

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
AT DEHRADUN**

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

**WRIT PETITION NO 418 (S/B) OF 2020  
[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 100/DB/2022]**

Dr. Tuhin Kumar, s/o Sri Girish Prasad Saksena r/o House 406-C Hill View Apartment, Sahastradhara Road Village Gajraura, P.O. Dandalakhaund, District Dehradun, presently posted as an Assistant Director (Paramedical) Directorate General of Health Services, Dehradun, Uttarakhand.

**.....Petitioner**

**vs.**

1. Director General, Medical Health and Family Welfare, Uttarakhand, Dehradun.
2. Director, Medical Health and Family Welfare, Uttarakhand, Dehradun.
3. Director, Finance, Government of Uttarakhand, Dehradun.
4. Assistant Accounts Officer/Drawing and Dispersing Authority, Director General, Medical Health and Family Welfare, Dehradun.

**.....Respondents.**

Present: Ms. Neelima Mishra Joshi, Advocate for the petitioner (Virtual)  
Sri V.P.Devrani, A.P.O. for the respondents

**JUDGMENT**

**DATED: SEPTEMBER 20, 2022**

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

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 30.08.2022 in WPSB no. 418 of 2020, Dr. Tuhin Kumar vs. Director General, Medical Health and Family Welfare Uttarakhand, Dehradun & others, which (order) reads as under:

“Ms. Neelima Mishra Joshi, learned counsel for the petitioner.  
Mr. B.S. Parihar, learned Standing Counsel for the State.

The claim in the present petition relates to the alleged pay discrepancy in the fixation of the petitioner's pay. The petitioner is serving in the Office of the Director General, Medical Health and Family Welfare.

The subject matter of relief sought by the petitioner squarely falls within jurisdiction of the Uttarakhand Public Services Tribunal.

Considering the fact that the pleadings in the petition are complete, we direct the Registry to transmit the complete record to the Tribunal, which shall be registered as a Claim Petition and heard accordingly.

We request the Tribunal to endeavour to decide the matter as early as conveniently possible preferably within six months from the first date of listing.

The petition stands disposed of.”

2. The original record of the writ petition has been transferred to this Tribunal *vide* Letter No. 12761/UHC/Service (S/B) 2022 dated 09.09.2022 of the Registrar (Judicial) of the Hon’ble High Court. The same has been registered as Claim Petition No. 100/DB/2022.

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

*“I. To issue a writ and order or direction in the nature of mandamus to directing to the respondent to accept the option form from the petitioner and remove the pay discrepancy.*

*II. To issue a writ and order or direction in the nature of mandamus to directing to the respondents to consider the representation of the petitioner which are pending before respondents as well as all amounts should be given to the petitioner which arises out of salary discrepancy.*

*III. To pass any other suitable order or direction, which this Hon’ble Court may deem fit and proper under the facts and circumstances of the case.*

*IV. To award cost of the petition in favour of the petitioner.”*

4. Facts giving rise to present petition are as follows:

4.1 The petitioner was appointed on 25.01.2003 as Medical Officer in the State of Uttarakhand. Presently he is working as Assistant Director (Para-Medical) in the office of respondent no. 1. After the seventh Pay Commission and Promotion to Pay scale of Rs 8700/-, it came to the notice of the petitioner that some officers of the same batch are getting more salary than him. He made representation to the Director General, Medical Health and Family Welfare (respondent no. 1), on 28.01.2020 to remove pay discrepancy. When, nothing was done, the petitioner again moved representations on 21.02.2020, 25.08.2020, 02.09.2020, 03.10.2020 and 07.10.2020, but to no avail.

4.2 The petitioner has stated that he could not submit his option on time because he was not aware of the same. The Finance Department of the

respondent department should have asked the petitioner to submit the option in time.

4.3 According to the petitioner, Finance Department of the respondent department should have timely informed the petitioner to give option, which was not done.

4.4 It has further been stated that the petitioner has sent representations to the respondents to correct the pay-discrepancy, but the same has not been done. The petitioner, while making a mention of earlier representations moved by him, has further moved representation on 21.10.2020 to the respondent no. 1, which has not been decided so far.

5. Counter Affidavit has been filed on behalf of the respondents denying the material facts, except the facts which are specifically admitted. Detailed Counter Affidavit has been filed Dr. Amita Upreti, Director General, Medical Health and Family Welfare, Uttarakhand, Dehradun.

5.1 According to C.A., for disposal of the representation of petitioner, a three-members committee was constituted on 12.5.2020 under the Chairmanship of the Finance Officer of the Office of Director General. The committee, after evaluating and examining the representation of petitioner and after comparative analysis of the pay scale of petitioner and two officers from whom the petitioner claimed to be paid lower salary, submitted its report on 21.9.2020.

5.2 The committee, in its report reported that the reason for lower salary of petitioner, than the officers referred by him, is that the said officers had submitted options for pay fixation. Petitioner did not submit the option and as such pay scale of the petitioner has rightly been fixed, as per the financial rules. If the petitioner would have submitted option as per the rules, he would have got the said benefits.

5.3 The petitioner cannot be permitted to blame the department for his own wrong. All the government servants are bound to comply with the rules

and norms stipulated under law and the answering respondents are also bound to obey and to act according to the said rules and norms.

5.4 As such, the petitioner could not get the benefit, as has been claimed by him. The entire exercise has been done strictly in accordance with law and prevailing financial rules and government orders.

6. Rejoinder Affidavit thereto has been filed by the petitioner denying the averments of the Counter Affidavit, reiterating the facts which have been mentioned in the petition.

7. Learned Counsel for the petitioner submitted that petitioner's representations have not been decided, as per law, by the respondents so far. Learned A.P.O., on seeking instructions from the respondent department, submitted that petitioner's representation shall be decided by the respondent no. 1 as per rules, within a reasonable time. The representation dated 21.10.2020 has been brought on record as Annexure 12.

8. Learned Counsel for the petitioner submitted that respondents be directed to consider pending representation of the petitioner at the earliest possible, as per Rules. Learned A.P.O. has no objection to the same. The petition is therefore, disposed of, with the consent of learned Counsel for the parties, by directing Respondent no. 1 to sympathetically consider pending representation of the petitioner, after giving opportunity of hearing to him, without unreasonable delay, in accordance with law.

9. If the respondents, after considering the representation of the petitioner, allow the same, then they are requested to accept the option form of the petitioner, remove pay-discrepancy and release the amount payable to him.

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

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

*DATE: SEPTEMBER 20, 2022*  
*DEHRADUN.*

*KNP*