

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

Present: Hon'ble Mr. Justice U.C.Dhyani
----- Chairman

Hon'ble Mr.A.S.Nayal
-----Member (A)

CLAIM PETITION NO. 51/DB/2019

Matwar Singh, S/o Shri Ritha Singh, age 68 years, R/o Chandrabani Choila,
Dehradun, Uttarakhand.

.....Petitioner

vs.

1. State of Uttarakhand through Principal Secretary, Food and Civil Supply, Secretariat, Subhash Road, Dehradun, Uttarakhand.
2. Commissioner, Food and Civil Supply Department, Dehradun, Uttarakhand.
3. Distt. Supply Officer, District Tehri Garhwal, Uttarakhand.

.....Respondents.

Present: Sri Vibhore Maheshwari, Counsel for the petitioner.
Sri V.P.Devrani, A.P.O., for the Respondents.

JUDGMENT

DATED: MAY 23, 2019

Justice U.C.Dhyani (Oral)

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

- “ (a) Orders of recovery of Rs.9,10,485/- based on the audit reports be quashed.
(b) Order/ direction be issued to the respondents to make payment of retirement benefits of the petitioner.
(c) Order/ direction is issued to the respondents to fix the pension of the petitioner.”

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

When the petitioner, a Supply Inspector, was posted in District Tehri Garhwal, Deputy Collector, Dhanaulti and District Supply Officer, Tehri Garhwal conducted a surprise inspection of Government Food Depot on 10.11.2009. On finding shortfall in the stock, maintained by the petitioner, a criminal case under Sections 409,420, 467, 468 IPC and Section 3/7 Essential Commodities Act was registered against him. A departmental inquiry was also instituted against him. He was found guilty. The penalties, which were imposed against the petitioner, are as follows:

- (i) One increment was permanently withheld.
- (ii) A recovery of Rs.67,030/- was made.
- (iii) The petitioner was reinstated in the service and period of suspension was to be regular service.

In the meanwhile, petitioner was acquitted of the charges levelled against him *vide* order dated 12.12.2012 by C.J.M., Tehri Garhwal. The petitioner attained age of superannuation on 28.02.2011. After his superannuation, petitioner was informed, that on the basis of two audit reports, some recovery is to be made from him, the details of which are as under:

- (i) On the basis of Audit report of Food Depot of Bhuwan No. 541 dated 08.01.2012, for Rs.1,53,218-58/-
- (ii) On the basis of Audit report of Food Depot Theuid No.184 dated 01.07.2013, for Rs.7,57,266-50/-

Total- Rs.9,10,485-08/-

Ld. Counsel for the petitioner argued that the petitioner submitted reply to the Collector and Distt. Supply Officer, Tehri Garhwal, but without considering his reply, an order of recovery was passed. Petitioner preferred an appeal against the aforesaid order before the Principal Secretary to the Government in the Department of Food and Civil Supplies, on 27.03.2018, which has not been decided as yet. The petitioner issued a legal notice through Advocate on 02.01.2019, without yielding any result. Apart from the pension, other retiral benefits have also been withheld by the respondents. The petitioner issued reminders

to the department to decide his departmental appeal, but to no avail. Hence, present claim petition.

3. It is an admitted fact that departmental appeal, which was filed by the petitioner on 27.03.2018 (Annexure- A 7) to the Principal Secretary, Food and Civil Supplies, has not been decided as yet. A notice was given by the petitioner through his Advocate on 02.01.2019 (copy Annexure- A 9), but when the appeal was not decided, petitioner was compelled to file present claim petition.
4. Keeping in view the above noted facts, this Tribunal is of the opinion that a direction should be given to Respondent No.1 to decide the departmental appeal of the petitioner, against his punishment order dated 11.07.2011 (Annexure: A -2), and only if such appeal is dismissed by Respondent No.1, it will be appropriate for this Tribunal to entertain and decide petitioner's claim petition in second round of litigation, if required.
5. Claim petition is, accordingly, disposed of, by directing Respondent No.1 to decide pending departmental appeal of the petitioner, by a reasoned and speaking order, in accordance with law, at an earliest possible, but not later than eight weeks of presentation of certified copy of this order, along with a copy of departmental appeal.
6. Respondent No. 2 is directed to take a decision on payment of provisional pension to the petitioner, at an early date, as per Rules..
7. Needless to say that the decision so taken, shall be communicated to the petitioner soon thereafter.
8. The claim petition is, accordingly, disposed of, at the admission stage itself. No order as to costs.

(A.S.NAYAL)
MEMBER (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MAY 23 , 2019
DEHRADUN

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