

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

EXECUTION PETITION NO. 11/SB/2024

*(Arising out of judgment dated 10.01.2023,
passed in Claim petition No. 119/SB/2020)*

Sri Sunil Kumar Jain, s/o Late Sri D.K.Jain, age 69 years, Retd. Senior Marketing Inspector, Department of Food and Civil Supplies, r/o Rajeev Juyal Marg, Rochipura, Near Jain Mandir, Majra, District Dehradun, Uttarakhand.

.....Petitioner/applicant

vs.

1. State of Uttarakhand through Secretary, Department of Food and Civil Supplies, Govt. of Uttarakhand , Secretariat, Subhash Road, Dehradun.
2. Secretary, Finance, Govt. of Uttarakhand , Secretariat, Subhash Road, Dehradun.
3. Commissioner, Food and Civil Supplies, Uttarakhand, Khadhya Bhawan, Ring Road, Nehrugram, Dehradun.
4. Regional Food Controller, Department of Food and Civil Supplies, District Dehradun.

..... Respondents

Present: Sri L.K.Maithani, Advocate, for the petitioner-applicant.
Sri V.P.Devrani, A.P.O., in assistance of the Tribunal.

JUDGMENT

DATED: MARCH 13, 2024

Justice U.C.Dhyani (Oral)

By means of present execution application, petitioner-applicant seeks to enforce order dated 10.01.2023, passed by this Tribunal in Claim Petition No. 119/SB/2020, Sunil Kumar Jain vs. State & others.

2. The execution application is supported by the affidavit of Sri Sunil Kumar Jain, petitioner.

3. The decision rendered by this Tribunal on 10.01.2023, is reproduced herein below for convenience.

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

(i) To declare that the post of senior Supply Inspector now known as Area Rationing Officer of Supply Branch and post of Senior Marketing Officer of Marketing Branch are the similarly situated and equivalent post therefore Senior Marketing Officer of Marketing Branch are entitled to get the benefit of revised/upgraded pay scale grade pay 4600 since the date when it was granted to the Area Rationing Officer of the Supply Branch I.e. since 17.01.2014.

(ii) To Issue an order or direction to the respondents No. 1 and 2 to grant benefit of pay scale 9300-34800 grade pay 4600 to the petitioner since the date 17.01.2014, when it was given to the Area Rationing Officer of the Supply branch and accordingly refix the pay and pension of the petitioner.

(iii) To issue an order or direction to the respondents that after refixation of pay and pension of the petitioner grant the interest on the arrear of difference of pay and retrial dues as per G.P.F. rate.

(iv) To Issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

(v) To award the cost of the case."

2. Petitioner retired as Senior Marketing Inspector, Department of Food and Civil Supplies, on 31.08.2014, after rendering satisfactory service. His grade pay, at the time of retirement, was Rs. 4,200/-. There are two branches in the respondent-department, *i.e.*:

(1) Civil Supplies Branch

(ii) Marketing Branch

3. Since the creation of the posts, the pay scales and the grade pay of Senior Marketing Inspector/ Inspector and Senior Supply Inspector/ Inspector, are the same. The qualification, recruitment process and other service conditions are the same. The duties are also the same. On 17.01.2014, the grade pay of Inspectors and Senior Inspectors of Civil Supplies Wing was increased, but the grade pay and pay scales of Marketing Branch were not increased. The matter was referred to the Pay Anomaly Committee, who found parity in the working of the Marketing Wing and Civil Supplies Wing and therefore, vide G.O. dated 17.04.2015, the pay scale of the Marketing Wing was upgraded to the same pay scale, as was given to the Inspectors of Civil Supplies Branch.

4. The submission of Sri L.K. Maithani, learned Counsel for the petitioner is that since the beginning, pay scale and grade pay of both the wings, namely Marketing Wing and Civil Supplies Wing were the same; even in the State of Uttar Pradesh, same pay scales and grade pay were given to the Inspectors/ Senior Inspectors of both the wings; even Pay Anomaly Committee found substance in granting same pay scale to the Inspectors/ Senior Inspectors of both the wings, therefore, the petitioner should be given the benefit of G.O. dated 17.04.2015, (which was made applicable w.e.f. 18.02.2015) and should be made applicable w.e.f. 17.01.2014. For this limited relief, the petitioner has filed present claim petition.

5. Counter affidavit has been filed on behalf of the respondents. Each and every material averment in the claim petition has been denied, save and except as specifically admitted.

6. It is the submission of learned A.P.O. that the petitioner has retired on 31.08.2014. The G.O. came into force on 17.04.2015, which cannot be made applicable to the petitioner. It has been specifically mentioned in the G.O. dated 17.04.2015 that the same will be effective from 18.02.2015. The contention of learned A.P.O., therefore, is that the G.O. cannot be made applicable with retrospective effect.

7. The structure of Civil Supplies Department was reorganized on 05.08.2002 (Annexure: A1), Further restructuring was ordered on 14.09.2006 (Annexure: A2). The pay scale of Senior Supply Inspector and Senior Marketing Inspector was the same [Rs. 5000-8000]. Pay scale to both the wings were admissible from the same date. Even the Pay Anomaly Committee, in its report dated 17.04.2015 (Annexure: A 4), found substance in recommending same pay scale to both the wings (branches) of respondent-department, observing that their educational qualification, process of recruitment and pay scales were identical. [Concept of grade pay emerged in the recommendations of the 6th Pay Commission, which was made effective from 01.01.2006. In the recommendations of the 7th Pay Commission, the grade pay was converted into 'Levels']. Petitioner has, therefore, been able to make out a case for consideration of his prayer by the Govt. in the Civil Supplies Department.

8. Claim petition is disposed of by directing the respondent department to consider the date of applicability of the upgraded pay of Senior Marketing Inspector *w.e.f.* 17.01.2014, in place of 18.02.2015, on presentation of certified copy of this order along with representation of the petitioner to this effect, at an early date. No order as to costs."

4. Ld. Counsel for the petitioner submitted that copy of the order passed by the Tribunal on 10.01.2023 was served upon respondent no.1 on 15.03.2023, but the same has not been complied with so far.

5. It is also the submission of Ld. Counsel for the petitioner/ applicant 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.

6. Ld. counsel for the petitioner/applicant submitted that such direction may be given by Single Bench of the Tribunal. Ld. A.P.O. agrees with such legal proposition.

7. Considering the facts of the case, respondent no.1 is requested to comply with the order dated 10.01.2023, passed by this Tribunal in Claim Petition No. 119/SB/2020, Sunil Kumar Jain vs. State & others, if the same has not been complied with so far, without further loss of time, failing which

the concerned authority may be liable to face appropriate action under the relevant law governing the field.

8. Petitioner/ applicant is directed to place a copy of this order before the authority concerned, within a week, to remind that a duty is cast upon said authority to do something, which has not been done.

9. Execution application is, accordingly, disposed of, at the admission stage, with the consent of Ld. Counsel for the parties.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MARCH 13, 2024.
DEHRADUN

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