

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

EXECUTION PETITION NO. 03/SB/2024

*(Arising out of judgment dated 02.08.2023,
passed in Claim petition No. 135/DB/2023)*

Gajendra Singh Chauhan.

.....Petitioner-applicant

vs.

State of Uttarakhand through Secretary, Secretariat, Administration, Govt. of
Uttarakhand and others.

.....Respondents.

Present: Dr. N.K.Pant, Advocate, for the petitioner-executioner.
Sri V.P.Devrani, A.P.O., for the State.
Sri S.C.Virman (online) & Sri S.K.Jain, Advocates for GMVN.

JUDGMENT

DATED: JANUARY 03, 2024

Justice U.C.Dhyani (Oral)

By means of present execution application, petitioner-applicant seeks to enforce order dated 02.08.2023, passed by this Tribunal in Claim Petition No. 135/DB/2023, Gajendra Singh Chauhan vs. State & others.

2. The execution application is supported by the affidavit of Sri Gajendra Singh Chauhan, petitioner.

3. The decision rendered by this Tribunal on 02.08.2023, is reproduced herein below for convenience.

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

“(i) Issue an order or direction calling for the record and to direct the respondent to set aside the order no. 614 dated 25-07-2023 as well as pay the pension to the petitioner without further delay along with interest @9% p.a. thereon till the actual payment is made.

(ii) Issue any suitable claim, order of direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

(iii) Award the cost of claim petition to the Petitioner.”

2. The petitioner is retired Review Officer of Uttarakhand Secretariat. He was an employee of Garhwal Mandal Vikas Nigam Limited (for short, GMVN) before his services were absorbed in Uttarakhand Secretariat under the Absorption Rules, 2002. The petitioner prayed that a sum of Rs. 1,37,477/-, which was deposited/contributed by GMVN during his tenure of service in GMVN, be released to him with interest.

3. In the impugned order dated 25.07.2023 (Annexure: A 1), a reference of Rule 6 (7) of the *Uttarakhand Sachivalaya Vayaktik Sahayak, Avar Varg Sahayak, Sahayak Lekhakar, Tankak, Anusevak Ke Padon Per Sammviliyan Niyamwali, 2002* has been given to hold that as per the aforesaid Rules, it is not possible to release employer's contribution (in favour of the petitioner. *Prima facie*, there appears to be no infirmity in such order

4. It is the submission of Ld. Counsel for the petitioner that despite taking pension contribution, the employees of GMVN are not being paid pension. It is also the submission of Ld. Counsel for the petitioner that the employees of Uttarakhand Transport Corporation and Nagar Palika Parishad are being paid pension, but the employees of GMVN and KMVN are not being paid the same.

5. Ld. A.P.O. vehemently opposed the maintainability of the claim petition, *inter alia*, on the ground that it is not a PIL and the controversy raised in the claim petition by Ld. Counsel for the petitioner may be resolved by the Government only by taking a policy decision, in accordance with law.

6. Present petition has precisely been filed for paying pension to the petitioner. According to Ld. A.P.O., services of GMVN employees are not pensionable. They are not entitled to any pension.

7. The claim petition is disposed of by making a request to the respondents to take an appropriate decision, if they so like, whether the employees of GMVN and KMVN should be granted pension or not.

8. The claim petition is disposed of, at the admission stage, with the consent of Ld. Counsel for the parties, by making a request to the respondents to take an appropriate decision, if they so like, on grant or non-grant of pension to the employees of GMVN and KMVN, in accordance with law. No order as to costs..”

[Emphasis supplied]

4. It is the submission of Ld. Counsel for the petitioner that petitioner supplied the copy of judgment dated 02.08.2023 to the respondents on 16.08.2023 (Annexure: 2), but, till date order dated 02.08.2023 has not been complied with by the authority concerned. It is also the submission of Ld. Counsel for the petitioner that casual approach on the part of opposite party(ies)/respondent(s) should not be tolerated and strict direction should be given to them to ensure compliance of such order.

5. In reply, Sri S.K.Jain, Ld. Counsel for GMVN submitted that no direction was given to the respondents to grant pension to the employees of GMVN and KMVN. He further submitted that respondents were requested to take an appropriate decision, if they so like, on grant or non-grant of pension to the employees of GMVN and KMVN. There was no direction as such, therefore, the execution application is not maintainable.

6. The Tribunal agrees with the submission of Sri S.K.Jain, Advocate, that no direction was given to the respondents to take a decision on grant or non-grant of pension to the employees of GMVN and KMVN. Everything was left at the discretion of the respondents.

7. No useful purpose would be served by keeping this execution application pending. The execution application is, accordingly, closed.

8. Respondents are, however, requested to apprise the petitioner with the decision, if any, taken on grant or non-grant of pension to the employees of GMVN and KMVN, to show fairness and transparency in the working of the department.

9. No further application shall be entertained in this matter.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JANUARY 03, 2024.
DEHRADUN

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