

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

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

EXECUTION PETITION NO. 02/NB/DB/2022

(Arising out of judgment and order dated 12.11.2021,
passed in Claim Petition No. 29/NB/SB/2020)

Dr. Lalit Kumar Singh, aged about 33 years, s/o Shri Ram Prasad, r/o Ganges, C-103, Omaxe Rivera, Rudrapur, Udham Singh Nagar.

.....Petitioner-executioner

vs.

1. State of Uttarakhand through Secretary, Labour, Civil Secretariat, Subhash Marg, District, Dehradun.
2. Secretary, Finance, Civil Secretariat, Dehradun, Subhash Marg, District Dehradun.
3. Director, Employees State Insurance Scheme, Labour Medical Services, Makkawala, Mussoorie Road, Dehradun (Now having new office at 22 Survey Chowk, Dehradun, Distict-Dehradun).
4. Chief Medical Officer Incharge, Employee State Insurance Scheme, Labour Medical Services, Makkawala, Mussoorie Road, Dehradun (Now having new office at 22 Survey Chowk, Dehradun, Dist. Dehradun).

.....Respondents

Present: Sri Piyush Tiwari, Advocate for the Petitioner
Sri Kishor Kumar, A.P.O., for the Respondents

JUDGMENT

DATED: APRIL 18, 2022

Justice U.C.Dhyani (Oral)

Present execution petition has been filed by the petitioner-executioner, feeling aggrieved against non-compliance of order dated 12.11.2021, passed by this Tribunal in Claim Petition No. 29/NB/SB/2020.

2. Instead of narrating the facts of the claim petition, discussion and the orders passed in the same, it will be apposite to reproduce the entire judgment herein below for convenience:

“This Claim Petitioner has been filed by the petitioner on 08.06.2020 seeking the following reliefs:

- i) Issue an order or direction, directing the respondents to grant the NPA to the petitioner at par with the doctors of Medical Health and Family Welfare Department of the State*
- ii) Issue an order or direction in the nature of mandamus directing the respondents to pay the entire NPA dues including arrears of NPA benefits with interest @9% per annum to the petitioner.*
- iii) Issue any other or further, order or direction which this Hon’ble Tribunal may deem fit and proper in the circumstances of the case.*
- iv) To award the cost of the petition in favour of the petitioner and against the respondents.*

2. Briefly, the facts of the case are as below:

The petitioner is a Doctor in the Employees State Insurance Scheme (ESIS) under the Ministry of Labour, State of Uttarakhand. He was getting NPA at par with the doctors of the Medical Health Department till the period of 6th Pay Commission. In the 7th Pay Commission, his pay was revised and NPA, as was given to him in 6th Pay Commission continued to be given to him till January, 2019. Further NPA was stopped on the ground that the Govt. in January, 2019 had issued orders for NPA for the doctors of Medical, Health and Family Welfare Department but no orders were issued for the NPA for the employee’s department. He was further paid NPA for the months of April and May, 2019 which was again discontinued. Petitioner’s representations to grant NPA to him could not elicit response from the respondent department.

3. During pendency of the claim petition, the Government in the Labour Department has issued G.O.623/VIII-1/20-500(Ka.Ra.B.Yo.)/2003 dated 29.09.2020 vide which regular doctors of the ESIS have also been sanctioned NPA @ 20% of the basic pay from the date of issuance of the Government Order.

4. Learned Counsel for the petitioner states that he is getting NPA from 29.09.2020 onwards but NPA for the intervening period needs to be sanctioned to him like doctors of the Medical, Health and Family Welfare Department who have got NPA continuously without any break and there has been absolute parity in the matter of NPA of doctors of ESIS with the doctors of Medical, Health and Family Welfare Department.

5. Both the sides agree that the petitioner may make a representation to the respondent department for the same, who shall decide such representation by a reasoned and speaking order.

6. In view of the above, the claim petition is disposed of with the direction that the petitioner may make a representation in respect of NPA for the intervening period to the respondent department with certified copy of this order and the respondent department shall pass a speaking and reasoned order on the same within a period of three months thereafter. No order as to costs.”

3. Ld. Counsel for the petitioner-executioner submitted that despite service of order dated 12.11.2021 through registered post, upon the

Respondents on 07.12.2021, his representation has not been decided and thereby the order of the Tribunal has not been complied with.

4. It is the submission of learned counsel for the petitioner-executioner that the casual approach on the part of respondents-opposite parties should not be tolerated and strict action should be initiated against them.

5. This Tribunal, therefore, instead of issuing notices to the respondents, reiterates the order dated 12.11.2021, passed by this Tribunal in Claim Petition No.29/NB/SB/2020 and directs the authorities concerned to comply with the same without further delay, failing which, the respondents may be liable to face appropriate action under the Contempt of Courts Act.

6. Petitioner-executioner is directed to send copies of this order, as also the order dated 12.11.2021, to the authorities concerned, within a week, to remind them that a duty was cast upon them to do something, which has not been done. The same should be done now, at an earliest possible, without unreasonable delay.

7. The execution petition is, accordingly, disposed of at the admission stage.

8. Let this order be uploaded on the Website of the Tribunal.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: APRIL 18, 2022.

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