

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

CLAIM PETITION NO. 25/SB/2024

Sri Girish Chandra Barthwal, s/o late Sri P.D. Barthwal, r/o 112-Shivalik Enclave, Lane No. 11, Kargi Grant, P.O. Banjarawala, Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Public Works Department, Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Engineer-in-Chief and Head of Department, Public Works Department, Uttarakhand, Yamuna Colony Dehradun.
3. Chief Engineer, Office of Chief Engineer, Zonal Office, Public Works Department, Uttarakhand, Yamuna Colony, Dehradun.

..... Respondents

Present: Sri L.K. Maithani, Advocate, for the Petitioner
Sri V.P. Devrani, A.P.O., for the Respondents

JUDGEMENT

Dated: 21st March, 2024

Justice U.C. Dhyani (Oral)

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

“(i) To issue an order or direction to the concerned respondent to pay the interest at the rate of 10% per annum on the delayed payment of pension since May 2022 after calculating the interest on the amount of every month pension since the due date of its payment (1st day of every next month) upto the date of actual payment and further interest be given

on the amount of interest calculated upto the date of actual payment.

(ii) To issue an order or direction to the concerned respondent to pay the interest at the rate of 10% per annum on the delayed payment of the amount of gratuity Rs. 19,31,990/= since the date of the retirement of the petitioner upto the date of actual payment i.e. 18.11.2023 and further on the amount of interest of gratuity calculated upto the date 18.11.2023 the interest be given to the petitioner.

(iii) To issue an order or direction to the concerned respondent to return the recovered amount of gratuity Rs. 68,010/= to the petitioner with interest at the rate of 10% per annum since the date of his retirement upto the date of actual payment.

(iv) To issue an order or direction to the concerned respondent to pay the interest at the rate of 10% per annum on the delayed payment of the amount of GIS Rs. 1,60,511/= since the date of the retirement of the petitioner upto the date of actual payment i.e. 11.01.2024 and further on the amount of interest of GIS calculated upto the date 11.01.2024 the interest be given to the petitioner.

(v) To issue an order or direction to the concerned respondent to pay the compensation. Rs. 5,00,000/= to the petitioner for his mental tension, agony and harassment caused due to the unlawful act of the respondents.

(vi) To issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

(vii) To award the cost of the petition to the petitioner.”

2. Facts, in brief, are as follows:

2.1 Petitioner was initially selected as Junior Engineer in the respondent department on 28.03.1985. On 30.04.2022, petitioner superannuated from the post of Assistant Engineer. After retirement, petitioner was eligible for getting pension and other retiral dues timely, as per rules framed under The Uttarakhand Pension Cases (Submission, Disposal and Avoidance of Delay) Rules, 2003 (for short, 'Rules of 2003').

2.2 As per Rules of 2003, the formalities for preparation of pension papers should be started eight months prior to the retirement and after completing all the formalities, the pension payment order should be issued on the eve of retirement and the pensionary benefits should be paid to the retiree within one month of his superannuation.

2.3 Due to initiation of inquiry again and again against the petitioner, the respondent department delayed the payment of pension and gratuity, in an arbitrary and discriminatory manner. Hence, this claim petition.

3. Learned Counsel for the petitioner placed reliance on the decisions of the Hon'ble Apex Court given in S.K. Dua vs. State of Haryana and Another, (2008)1 Supreme Court Cases (L&S) 563 and State of Kerala and others vs. M.Padmanabhan Nair, 1985 (1) SLR 750, in support of his claim petition.

4. In reply, learned A.P.O. submitted that these decisions are not applicable to the petitioner because the disciplinary proceedings were pending against the petitioner.

5. During admission of the claim petition, learned Counsel for the petitioner made an innocuous prayer that a direction be given to the respondent no. 1 to decide the representation of the petitioner, as per law. Learned Counsel for the petitioner submitted that such a direction may be given by Single Bench of the Tribunal.

6. Learned A.P.O. has no objection, if a direction is given to respondent no. 1 to decide the representation of the petitioner, in accordance with law.

7. Without prejudice to the rival contentions, the Claim Petition is disposed of, at the admission stage, with the consent of learned Counsel for the parties, by directing respondent no. 1 to decide the representation of the petitioner, by a reasoned and

speaking order, without unreasonable delay, preferably within 12 weeks of presentation of certified copy of this order along with representation enclosing the documents in support thereof. No order as to costs.

(JUSTICE U.C. DHYANI)
CHAIRMAN

DATE: 21st March, 2024
DEHRADUN
RS