

**UTTARAKHAND PUBLIC SERVICES TRIBUNAL DEHRADUN
BENCH AT NAINITAL**

Present: Sri V.K. Maheshwari

----- Vice Chairman (J)

&

Sri U. D. Chaube

----- Member (A)

Claim Petition No. 14/N.B./2008

1. Sri Ganga Datt Upreti, aged about 77 years, S/o Late Sri Amba Datt Upreti, R/o Shankar Bhawan, Purvi Pokharkhali, District Almora.
2. Sri Basant Ballabh Tiwari, R/o Village Shaila, Khasparja, Post and District Almora.
3. Smt. Munni Upreti, R/o Mohalla Purvi Pokharkhali, Shankar Bhawan, Almora.
4. Sri Anand Ballabh Joshi, R/o Mohalla Dhungadhara Balthoti, Post and District Almora.
5. Sri Rajendra Lal Verma, R/o Mohalla Post and District Almora.
6. Sri Surendra Prasad Verma, R/o Mohalla Post and District Almora.
7. Smt. Shanti Joshi, R/o Mohalla Post and District Almora.
8. Leela Karnatak, R/o Mohalla Karnatak Khola, Post and District Almora.
9. Smt. Uma Upreti, R/o Mohall Upreti Khola, Post and District Almora.
10. Sri Lochan Prasad Tiwari, R/o Mohalla Chaudhary Khola, Post and District Almora.
11. Smt. Daya Pant, R/o Paschimi Pokharkhali, Post and District Almora.

12. Km. Kamla Pathak, R/o Arya Samaj Mandir Parisar, Chauhanpata,
Post and District Almora.

.....Petitioners

Vs.

1. State of Uttarakhand through Secretary (Finance), Dehradun,
District Dehradun.
2. State of Uttarakhand through Secretary, Department of Education,
Dehradun, District Dehradun.
3. Director, Secondary Basic Education, Uttarakhand, Dehradun,
District Dehradun.
4. State of Uttar Pradesh, through Secretary Finance, Lucknow, U.P.
5. State of U.P. through Secretary, Department of Education,
Lucknow, U.P.
6. Director, Education (Madhyamik), State of U.P.

.....Respondents

Present: - Sri P. S. Bisht, Advocate for the
petitioners
Sri V. P. Devrani, A.P.O. for the
respondent nos. 1 to 3
None for the respondent nos. 4, 5 & 6

JUDGMENT

Date: May 8, 2013

DELIVERED BY SRI V.K. MAHESHWARI, VICE-CHAIRMAN (J)

The present petition has been preferred with the request that the benefit of 5th Pay Commission be extended to those teachers who were retired during the period from 01-01-1996 to 30-06-2001.

2. The facts in brief as have been gathered from this petition are that the petitioners were teachers and had retired during the period from 01-01-1996 to 30-06-2001. The 5th Pay Commission was implemented w.e.f. 01-01-1996 vide impugned order dated 20-12-2001 passed by Secretary, Finance, Government of Uttarakhand (Copy Annexure-1). The recommendations of 5th Pay Commission were implemented w.e.f. 01-07-2001 and it was made clear that no one will be entitled for any arrear w.e.f. 01-01-1996 to 30-06-2001. The petitioners have challenged the above mentioned order that the cut off date for implementing the recommendation of 5th Pay Commission is unjust and unreasonable and therefore is not sustainable in the eye of law. Therefore, it is to be struck down and recommendation of 5th Pay Commission is to be made effective from 01-01-1996 particularly regarding those teachers who had retired during the period from 01-01-1996 to 30-06-2001. It is further stated that the petitioners had also formed an association and representations were made to the Government on 20-01-2004 and 10-06-2005 but of no consequence. The District Magistrate, Almora had also recommended that the benefit of 5th Pay Commission should be extended to the teachers who were retired before 30-06-2001.

3. The petitioners had also preferred a writ petition before the Hon'ble High Court which was dismissed on the ground of availability of alternative remedy before the Public Services Tribunal. Hence this petition.

4. Petition has been opposed on behalf of the respondents that it has been stated that the petitioners had retired before the creation of State of Uttarakhand, therefore, this Tribunal does not have any jurisdiction to hear this petition. It is further stated that benefit of 5th Pay Commission is

available to those full time regular teachers who were in regular service on 01-07-2001; therefore, petition is devoid of merit and is liable to be dismissed.

5. We have heard the learned counsel for the petitioners and the learned counsel for the respondent nos. 1 to 3 at length and have also perused the material available on record carefully.

6. First of all, we would like to make clear that though in initial paragraphs of this petition, it has been made clear that petition is being preferred by the Government Pensioner Welfare Organization Uttarakhand which is not true and by the name of the parties it becomes clear that the petition has been preferred individually by the petitioners, so the petition is maintainable and it is not bad.

7. The only question involved in this petition is whether the benefit of 5th Pay Commission can be extended to the petitioners w.e.f. 01-01-1996. On the perusal of impugned order, it becomes clear that the recommendations of 5th Pay Commission were implemented w.e.f. 01-07-2001 in respect of all the teachers of primary and higher secondary educational institutions of the State. As this order were made applicable to the teachers who were even in active service of the State on 01-07-2001, there seems no justification to extend the benefit of this pay commission to the retired teachers. The petitioners could not point out any justification as to why this order be made effective w.e.f. 01-01-1996 in respect of retired teachers. As there is no justification, we are not inclined to extend any benefit to the petitioners.

8. It is also pertinent to mention that some of the petitioners have retired before creation of State of Uttarakhand and jurisdiction to entertain the petition lies in the State of Uttar Pradesh as they had never been employees of State of Uttarakhand. On this ground also, the petition lacks merit.

9. On the basis of above discussion, we do not find any merit in this petition so it is liable to be dismissed.

ORDER

The petition is dismissed. No order as to costs.

Sd/-
U. D. CHAUBE
MEMBER (A)

Sd/-
V. K. MAHESHWARI
VICE-CHAIRMAN (J)

DATE: May 8, 2013