

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
NAINITAL BENCH**

Through Audio Conferencing

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

**CLAIM PETITION NO. 30/NB/SB/2021**

Suresh Chandra Upadhyay, aged about 38 years, (Male), s/o Late Sri Ram Dutt Upadhyay, r/o village Chharail Nayabad, P.O. Haripur Naik, Haldwani, District Nainital.

.....Petitioner

**vs.**

1. State of Uttarakhand through Secretary, Department of Labour, Government of Uttarakhand, Dehradun.
2. Chief Labour Commissioner, Uttarakhand, I.D.T. Complex, ONGC Opp. Ambedkar Stadium Kaulagarh Road, Dehradun.
3. Deputy Labour Commissioner, Uttarakhand, Shram Bhawan, Haldwani, District Nainital.
4. Head of the Department/Presiding Officer, Industrial Tribunal & Labour Court, Haldwani, District Nainital.

.....Respondents

Present: Shri Tarun Prakash Singh Takuli, Advocate, for the Petitioner.  
Shri Kishor Kumar, A.P.O., for the Respondents.

**JUDGMENT**

**DATED: SEPTEMBER 02, 2021**

**Justice U.C.Dhyani (Oral)**

**RELIEFS PRAYED FOR**

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

*“(i) To direct the respondents to release the gratuity of Late Godawari Devi Upadhyay, who was working as instructor in the office of respondent no. 4 and was expired on 12-11-2015 during her service tenure as early as possible alongwith interest, else the petitioner shall*

*suffer irreparable loss and injury and the same cannot be compensated by any means.*

*(ii) To award the cost of the petition in favour of the petitioner."*

#### **PETITIONER'S VERSION**

2. Briefly put, the facts of the claim petition are as follows:

Late Smt. Godawari Devi Upadhyay, mother of the petitioner, while posted as instructor (*anusewak*) in the office of respondent no. 4, died on 12-11-2015, after serving the department for 23 years, 02 months and 25 days. Copy of the death certificate of Late Godawari Devi Upadhyay has been enclosed as Annexure: A1 to the claim petition.

It is stated that the petitioner is the only son of Late Godawari Devi Upadhyay. Petitioner's three sisters got married before the death of their mother. Petitioner submitted several representations to the department for releasing the gratuity of Late Godawari Devi Upadhyay, but to no avail. Total gratuity of Rs. 5,88,363/- plus interest is yet to be paid by the department to the petitioner. It is inaction on the part of respondent-department.

#### **RESPONDENT DEPARTMENT'S VERSION**

3. Learned A.P.O. stated that departmental Pairokar, Sri Hanuman Singh Raukali, Junior Assistant, Labour Court, Haldwani, is present in the Court. Sri Raukali has submitted that the respondent-department is ready to release the amount of gratuity (Rs. 6,04,946/-) to the petitioner.

4. The Tribunal records the aforesaid statement of learned A.P.O. and departmental pairokar.

#### **DISCUSSION**

5. Petitioner is entitled to relief no. (i) in view of statement of learned A.P.O. and departmental pairokar.

6. The next question, which arises for consideration of this Tribunal is, how much interest should be awarded to the petitioner on delayed payment of Gratuity.

7. In the decision of D.D.Tiwari (D) Thr. Lrs. vs. Uttar Haryana Bijli Vitran Nigam Ltd. and Others, 2014 (5) SLR 721 (S.C.), it was held by Hon'ble Supreme Court that retiral benefit is a valuable right of employee and culpable delay in settlement/ disbursement must be dealt with penalty of payment of interest. Regard may also be had to the decision of Hon'ble Apex Court in S.K.Dua vs. State of Haryana and another, (2008) 1 Supreme Court Cases (L&S) 563, in this regard.

8. The aforesaid decisions have been followed by this Tribunal in claim petition No.30/DB/2013 Dwarika Prasad Bhatt vs. State and others, decided on 22.09.2016. The decision rendered by this Court in the said claim petition No.30/DB/2013 has not been challenged by the respondents and, therefore, the said judgment has attained finality. The facts of present petition are identical to the facts of the Claim Petition No.30/DB/2013, in so far as grant of interest on delayed payment of gratuity is concerned.

**ORDER**

9. Respondents are, therefore, directed to pay to the petitioner interest on the amount of gratuity from 12.11.2015 till the date of actual payment. The rate of interest of gratuity shall be simple rate of interest payable on General Provident Fund (GPF) during the relevant period.

10. Petitioner shall present a certified copy of this order before respondent no. 4 to enable the respondents to release the amount of interest on delayed payment of gratuity to the petitioner, without further delay.

11. The claim petition is, accordingly, disposed of. No order as to costs.

**(RAJEEV GUPTA)**  
VICE CHAIRMAN (A)

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: SEPTEMBER 02, 2021*  
*DEHRADUN*  
*KNP*