but the fact remains that he has been released a substantial sum after the show cause notice was issued to the alleged contemnor.

8. Sri M.S. Rawat, learned Counsel for the petitioner emphatically submitted that admitted dues have not been released in favour of the petitioner. Dr. N.K. Pant, learned Counsel for the alleged contemnor, on seeking instructions from his client, fairly submitted that sanctioned dues, which remain unpaid to the petitioner, shall be paid to him without unreasonable delay. The details of such sanctioned, but not paid, dues have been given by the Tribunal in its order dated 01.05.2023 and also find place in para 10 of this decision. Dr. N.K. Pant, Advocate, also submitted that there is a long list of employees, whose retiral dues are to be paid by Uttarakhand Pey Jal Sansadhan Vikas Evam Nirman Nigam from its own resources, therefore, the same is likely to take some time. In any case, such employees are entitled to interest on delayed payment of retiral dues.

9. Rule 50 of the U.P. Public Services (Tribunal) (Procedure) Rules, 1992, reads as below:

“50. Initiation of proceedings.— (1) Any petition, information or motion for action being taken under the Contempt shall, in the first instance, be placed before the Chairman.

(2) The Chairman or the Vice-Chairman or such other Members as may be designated by him of this purpose, shall determine the expediency or propriety of taking action under the Contempt Act.”

10. The Tribunal, in the peculiar facts of the case, deems it proper to close the contempt proceedings, leaving it open to the petitioner to make representation to the respondent in respect of his pending retiral dues and admissible interest, as per law, if such dues are not released to him within a reasonable time. Liberty is also granted to the petitioner to seek appropriate remedy, which includes making representation to the respondent in respect of pending departmental proceedings, in accordance with law. If such representation is filed before the respondent, the same shall be considered keeping in view the submissions of learned Counsel for the petitioner, which (submissions) were mentioned in Tribunal’s order dated 01.05.2023 and are reproduced herein below for convenience:

“

A) In view of the facts and grounds as mentioned above the applicant prays that this Hon'ble Tribunal may graciously be pleased to set aside the impugned show cause notice dated 10-02-2023 passed by respondent No. 3 (Annexed as Annexure No. 1 to this petition.) and impugned charge-sheet dated 25-02-2023 passed by the respondent No. 2 (Annexed as Annexure No. 2 to this petition), otherwise the petitioner shall suffer irreparable loss and injury.

B) To Issue a writ order or direction in the nature of Mandamus commanding the Respondents to forthwith release the outstanding retiral benefits to the petitioner along with interest of 18% from the date of retirement, details whereof is given herein below:-

A) Gratuity	= Rs. 20,00,000/- (approx.) (sanctioned but not paid)
B) Leave Encashment (300 days)	= Rs. 20,00,000/- (approx.) (sanctioned but not paid)
C) Arrears of 7 th Pay Commission	= Rs. 1,98,222/- (approx.) (sanctioned but not paid)
D) Traveling Allowance	= Rs. 30,136/- (approx.) (sanctioned but not paid)
E) Dearness Allowance	= Rs. 40,636/- (approx.) (sanctioned but not paid)
Total Amount	=Rs. 42,68,994/- (Approx)

3. After six months of his retirement, he received show cause notice dated 10.02.2023 and a charge-sheet dated 25.02.2023, which are under challenge in present claim petition.

4. It is the submission of Ld. Counsel for the petitioner that impugned show cause notice and charge-sheet, after six months of his retirement, were issued under the Uttarakhand Peyjal Nigam Personnel (Discipline and Appeal) Rules, 2017, just to harass the petitioner. It is also the submission of Ld. Counsel for the petitioner that the departmental proceedings, after retirement of the petitioner, have been initiated in clear violation of Article 351-A of Civil Service Regulations.

5. Ld. Counsel for the petitioner further submitted that in *State of Jharkhand vs. Jitendra Kumar Srivastava and another, (2013)12SCC 210*, it has been observed that the right to receive pension is recognized as a right to 'Property'. The petitioner has enclosed copies of judgments passed by Hon'ble High Court in WPSB No. 541/2022 on 12.09.2022, in WPSB No. 170/2020 on 28.03.2023, in support of his contention for release of retiral dues along with interest.

.....”

11. Contempt proceedings are, accordingly, closed, with the observations as above.

(JUSTICE U.C. DHYANI)
CHAIRMAN

DATE: 30th October, 2023
DEHRADUN
RS