

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

**REVIEW APPLICATION NO. 03/SB/2024
[IN CLAIM PETITION NO. 10/ SB/2024]**

State of Uttarakhand and others.

.....Review applicants

Versus

Mangal Singh Negi

.....Respondent/ O.P.

Present: Sri V.P.Devrani, A.P.O, for the review applicants.
Sri M.C.Pant, Sri Abhishek Pant (online) &
Sri Abhishek Chamoli, Advocates, for the petitioner. (respondent herein)

JUDGMENT

DATED: FEBRUARY 22, 2024

Justice U.C.Dhyani (Oral)

Present review application has been filed on behalf of the review-applicants to set aside the judgment/ order dated 09.02.2024 passed by the Tribunal in Claim Petition No. 10/SB/2024, Mangal Singh Negi vs. State of Uttarakhand and others and to decide the claim petition on merits, after exchange of the pleadings by the parties.

2. Smt. Neena Grewal, Project Director (Admin), Watershed Management Directorate, Uttarakhand, Dehradun, has filed affidavit in support of the review application, which has been filed under Rule 17 of the

Uttar Pradesh Public Services (Tribunal) (Procedure) Rules, 1992. The same has been filed within time.

3. The Bench has been taken through the contents of the review application by Ld. A.P.O. He submitted that there is an error apparent on the face of record, therefore, order dated 09.02.2024 passed in Claim Petition No. 10/SB/2024 should be reviewed and set aside.

4. Relying upon the judgment rendered by Hon'ble Apex Court on 02.05.2022 in *Civil Appeal No. 7115 of 2010, Thomas Daniel vs. State of Kerala and others*, Ld. A.P.O. submitted that the petitioner was well aware of the excess payment made to him due to wrong fixation (Annexure: RA-4 colly), therefore, present case is not covered by the decision rendered by this Tribunal on 15.05.2023 in Claim Petition No. 98/DB/2021, *Gyan Singh Rawat vs. State of Uttarakhand and others*. Ld. A.P.O. also submitted that in the absence of detailed instructions from the respondent department, he, *bonafide*, conceded the statement of Ld. Counsel for the petitioner that the case in hand is squarely covered by the decision rendered in *Gyan Singh Rawat (supra)*. When Ld. A.P.O. apprised the respondent department about the judgment of the Tribunal, on the same evening, the department informed him that the petitioner had knowledge about the excess payment, therefore, the facts of present case are distinguishable from the facts of *Gyan Singh Rawat's case (supra)*.

5. Ld. A.P.O. also submitted that a party should not suffer on account of mistake, even if *bonafide*, committed by his Lawyer, therefore, order dated 09.02.2024 passed in Claim Petition No. 10/SB/2024, *Mangal Singh Negi vs. State of Uttarakhand and others* should be recalled/ reviewed and the claim petition should be decided after calling Counter Affidavit from the respondent department.

6. Ld. Counsel for the petitioner (respondent herein) did not seriously oppose the submission of Ld. A.P.O. of deciding the case after calling for the Counter Affidavit(s) of the respondent(s).

7. The matter requires deliberations, which can be done only after the filing of Counter Affidavits by the respondents.

8. Considering the facts and submissions noted above, review application is allowed. Order dated 09.02.2024 passed in Claim Petition No. 10/SB/2024, Mangal Singh Negi vs. State of Uttarakhand and others is recalled, in the interest of justice. The claim petition No. 10/SB/2024, Mangal Singh Negi vs. State of Uttarakhand and others is restored to its original number.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: FEBRUARY 22, 2024.
DEHRADUN

VM