

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

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

EXECUTION PETITION NO. 01 /DB/2021

*(Arising out of judgment dated 31.10.2020,
passed in Claim petition No. 157/DB/2019)*

Keshav Lal Todariya and others.

.....Petitioners-executioners

vs.

State of Uttarakhand through Secretary, RWD Department, Secretariat, Subhash
Road Dehradun.

.....Respondents.

Present: Dr. N.K.Pant, Counsel, for the petitioners-executioners.
Sri V.P.Devrani, A.P.O., for the respondents.

JUDGMENT

DATED: AUGUST 10, 2021

Justice U.C.Dhyani (Oral)

Present execution petition was moved by the petitioners-executioners for enforcing Tribunal's order dated 31.10.2020, passed in Claim Petition No. 157/DB/2019, Keshav Lal Todaria and 15 others vs. State of Uttarakhand and others. Last three paragraphs of the said judgment read as under:

“22. It shall, however, be open to the Govt. of Uttarakhand to review its decision. The discretion to issue a fresh G.O., on the

lines of G.O. issued by the Govt. of U.P., to give financial benefits to the petitioners and similarly situated employees, from an earlier date, vests with the Govt. of Uttarakhand. The decision should, however, be well informed by reason.

23. We are given to understand that exercise for revising the grade pay of Rupees 7600/- of the post of superintending engineer to Rupees 8700 from an earlier date is under way. The Government may consider the same at an early date so that some of the petitioners and similarly placed engineers in other departments may be benefited by the same. If the same is not possible, the Government may consider revising the pension of petitioners and similarly placed persons with effect from 31st October 2017 worked out on the basis of their last pay as upgraded to level 13 on this date.

24. The claim petition is disposed of with the observations, as above. In the circumstances, no order as to costs.”

2. Compliance report has been filed on behalf of the respondents on 30.04.2021.
3. It is the submission of Ld. A.P.O. that in compliance of the judgment of Hon'ble Tribunal, the pension revision matter of the petitioners was duly considered by the Govt. in accordance with G.O. No. 220 dated 31.10.2017 and G.O. No. 802 dated 26.12.2017 by which the pay scale of Rs.15600-39100/- with grade pay Rs.7600/- to the post of the Superintending Engineer was up-graded in the pay scale of Rs.37400-67000/- with grade pay Rs.8700/- with immediate effect. According to Ld. A.P.O., the cut-off date for granting the said benefit of the upgraded grade pay of Rs.8700/- is 26.12.2017, which is only applicable to those Superintending Engineers who are in service on the cut-off date and the S.Es. who will retire after 31.10.2017, the date on which, on the recommendation of pay anomaly committee, the finance department of the Govt. of Uttarakhand has issued the up-gradation G.O. dated 31.10.2017. Simultaneously, this up-gradation is also applicable for granting the benefit of third ACP to those S.Es. whose third ACP is due after 31.10.2017, while the petitioners extended the said benefit of third ACP prior to issuance the G.O. dated 31.10.2017 as per the substantive ACP G.O. dated 08.03.2011,

applicable on due date. Hence, as per financial rules the petitioners are getting the pension benefit on the basis of last withdrawn grade pay Rs.7600/-. Thus the petitioners are not legally entitled to get the benefit of grade pay of Rs.8700/- and revision of pension, as per the above mentioned G.Os.. The matter of the petitioners has rightly been worked out on the basis of last drawn pay *vide* G.O. No. 297/XII-3/2021/93(20)/2017 dated 28.04.2021 whereby the compliance of Hon'ble Tribunal's order dated 31.10.2020 has been done. The copy of the Office Order dated 28.04.2021 is enclosed as Annexure: CA-R 1 to the compliance affidavit, which has been sworn by Sri Yogeshwar Dutt Pandey, Chief Engineer (Level-1) Rural Works Department, Uttarakhand.

4. Ld. Counsel for the petitioners-executioners submitted that the order sought to be executed has not been complied with and Finance Department of the Govt. should be directed to grant financial up-gradation. Rejoinder Affidavit to the compliance affidavit has been filed on behalf of petitioners to this effect.
5. On a perusal of Annexure: CA-R 1, as also the submissions of Ld. A.P.O., the Govt. was directed to expedite reportedly ongoing exercise for revising the grade pay of Rs.7600/- of the post of S.E. to Rs.8700/- from an earlier date, to grant benefit of the same to the petitioners and similarly placed engineers in other departments, and if the same is not possible, the Govt. might consider revising the pension of the petitioners and similarly placed persons *w.e.f.* 31.10.2017 worked out on the basis of their last pay as up-graded to Level-13 on this date; the Tribunal is satisfied that the Govt. has considered the direction of the Tribunal as is reflected in Office Order dated 28.04.2021, Annexure: CA-R 1. *Vide* order dated 31.10.2020, the Govt. was never directed to revise the pension of the petitioners and revise the grade pay of Rs.7600/- of the S.Es. to Rs.8700/- to the petitioners and similarly placed engineers in other departments. The Govt. has considered the same, although it did not find favour with the petitioners.

6. Order dated 31.10.2020 passed in claim petition No. 157/DB/2019, Keshav Lal Todaria and others vs. State of Uttarakhand and others has been complied with, in as much as the grievance of the petitioners has been considered by the Govt. There is nothing more to be done in the matter. The execution petition is, accordingly, closed.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: AUGUST 10, 2021.
DEHRADUN

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