

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

EXECUTION PETITION NO. 13/SB/2024

*(Arising out of judgment dated 07.01.2023,
passed in Claim petition No. 24/SB/2021)*

Sri Gopal Krishna Sharma, s/o Late Sri Onkar Prasad Sharma, r/o 88 & 89
Engineers Enclave, Phase-I, G.M.S. Road, Dehradun, Uttarakhand.

.....Petitioner

versus

1. Uttarakhand Power Corporation Ltd. through its Managing Director, Urja Bhawan, Dehradun.
2. Power Transmission Corporation of Uttarakhand through its Managing Director, Vidyut Bhawan, near I.S.B.T. crossing , Majra, Dehradun.

..... Respondents

Present: Sri M.C.Pant (online) & Sri Abhishek Chamoli, Advocates,
for the Petitioner/applicant
Sri V.P. Devrani, Ld. A.P.O., in assistance of the Tribunal.
Sri Manish Kumar Singh, Advocate, for Respondent No.1.
Sri S.K.Jain, Advocate for Respondent No.2.

JUDGEMENT

Dated: APRIL 04, 2024

Justice U.C.Dhyani (Oral)

By means of present execution application, petitioner-applicant
seeks to enforce order dated 07.01.2023, passed by this Tribunal in Claim

Petition No. 24/SB/2021, Gopal Krishna Sharma vs. State of Uttarakhand & others.

2. The execution application is supported by the affidavit of Sri Gopal Krishna Sharma, petitioner.

3. Relevant portion of the judgment rendered by the Tribunal on 07.01.2023, is reproduced herein below for convenience.

“By means of present claim petition, the petitioner, *inter-alia*, seeks to quash the impugned order dated 04.05.2016 along with its effect and operation, and to direct the respondent department to release final pension, gratuity and other retiral benefits of the petitioner along with interest.

2. The petitioner served Power Transmission Corporation of Uttarakhand Limited (PTCUL) till 30.11.2014 and retired as Director, Project, Uttarakhand Power Corporation Limited (UPCL) on 25.07.2015. The grievance of the petitioner is that he has not been given final pension and gratuity by PTCUL on the pretext of a pending disciplinary proceeding, on which, the decision has to be taken by the Govt. of Uttarakhand.

Respondent no. 3, *vide* order dated 04.05.2016 issued an Office Memorandum by mentioning that in terms of the order dated 20.05.2015 of the State Govt., the payment of interim pension and commutation is given, but for gratuity, the action will be taken in accordance with law, after a decision is taken by the Govt. on pending disciplinary proceeding. Copy of the order dated 04.05.2016 is annexed as Annexure no. 1.

Two charges were levelled against the petitioner, the description of which has been given in para 4(f) of the claim petition. The grounds of challenge have also been mentioned in the body of the claim petition. The Tribunal need not go into such details, for its primary concern, is only to see at this juncture, whether the relief sought for in the claim petition, should be granted or not?

3. It is undisputed fact that the petitioner has retired and the order to release the final pension and gratuity along with interest on delayed payment of such retiral dues is under consideration of this Tribunal.
4. It is the submission of learned Counsel for the petitioner that the petitioner was absolved of all the charges in the inquiry report dated 16.6.2012, submitted by the Departmental Enquiry Committee (Copy Annexure-4). Thereafter, a fresh charge sheet was issued by merely translating the same charges in Hindi (Copy of the charge sheet is annexed as Annexure No. 5). The petitioner replied to the same on 20.12.2012 (Annexure: 6). Sri S.S.Yadav, the then M.D., PTCUL was appointed as inquiry officer, who submitted his report on 28.05.2014 to the Govt., in the Energy Department. Since then, no decision has been taken by the Govt. on the inquiry report of the petitioner.

5. The sole question, which arises for consideration of this Tribunal is- whether retiral dues of the petitioner could be withheld, if no decision is taken by the Govt. for more than 8 years?
6. Counter Affidavit has been filed on behalf of the UPCL, to say that the default is not attributable to the UPCL. According to the C.A. filed by Shri K.B.Chaube, the then General Manager (HR), UPCL, the matter is not pending with UPCL. The petitioner was earlier absorbed in PTCUL, but later on was appointed as Director (Project), UPCL by Govt. *vide* order dated 30.05.2011. Counter Affidavit has also been filed on behalf of PTCUL (respondent no.3), *inter-alia*, stating that petitioner is involved in a huge scam, involving crores of public money. According to C.A., the petition is liable to be dismissed with cost. Supplementary Counter Affidavits have also been filed on behalf of the respondent no. 3, to which petitioner has also filed rejoinder.
9. According to the petitioner, a sum of Rs. 10 Lacs as gratuity along with final pension is yet to be released by the respondent department in his favour.
10. Let us see what is the law on payment of retiral dues and interest on delayed payment of such dues. In catena of judgments, Hon'ble Supreme Court has observed as below:
 - (i) Hon'ble Apex Court has held in the decision of **State of Kerala and others vs. M.Padmanabhan Nair, 1985 (1) SLR 750**, that

11. The next question which arises for consideration of this Tribunal is, what should be the interest payable on delayed payment of gratuity etc.
12. Section 7 of the Payment of Gratuity Act, 1972, reads as under:

13. It will be useful to reproduce the relevant part of the judgment rendered by this Tribunal in **Ramnarayan Singh vs. State of Uttarakhand, 2019(1) UD 698**, herein below for convenience

14. The reply to the question posed by this Tribunal in para 5 of the judgment is that the Gratuity cannot be withheld for such a long time. The final pension has also not been released in favour of the petitioner as per the Time Schedule given in the Schedule appended to the Rules of 1995. The Tribunal cannot wait further for the decision of the Govt. The petitioner is, therefore, entitled to an order for final pension, release of gratuity and interest on delayed payment of pension/gratuity, till the actual payment is made.
15. The claim petition is disposed of by directing the respondents to release the retiral dues along with admissible interest on delayed payment of such retiral dues, as above, without unreasonable delay, on presentation of certified copy of this order. No order as to costs.
16. It is made clear that the Tribunal has not expressed any opinion on departmental culpability, if any, of the petitioner, on which final decision is yet to be taken by the Govt."

4. It is the submission of Ld. Counsel for the petitioner that a sum of Rs.10 lacs (gratuity) has been released to the petitioner, but interest on delayed payment of gratuity from the year 2014 to 2016 has not been paid, although remaining interest on delayed payment after the year 2016 up to the date of actual payment has been paid. Ld. Counsel for the petitioner, therefore, prayed that a direction be given to the respondents to implement the order dated 07.01.2023 passed by the Tribunal in Claim Petition No. 24/SB/2021 *in toto*, without further loss of time.

5. Ld. counsel for the petitioner/applicant submitted that such direction may be given by Single Bench of the Tribunal. Ld. Counsel for the respondents agree with such legal proposition.

6. Considering the nature of relief sought for by the petitioner, the Tribunal does not think it necessary to issue notices to the respondents, in the given facts of the case. Facts have to be ascertained by the respondent departments. Calculation has also to be done by them.

7. Since entire gratuity amount along with interest from 2016 up to the date of actual payment has already been released to the petitioner, therefore, the Tribunal deems it appropriate to direct the respondents to also release remaining admissible interest, if any, on delayed payment of gratuity, without any unreasonable delay.

8. Execution application is, accordingly, disposed of, at the admission stage, with the consent of Ld. Counsel for the parties.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: APRIL 04, 2024.
DEHRADUN