

**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)

**CLAIM PETITION NO. 56/NB/DB/2022**

B.N.Rawal, aged about 74 years, s/o of Sri Ganesh Nath, retired Store Superintendent, Uttarakhand Road Transport Corporation, Dehradun, r/o Shiwalay Cement Road, Tanakpur, District Champawat.

.....Petitioner

**vs.**

1. State of Uttarakhand through Secretary, Transport Department, Dehradun.
2. Uttarakhand Road Transport Corporation, Dehradun through Managing Director, Dehradun.

.....Respondents

Present: Mohd. Matloob, Advocate, for the Petitioner

Sri Kishore Kumar, A.P.O., for the Respondent No. 1

Sri Lalit Samant, Advocate, for the Respondent no. 2

**JUDGMENT**

**DATED: AUGUST 02, 2022**

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

By means of present claim petition, petitioner seeks to direct the respondents to fix his pay along with the consequential benefits, arrears of pay and allowances in respect of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> ACP upgrading the pay scales according to 6<sup>th</sup> Pay Commission and according to the plan of the ACP because the petitioner was in the continuous services of the Respondents and is entitled to get 10, 18 and 26 years of continuous satisfactory service on the post of Booking Officer/Store Superintendent on 01.09.2008 from which (date) the benefits of ACP have been made admissible; to grant any other relief in favour of the petitioner, as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case alongwith the costs of the claim petition.

2. The petitioner was initially appointed on the post of Booking Clerk and after rendering continuous satisfactory service of 30 years, retired on 31.12.2008 from the post of Store Superintendent. It has been stated by the petitioner that in the G.O. dated 08.03.2011, a provision has been made that the First, Second and Third ACP will be granted to the employees after completion of 10, 18 and 26 years of continuous and satisfactory service. It has also been stated by the petitioner that according to the plan of ACP, he is entitled to get First, Second and Third ACP and consequential benefits, pay and allowances along with pay fixation because his pay has not been fixed according to the 6<sup>th</sup> pay commission while he was in continuous service of the respondents. Since the petitioner has rendered 10, 18, and 26 years of continuous service on the post of Booking Clerk/Store Superintendent, therefore, he is entitled to get the benefit of ACP, which were made admissible from 01.09.2008. The petitioner made representations on 5.3.2013 and 05.07.2013 to the respondent no. 2, but to no avail. Lastly, petitioner made representation on 28.05.2022 to the respondent no. 2 for grant of the benefits of ACP, but still no action has been taken on the same by the respondents.

3. At the very outset, Ld. A.P.O. as well as learned Counsel for the Respondent no. 2 objected to the maintainability of the claim petition, *inter alia*, on the ground that the same is barred by limitation in view of Section 5(1)(b)(i) of the Uttar Pradesh Public Services (Tribunal) Act, 1976 (as applicable to Uttarakhand).

4. Ld. Counsel for the petitioner, therefore, confined his prayer only to the extent of directing the respondents to consider petitioner's representation, in accordance with law, to which learned A.P.O. and Sri Lalit Samant, learned Counsel for the respondent no. 2 have no objection.

5. Limitation is for the Tribunal and not for the Govt. Considering the facts of the case and oral submissions made in this behalf, this Tribunal

is of the view that innocuous prayer made by learned Counsel for the petitioner is worth accepting.

6. Without prejudice to rival contentions, the claim petition is disposed of at the admission stage by directing the Respondent no. 2 to consider petitioner's representation, in accordance with law, without unreasonable delay, on presentation of certified copy of this order, along with a copy of representation enclosing the documents in support thereof. Needless to say that the decision so taken shall be communicated to the petitioner soon thereafter.

7. It is made clear that this Tribunal has not expressed any opinion on the merits of the claim petition.

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

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

*DATE: AUGUST 02, 2022*  
*DEHRADUN*  
*KNP*