

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

Present: Hon'ble Mr. Rajendra Singh
----- Vice Chairman (J)
Hon'ble Mr. Rajeev Gupta
-----Vice Chairman (A)

CLAIM PETITION NO. 119/NB/DB/2021

Goverdhan Dumka, aged about 59 years, s/o Late Sri Tara Dutt Dumka,
presently posted as Accountant, Zila Panchayat, Bageshwar.

.....Petitioner

vs.

1. State of Uttarakhand through Principal Secretary/Secretary, Panchayat Raj, Dehradun.
2. Director, Department of Accounts, Uttarakhand, 23 Laxmi Road, Dalanwala, Dehradun.
3. Financial Advisor, Zila Panchayat, Udham Singh Nagar, District Udham Singh Nagar.
4. Financial Advisor, Zila Panchayat, Bageshwar, District Bageshwar.
5. Umed Singh Dangi, s/o not known at present posted as Financial Advisor, Zila Panchayat, Udham Singh Nagar.

.....Respondents

Present: Sri Harish Adhikari, Advocate for the Petitioner
Sri Kishore Kumar, A.P.O., for the Respondents no. 1 to 4
Sri I.D.Paliwal, Advocate for the respondent no. 5

JUDGMENT

DATED: SEPTEMBER 23, 2022

Per: Mr. Rajeev Gupta, Vice Chairman (A)

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

“(i) To quash the impugned orders dated 25.01.2021, 24.07.2020 and 20.03.2021 (Contain as Annexure no. 1, 2 & 3) along with their effect and operation also after calling the entire record or in alternate pass any appropriate orders keeping in view of the facts highlighted in the body of the petition or mould the relief appropriately.

(ii) *To issue order or direction to grant all benefits of salary and other service benefits had it been the impugned order was never in existence.*

(iii) *To issue order or direction to expunge the adverse entry recorded in the service record of the applicant and grant all the service benefits or pass any other order direction which this Hon'ble Court may deem fit and proper under the facts and circumstances stated in the body of the claim petition.*

(iv) *To issue order or direction appropriate in nature by directing the respondents to release the salary of the petitioner from 01.02.2021 to 22.03.2021 for the medical leave period.*

(v) *To issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case."*

2. The petitioner is discharging the duties of Accountant in Zila Panchayat Office, Bageshwar. Prior to this, he was discharging the duties of Accountant in Zila Panchayat, Udham Singh Nagar. The impugned order dated 24.07.2020 (Annexure no. 2 to the claim petition) is the adverse entry granted to the petitioner for the period 25.06.2019 to 31.03.2020 in which his integrity has also not been certified. This adverse entry was granted to him by the respondent no. 5 in his capacity as Financial Advisor, Zila Panchayat, Udham Singh Nagar and the respondent no. 2 had agreed to such comments of the Reporting Officer. The impugned order dated 25.01.2021 (Annexure no. 1 to the claim petition) is the order of rejection of the representation of the petitioner against this entry. The order dated 20.03.2021 (Annexure no. 3 to the claim petition) is about the stoppage of annual increment of the petitioner which was due in January 2021 according to para 19(6) of the G.O. No.1712/Karmik-2/2003 dated 18.12.2003.

The contention of the petitioner is that he made complaint against the illegal practices and irregularities of the respondent no. 5, who in his official capacity as respondent no.3 took revenge by awarding him the above adverse entry and by not certifying his integrity for the year 2019-20 and has further withheld his annual increment for the year 2021 vide order dated 20.03.2021 (Annexure no.3).

3. Counter Affidavits have been filed on behalf of respondents no. 2 & 3 and Rejoinder Affidavits to the same have been filed by the

petitioner. Respondent no. 5 has put in appearance through his Counsel but has not filed Counter Affidavit.

4. We have heard learned Counsel for the parties and perused the record.

5. Learned Counsel for the respondent no. 5 states that the allegations made by the petitioner against respondent no. 5 are wrong and have been made as the respondent no. 5 in his official capacity as respondent no. 3 has given adverse entry to the petitioner and not certified his integrity. Learned A.P.O. has argued that the action of the respondents no.2 & 3 in granting the adverse entry and withholding his integrity is justified and the representation of the petitioner against the same has also been rejected.

6. During hearing, learned Counsel for the petitioner confined his prayer only to the extent that the petitioner's withheld increment be released as his subsequent entry is of outstanding category, in which his integrity has also been certified. Para 19(6) of the G.O. no.1712/*Karmik-2/2003* dated 18.12.2003 states that if integrity certificate of any Government servant has been withheld then his annual increment will be stopped till the time he gets the integrity certificate. As the integrity of the petitioner has been certified in the entry of next financial year, the contention of learned Counsel for the petitioner is that the annual increment of the petitioner should be released with effect from the date it was due and no financial loss should be caused to the petitioner.

7. The Tribunal observes that though the representation of the petitioner against the adverse entry and withholding of integrity for the year 2019-20 has been rejected vide impugned order dated 25.01.2021 (Annexure no. 1 to the claim petition) but his integrity has been certified in the entry for the subsequent year. The Tribunal also notes that withholding of increment of a Govt. servant for a specified period or with cumulative effect is respectively classified as a minor penalty or a major

penalty under the Uttarakhand Government Servant (Discipline & Appeal) Rules, 2003 and for imposition of the same, the procedure prescribed under these Rules is required to be followed. Para 19(6) of the G.O. no. 1712 /Karmik-2/2003 dated 18.12.2003 does not give the power to impose such penalty and the only intent of this para is to stop the annual increment till the Govt. Servant gets integrity certificate.

8. Keeping the above in view, the Tribunal orders the release of annual increment of the petitioner which was stopped *vide* order dated 20.03.2021 of the respondent no. 3 (Annexure no. 3 to the claim petition) from the date, it was due.

9. The claim petition is, accordingly disposed of. No order as to costs.

(RAJENDRA SINGH)
VICE CHAIRMAN (J)

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

DATE: SEPTEMBER 23, 2022
DEHRADUN
KNP