

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
BENCH AT NAINITAL**

CLAIM PETITION NO. 106/NB/SB/2021

Chandra Shekhar Pandey, s/o Late Sri Dharmanand Pandey, retired Chief Administrative Officer, from the office of Chief Engineer Level-2, Rural Works Department, Bhimtal, District Nainital, r/o Ganesh Nagar, Ramni Jasuwa, Kathgharia, Haldwani, District Nainital.

.....**Petitioner**

vs.

1. State of Uttarakhand through Secretary, Rural Works Department, Government of Uttarakhand, Dehradun.
2. Chief Engineer Level-I/ Head of Department, Rural Works Department, Uttarakhand, Dehradun.
3. Chief Engineer Level-2, Rural Works Department, Kumaon Division, Bhimtal, District Nainital.
4. Superintending Engineer, Rural Works Department, Kumaon Circle, Nainital.
5. Executive Engineer, Rural Works Department, Division Nainital, Nainital.
6. Director, Lekha Evam Haqdari, Uttarakhand, 23 Laxmi Road, Dalanwala, Dehradun.
7. Chief Treasury Officer, Nainital.

.....**Respondents**

Present: Sri Bhagwat Mehra, Advocate, for the Petitioner
Sri Kishore Kumar, A.P.O., for the Respondents

JUDGMENT

DATED: DECEMBER 28, 2023

Justice U.C.Dhyani (Oral)

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

“A. To set aside the impugned communication dated 19.08.2021 issued by the Respondent no.3 (Annexure no.1 to Compilation-I).

B. To direct the Respondents to forthwith release all outstanding retiral benefits i.e. Gratuity, Commutation and Pension etc. to the petitioner.

C. To direct the Respondents to pay interest on the delayed payment of retiral dues i.e. Gratuity, Commutation and Pension etc. to the petitioner, at the rate to be specified by this Hon'ble Tribunal.

D. To issue any other order or direction, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

E. Award the cost of the Claim Petition in favour of the petitioner.”

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

When the petitioner was serving as Senior Assistant in the Rural Engineering Department (RES), Division Office, Nainital, he was placed under suspension *vide* order dated 30.04.2008. The name of RES was later on changed as Rural Works Department (RWD). Executive Engineer, RES, Division Bageshwar, was appointed as enquiry officer. The enquiry officer issued charge sheet against the petitioner, who submitted detailed reply to the same. After completion of enquiry, the disciplinary authority/ appointing authority *i.e.* respondent no. 4 passed a punishment order on 05.07.2008 and major penalty was imposed on the petitioner. An F.I.R. was also lodged for the same allegation. The respondent no. 4 passed the punishment order during pendency of the criminal proceedings. The petitioner filed a representation which was forwarded by the Executive Engineer to disciplinary authority, respondent no. 4, to keep the final order in abeyance till the decision of the Criminal Court. The criminal case was decided on 07.12.2012. The petitioner was convicted.

Feeling aggrieved, the petitioner filed Criminal Appeal. The same was allowed *vide* judgment dated 12.10.2015. The order dated 07.12.2012 convicting the petitioner was set aside. The petitioner was exonerated of the criminal charges levelled against him. After acquittal in the criminal case, the petitioner submitted a representation on 24.02.2016 for grant of ACP and promotion from the date his juniors were granted such service benefits. When the

petitioner met the departmental authorities, he was told that although the petitioner has been acquitted in the criminal case but still the departmental punishment order dated 05.07.2008 exists against him and so long as punishment order is there, no such benefits, as prayed for by him, can be given to him.

The petitioner filed departmental appeal along with application for condoning the delay in preferring the statutory appeal. The appellate authority *vide* order dated 28.03.2018 rejected the departmental appeal of the petitioner on the ground of delay. No decision was given on the merits of the appeal.

Feeling aggrieved, the petitioner approached the Tribunal and filed Claim Petition No. 19/NB/DB/2018. During pendency of the claim petition, the respondents promoted the petitioner to next higher post of Chief Assistant *vide* order dated 11.09.2019 on their own. After pleadings were exchanged, the claim petition was allowed on 06.11.2019 by directing the respondents to consider the claim of the petitioner for service benefits including ACP and promotion as per Rules, on the basis of service record.

3. Respondents no. 1 to 4 challenged Tribunal's judgment dated 06.11.2019 before the Hon'ble High Court by filing Writ Petition (S/B) No. 169/ 2020 along with stay application. The writ petition came up for hearing before the Division Bench of Hon'ble High Court on 23.07.2020. **The Hon'ble High Court was pleased to reject the stay application *vide* order dated 23.07.2020 (Copy Annexure:7).** In compliance of the judgment and order dated 06.11.2019, the respondent no. 2 issued an office order, in which it was clearly mentioned that the punishment order dated 05.07.2008 is also cancelled (Copy Annexure: 8). The petitioner was, thereafter promoted to the post of Chief Assistant from due date, from 19.04.2010 (Annexure: 9). *Vide* order dated 07.10.2020, the petitioner was granted benefit of 3rd ACP (Annexure: 10). *Vide* order dated 08.10.2020, the petitioner was promoted as

Administrative Officer *w.e.f.* 29.11.2011. He was also promoted to the next higher post of Senior Administrative Officer from due date *i.e.* 31.12.2015 and further promoted as Chief Administrative Officer *w.e.f.* 22.07.2017. (Annexure: 11). Petitioner's salary was refixed on the promoted post from the due date (Annexure: 13). Arrears on account of refixation of pay was paid to the petitioner on 24.12.2020.

4. Tribunal's order was since fully complied with, therefore, *vide* order dated 06.01.2021 in Execution Application no. 10 of 2020, statement of respondents was recorded that the judgment dated 06.11.2019 has been fully complied with.

5. The petitioner continued to serve on the promoted post and lastly as Chief Administrative Officer, till attaining the age of superannuation *i.e.* on 31.03.2021. **After retirement, his pension papers/retiral dues papers were prepared by the respondent no. 5, which were duly countersigned by the respondent no. 3 on 03.05.2021. Since the writ petition is pending, therefore, respondents instructed the petitioner to submit an undertaking to the effect that if the decision in such writ petition goes against the petitioner, in that case, he shall be liable for recovery of the amount. The petitioner submitted such undertaking before the respondent no.2 in April 2021 (Annexure: 15). The pension papers were sent to respondent no. 7 for sanction of pension and other retiral dues, but respondent no. 7 endorsed an objection on 02.06.2021 that Court case is pending before the Hon'ble High Court and such retiral dues cannot be paid to him (Annexure: 16).**

6. Feeling aggrieved, the petitioner submitted detailed representation on 14.06.2021 to respondent no. 3 stating that the petitioner has not filed any Court case against the department and the stay order has already been rejected, as such, his retiral dues be released to him (Copy of representation is Annexure: 17). Respondent no. 3 *vide* letter dated 16.06.2021 observed that Court

case is pending against the petitioner and process of releasing retiral dues is under way (Annexure-18). Respondent no. 3 *vide* order dated 30.06.2021 sanctioned the provisional pension from 01.04.2021 to 31.03.2022. No order was passed regarding gratuity and other retiral dues (Annexure: 19). The petitioner again moved representation on 12.08.2021 (Annexure:20) but respondent no. 3 *vide* impugned communication dated 19.08.2021 stated that since respondent no. 7 had raised objection therefore, it is not possible to release retiral dues to the petitioner till such objections are removed.

7. The petitioner has given details of outstanding retiral dues in para 36 of the claim petition. His retiral dues have not been paid to him despite repeated requests.

8. In this way, the RWD is although in favour of releasing retiral dues of the petitioner, but his retiral dues have not been paid because of the objections raised by respondent no. 7 (Chief Treasury Officer, Nainital). The only reason is that since the appeal against the order of Tribunal is pending before the Hon'ble High Court, although, in response to which, the undertaking has already been submitted by the petitioner in the respondent department, therefore, RWD is not releasing the same. As has been mentioned above, documents have been filed by the petitioner in support of his claim petition, which has been contested on behalf of the respondents only on the ground that WPSB no. 169 of 2020 is pending against him before the Hon'ble High Court.

9. C.A. has been filed by Sri A.K.Pant, Chief Engineer, level-II, RWD, Kumaon Region, Bhimtal, Nainital. In response to the query of the Tribunal, learned A.P.O. replied that retiral dues have not been paid to the petitioner due to pendency of the WPSB No. 169 of 2020 before the Hon'ble High Court. Learned A.P.O. drew attention towards para 8 of the C.A. that when the Hon'ble High Court decides the writ petition finally, then final pension and gratuity will be paid. In reply, learned Counsel for the petitioner submitted that the

petitioner has already given an undertaking to the respondent department that he shall abide by the decision of Hon'ble Court and if the decision of the Tribunal is set aside, he will make good the loss to the Govt. Litigation is pending at the behest of the State, not at the instance of the petitioner. Reference of a G.O. has been given by learned A.P.O., which, probably, means that if departmental proceedings are pending against employee or some litigation is pending at the instance of the employee, then retiral dues may not be released to him.

10. The Hon'ble High Court passed an order on 23.07.2020, in Stay Application no. 5230 of 2020 in WPSB No. 169 of 2020. The observations of Hon'ble Court assume great significance while deciding present claim petition. It will be appropriate to reproduce complete order dated 23.07.2020 herein below for convenience:

"1. Heard Shri A.K. Bisht, learned standing counsel for the State /petitioners and Shri Bhagwat Mehra, learned counsel for the respondent.

2. Learned counsel for the petitioners contends that the tribunal has committed an error in allowing the claim petition of the respondent and setting aside the order of punishment. It has also committed an error by directing the petitioners to consider the claim of respondent afresh, including grant of ACP and promotion etc. If the same is to be done, the petitioners shall suffer undue loss and hardship. On various grounds, the tribunal has committed error.

3. The same is disputed by learned counsel for the respondent. He submits that irrespective of the various defences he has towards the impugned order, the fact on record would indicate that subsequent to the dismissal order passed by the appellate authority namely the impugned order dated 28.03.2018, the respondent has been promoted on 11.09.2019, therefore, there is no need to grant any interim relief.

4. On hearing learned counsels, we are of the view that since this writ petition is filed challenging the order of the tribunal, the same requires to be reconsidered on merits. However, so far as granting of an interim stay is concerned, we do not find that the petitioners have made out any ground for the same. Even after the passing of the impugned appellate order, the petitioners themselves have promoted the respondent. Having done so, they cannot now contend that subsequent ACP, promotions etc. will not be granted to the respondent. Hence, on this ground alone, the plea of the petitioners for an interim relief is dismissed. Stay application No. 5230 of 2020 is rejected.

5. Issue rule nisi.
6. Post for hearing in the usual course.
7. Respondent to file counter affidavit, if any, by the next date.”

[Emphasis supplied]

11. Hon'ble Apex Court, in the decision of **S.K. Dua vs. State of Haryana and Another, (2008)1 Supreme Court Cases (L&S) 563**, has observed as below:

“.....

2. This appeal is directed against an order passed by the High Court of Punjab & Haryana at Chandigarh on July 7, 2005 in Writ Petition (C) No. 10025 of 2005. By the impugned order, the High Court dismissed the petition in limine relegating the appellant writ petitioner to avail a remedy by approaching a Civil Court.

3. Facts in brief are that the appellant was working as an Engineer-in-Chief in the Department of Irrigation, Haryana. According to him, he joined the service in Irrigation Department of the erstwhile State of Punjab in August, 1961 and was allocated to the Department of Irrigation and Power in the State of Haryana. He was promoted as Engineer- in-Chief on May 31, 1996 and worked in that capacity till he attained the age of superannuation in June, 1998. The appellant had an unblemished record of service for 37 years. During the course of his duties as Head of the Department, he submitted reports in or about April-May, 1998 to the Government highlighting certain irregularities and mal- practices said to have been committed by Mr. S.Y. Quraishi, the then Secretary, Irrigation & Power and requested the Government to make enquiry through Central Bureau of Investigation (CBI). According to the appellant, in pursuance of the complaint made by him, the Government removed Mr. Quraishi as Secretary, Irrigation allowing him to work only as Secretary, Department of Power.

4. The appellant has alleged that, as a measure of vendetta, Mr. Quraishi organized to send the appellant on deputation on May 15, 1998 to a lower and unimportant specially created post of Engineer-in-Chief, Command Area Development Agency by upgrading it just few weeks before his retirement. In addition to the said action, the appellant was served with three charge-sheets/ show cause notices in June, 1998, few days before his retirement. The appellant, however, retired on June 30, 1998 on reaching the age of superannuation. The appellant was paid provisional pension, but other retiral benefits were not given to him which included Commuted Value of Pension, Leave Encashment, Gratuity, etc. totaling to about Rs. 12 lakhs. They were withheld till finalization of disciplinary proceedings. The appellant submitted replies to the charge- sheets/ show cause notices, inter alia, denying allegations and asserting that they were uncalled for and were issued with mala fide intention and oblique motive. He further submitted that he had acted in public interest in salvaging damage likely to be caused to

public exchequer. The replies submitted by the appellant were accepted by the authorities and the appellant was exonerated of all the charges. All retiral benefits were thereafter given to him between June 11 and July 18, 2002. **Thus, according to the appellant though he retired in June, 1998, retiral benefits to which he was otherwise entitled, were given to him after four years of his superannuation.**

5. **The appellant has stated that, in the aforesaid circumstances, he was entitled to interest on the amount which had been withheld by the respondents and paid to him after considerable delay. He, therefore, made several representations.** He also issued legal notice on June 3, 2005 claiming interest at the rate of 18% per annum for delayed payment. **He had invited the attention of the Government to Administrative Instructions issued by the Government under which an employee is entitled to claim interest. Even otherwise, the action of non-payment of interest was arbitrary, unreasonable and violative of Articles 14 and 21 of the Constitution.** There was, however, no reply whatsoever from the Government. The appellant as a senior citizen of 65 years of age then approached the High Court of Punjab & Haryana by filing a writ petition under Article 226 of the Constitution. But the High Court summarily dismissed the writ petition without even issuing notice to the respondents. The appellant has challenged the said order in the present appeal.

6. On October 28, 2005, notice was issued by this Court. Affidavits and further affidavits were filed thereafter and the Registry was directed to place the matter for final hearing. Accordingly, the matter has been placed before us for final disposal.

7.

8. The learned counsel for the appellant contended that the High Court was totally unjustified in dismissing the writ petition in limine and the said order is liable to be set aside. He submitted that no questions of fact, much less, disputed questions of fact were involved in the petition and the High Court was wrong in summarily dismissing it. **It is well settled law, submitted the counsel, that retiral benefits are not in the nature of bounty and an employee is entitled as of right to get those benefits immediately after superannuation unless they are withdrawn or withheld as a matter of punishment.** According to the appellant, he had always acted in the interest of the Government and saved public exchequer by inviting the attention to mal- practices committed by high ranking officers. As a measure of revenge against the appellant, charge-sheets were issued, **but after considering the explanation submitted by the appellant, all proceedings against him were dropped. In view of exoneration of the appellant, the Government ought to have paid interest on retiral benefits which were given to him after long time. As per the Guidelines and Administrative Instructions issued by the Government, the appellant was entitled to such benefit with interest.** The High Court ought to have allowed the writ petition of the appellant and ought to have awarded those benefits. **It was, therefore, submitted that the appeal deserves to be allowed by directing the respondents to pay interest on the retiral dues payable to the**

appellant which were actually paid to him **after considerable delay**.

9. An affidavit in reply is filed by Special Secretary, Government of Haryana, Irrigation Department. In the counter affidavit which was filed in January, 2005, the deponent has stated that the appellant was paid all his retiral dues as soon as he was exonerated of the charges levelled against him. The deponent referred to the Haryana Civil Service (Punishment and Appeal) Rules, 1987 relating to benefits to which an employee is entitled and contended that after the charge-sheets were finally dropped, the appellant was paid all retiral benefits within three months from the date of dropping of the charge-sheets. But it was further stated that certain vigilance enquiries are "still pending" against the appellant. In the circumstances, **according to the deponent, the appellant was not entitled to interest and the action taken by the Government could not be said to be illegal or otherwise unreasonable. A prayer was, therefore, made to dismiss the appeal.**

10. In rejoinder affidavit, the appellant reiterated what he had pleaded in the petition for leave to appeal and submitted that the stand taken by the Government in counter- affidavit is misconceived and he is entitled to the relief prayed in the petition before the High Court and in the present appeal.

11. Having heard the learned counsel for the parties, in our opinion, the appeal deserves to be partly allowed. **It is not in dispute by and between the parties that the appellant retired from service on June 30, 1998. It is also un-disputed that at the time of retirement from service, the appellant had completed more than three decades in Government Service. Obviously, therefore, he was entitled to retiral benefits in accordance with law.** True it is that certain charge- sheets/ show cause notices were issued against him and the appellant was called upon to show cause why disciplinary proceedings should not be initiated against him. It is, however, the case of the appellant that all those actions had been taken at the instance of Mr. Quraishi against whom serious allegations of mal- practices and mis-conduct had been levelled by the appellant which resulted in removal of Mr. Quraishi from the post of Secretary, Irrigation. The said Mr. Quraishi then became Principal Secretary to the Chief Minister. Immediately thereafter charge-sheets were issued to the appellant and proceedings were initiated against him. **The fact remains that proceedings were finally dropped and all retiral benefits were extended to the appellant. But it also cannot be denied that those benefits were given to the appellant after four years. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well- founded that he would be entitled to interest on such benefits. If there are Statutory Rules occupying the field, the appellant could claim payment of interest relying on such Rules. If there are Administrative Instructions, Guidelines or Norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence Statutory Rules, Administrative Instructions or Guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel**

for the appellant, that retiral benefits are not in the nature of “bounty” is, in our opinion, well-founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents.

12.

13. The order passed by the High Court, therefore, must be quashed and set aside.

.....

Order accordingly.”

[Emphasis supplied]

12. In the decision of Civil Appeal No. 7113 of 2014, **D.D. Tiwari (D) vs. Uttar Haryana Bijli Vitran Nigam Ltd. & Others, 2014 (5) SLR 721**, Hon’ble Supreme Court has held as under:-

“2. Heard learned counsel on behalf of the parties. The appellant (since deceased) is aggrieved by the impugned order dated 14.03.2011 passed by the High Court of Punjab and Haryana at Chandigarh in LPA No. 1818 of 2010 in affirming the judgment of the learned single Judge passed in C.W.P. No. 1048 of 2010 **wherein he was not awarded interest for the delayed payment of pension and gratuity amount, for which he was legally entitled to. Therefore, the appellant approached this Court for grant of interest on the delayed payment on the retiral benefits of pension and gratuity payable to him by the respondents.**

3. The appellant was appointed to the post of Line Superintendent on 30.08.1968 with the Uttar Haryana Bijli Vitran Nigam Ltd. In the year 1990, he was promoted to the post of Junior Engineer-I. During his service, the appellant remained in charge of number of transformers after getting issued them from the stores and deposited a number of damaged transformers in the stores. While depositing the damaged transformers in the stores, some shortage in transformers oil and breakages of the parts of damaged transformers were erroneously debited to the account of the appellant and later on it was held that for the shortages and breakages there is no negligence on the part of the appellant. On attaining the age of superannuation, he retired from service on 31.10.2006. **The retiral benefits of the appellant were withheld by the respondents on the alleged ground that some amount was due to the employer. The disciplinary proceedings were not pending against the appellant on the date of his retirement. Therefore, the appellant approached the High Court seeking for issuance of a direction to the respondents regarding payment of pension and release of the gratuity amount which are retiral benefits with an interest at the rate of 18% on the delayed payments.** The learned single Judge has allowed the Writ Petition vide order dated 25.08.2010, after setting aside the action of the respondents in withholding the amount of gratuity and directing the respondents to release the withheld amount of gratuity within three months without awarding interest as claimed by the appellant. The

High Court has adverted to the judgments of this Court particularly, in the case of State of Kerala & Ors. Vs. M. Padmanabhan Nair, 1985 91) SLR 750, wherein this Court reiterated its earlier view holding that **the pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement, but, have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be dealt with the penalty of payment of interest at the current market rate till actual payment to the employees. The said legal principle laid down by this Court still holds good in so far as awarding the interest on the delayed payments to the appellant is concerned.** This aspect of the matter was adverted to in the judgment of the learned single Judge without assigning any reason for not awarding the interest as claimed by the appellant. That is why that portion of the judgment of the learned single Judge was aggrieved of by the appellant and he had filed L.P.A. before Division Bench of the High Court. The Division Bench of the High Court has passed a cryptic order which is impugned in this appeal. **It has adverted to the fact that there is no order passed by the learned single Judge with regard to the payment of interest and the appellant has not raised any plea which was rejected by him, therefore, the Division Bench did not find fault with the judgment of the learned single Judge in the appeal and the Letters Patent Appeal was dismissed. The correctness of the order is under challenge in this appeal before this Court urging various legal grounds.**

4. It is an undisputed fact that the appellant retired from service on attaining the age of superannuation on 31.10.2006 and the order of the learned single Judge after adverting to the relevant facts and the legal position has given a direction to the employer-respondent to pay the erroneously withheld pensionary benefits and the gratuity amount to the legal representatives of the deceased employee without awarding interest for which the appellant is legally entitled, **therefore, this Court has to exercise its appellate jurisdiction as there is a miscarriage of justice in denying the interest to be paid or payable by the employer from the date of the entitlement of the deceased employee till the date of payment as per the aforesaid legal principle laid down by this Court in the judgment referred to supra.** We have to award interest at the rate of 9% per annum both on the amount of pension due and the gratuity amount which are to be paid by the respondent.

5. **It is needless to mention that the respondents have erroneously withheld payment of gratuity amount for which the appellants herein are entitled in law for payment of penal amount on the delayed payment of gratuity under the provisions of the Payment of Gratuity Act, 1972.** Having regard to the facts and circumstances of the case, we do not propose to do that in the case in hand.

6. For the reasons stated above, we award interest at the rate of 9% on the **delayed payment of pension and gratuity amount from the date of entitlement till the date of the actual payment.** If this amount is not paid within six weeks from the date of receipt of a copy of this order, the same shall carry interest at the rate of 18%

per annum from the date of amount falls due to the deceased employee. With the above directions, this appeal is allowed.”

[Emphasis supplied]

13. It will also be useful to reproduce the relevant part of the judgment rendered by this Tribunal in **Ramnarayan Singh vs. State of Uttarakhand, 2019(1) UD 698**, herein below for convenience:

“22. In the backdrop of the above noted facts, the only other question, which is left for determination of this Tribunal now is—how much interest should be awarded to the petitioner for delayed payment of gratuity?”

23. In the decision of *D.D.Tiwari (D) Thr. Lrs. vs. Uttar Haryana Bijli Vitran Nigam Ltd. and Others, 2014 (5) SLR 721 (S.C.)*, it was held by Hon’ble Supreme Court that retiral benefit is a valuable right of employee and culpable delay in settlement/ disbursement must be dealt with penalty of payment of interest. Regard may also be had to the decision of Hon’ble Apex Court in *S.K.Dua vs. State of Haryana and Another, (2008) 1 Supreme Court Cases (L&S) 563*, in this context.

24. The aforesaid decisions have been followed by this Tribunal in claim petition *No.30/DB/2013 Dwarika Prasad Bhatt vs. State and others, decided on 22.09.2016*. The direction given in claim petition No. 30/DB/2013 has also been carried out.

25. It is pointed out that Government Order No.979/XXVII(3)Pay/2004 dated 10.08.2004 has been issued by Government of Uttarakhand to regulate interest on delayed payment of gratuity etc. Respondents are, therefore, directed to pay the difference of gratuity, as admissible, and the amount of gratuity which has already been paid, to the petitioner, as per G.O. dated 10.08.2004. The rate of interest of gratuity shall be simple rate of interest payable on General Provident Fund till the date of actual payment.

26. Respondents are directed to pay the difference in the amount of gratuity along with admissible interest, as per G.O. dated 10.08.2004, on or before 30.06.2019.”

[Emphasis supplied]

14. Petitioner is, therefore, entitled to interest on delayed payment of monthly pension and amount of gratuity as per prevalent G.P.F. rates as per G.O. dated 10.08.2004 issued by the Govt. of Uttarakhand, a reference of which has been given above.

15. It may be mentioned, at the cost of repetition, that the petitioner, in para 29 of the claim petition, has submitted as below:

“29. That after retirement from service, all pension papers/retiral dues papers regarding the petitioner, were prepared by the Respondent no. 5 and which were duly countersigned by the Respondent no. 3 on 03.05.2021. Since the aforesaid writ petition is pending, as such the Respondents instructed the petitioner to submit an undertaking to the effect that if the decision in the said writ petition goes against the petitioner, in that case he will be liable for recovery of the amount. As such the petitioner submitted the said undertaking in the month of April, 2021 before the Respondent no. 2.”

16. Thus, there appears to be no impediment in releasing the retiral dues of the petitioner along with interest on delayed payment of the same, but the same shall be subject to the decision of Hon'ble High Court in WPSB No. 169 of 2020, in respect of which an undertaking has already been given by the petitioner to the respondent department.

17. Order accordingly.

18. The Respondent Department is directed to release the retiral dues along with admissible interest on delayed payment of such dues to the petitioner, without unreasonable delay, on presentation of certified copy of this order. But the same shall be subject to the decision of Hon'ble High Court in WPSB No. 169 of 2020, in respect of which an undertaking has already been given by the petitioner to the respondent department.

19. The claim petition thus stands disposed of. No order as to costs.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: DECEMBER 28, 2023
DEHRADUN
KNP