

**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. 07/NB/DB/2022

(Arising out of judgment dated 29.03.2022,
passed in Claim Petition No. 15/NB/DB/2022)

Krishna Chandra Chaturvedi aged about 60 years s/o Late Sri Daya Krishna Chaturvedi
(Retired Accounts Officer/Vitta Paramarshadata, Zila Panchayat Nainital) r/o 67 Dugai
Estate Bhowali Range, Nainital

.....Petitioner-executioner

Vs.

1. State of Uttarakhand through its Secretary, Finance, Government of Uttarakhand,
Secretariat, Dehradun.
2. Director, Department of Accounts, Uttarakhand 23 Laxmi Road, Dalanwala, Dehradun.

.....Respondents

Present: Sri Harish Adhikari, Advocate, for the petitioner-executioner
Sri Kishor Kumar, A.P.O., for the Respondents

JUDGMENT

DATED: SEPTEMBER 15, 2022

Justice U.C.Dhyani (Oral)

Present execution petition has been filed by the petitioner-executioner being aggrieved against non-compliance of order dated 29.03.2022 passed by this Tribunal in Claim Petition No. 15/NB/DB/2022.

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

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

- i) *Issue an order or direction, commanding and directing the respondents to sanction 3rd Financial Upgradation as per Government Orders, as per the*

services rendering 26 years of satisfactory service in the department on the Grade Pay of Rs. 6600 since 3.8.2016.

ii) Issue an order or direction commanding the respondents to pay the arrear of salary as against Grade Pay of Rs. 6600 since 3.8.2016 to till date.

iii) iii) Issue any other or further writ, 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.

2. The petitioner was initially appointed as Assistant Accountant on the pay scale of Rs. 470-15-575-EB-15-650-17-701-EB-17-735 on 27.01.1989. After rendering 8 years' satisfactory service, the selection grade was given to the petitioner by which one additional increment was sanctioned in the pay scale of Rs. 5000-8000. Thereafter, the pay scales of the post of Accountant were revised from time to time.

The first financial upgradation has been given to the petitioner as against the post of Accountant after rendering 14 years of satisfactory service in the year 2006 i.e. 06.07.2006 in the pay scale of Rs. 7450-11500, which was revised in the pay scale of Rs. 9300-34800 Grade Pay of Rs. 4800. The second financial upgradation has been granted to the petitioner pursuant to the G.O. no. 250 dated 30.12.2016 since 01.09.2008 in the Grade Pay of Rs. 5400.

It is the submission of learned Counsel for the petitioner that after rendering 26 years of satisfactory service in the department, the third financial upgradation i.e. Grade Pay of Rs. 6600 should be sanctioned to the petitioner. Petitioner submitted various representations to the authority concerned on 02.06.2017, 23.11.2017, 22.6.2020, 17.08.2020 and 25.11.2020, but no action has been taken on the same.

3. At the very outset Ld. A.P.O. 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. After arguing the claim petition at some length, Ld. Counsel for the petitioner confined his prayer only to the extent of directing the respondents to consider petitioner's representation, in accordance with law.

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 requesting the Respondents to consider petitioner's representation after affording him opportunity of hearing, in accordance with law, at an earliest possible and without unreasonable delay, on presentation of certified copy of this order, along with a copy of representation enclosing the documents in support thereof.

7. Needless to say that the decision so taken shall be communicated to the petitioner soon thereafter.

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

3. Ld. Counsel for the petitioner-executioner submitted that despite service of order dated 29.03.2022 through registered post, upon the Respondents on 04.04.2022, petitioner's representation has not been decided and thereby the order of the Tribunal has not been complied with.

4. Instead of issuing notices to the respondents in this execution application, this Tribunal reiterates the order dated 29.03.2022, passed in Claim Petition No.15/NB/DB/2022 and expects the authorities concerned to comply with the same without further delay.

5. Petitioner-executioner is directed to send copies of this order, as also the order dated 29.03.2022, to the authorities concerned, to remind them that they were expected to decide petitioner's representation, which has not been done. The same should be done now, without unreasonable delay, under intimation to the petitioner.

6. The execution petition is, accordingly, disposed of at the admission stage with the consent of learned Counsel for the parties.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: SEPTEMBER 15, 2022
DEHRADUN
KNP