

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

CLAIM PETITION NO. 58/SB/2024

Dinesh Chandra Gaur, s/o late Sri Vidhya Dutt Gaur, r/o 96-Gagotri
Vihar, Dehradun, Uttarakhand.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Education, Dehradun,
Uttarakhand.
2. Director, Primary Education, Dehradun, Uttarakhand.
3. Ms. Seema Jaunsari, Former Director of Academic and Training,
Dehradun, Uttarakhand.

..... Respondents

Present: Ms. Medha Gaur and Sri Sahil Rana, Advocates,
for the Petitioner
Sri V.P. Devrani, A.P.O., for the Respondents No. 1 and 2

JUDGEMENT

Dated: 20th June, 2024

Justice U.C. Dhyani (Oral)

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

“(i) Quash and set aside the impugned order dated
07.06.2024 passed by Respondent No. 1; and/ or

(ii) Award the cost in favour of the Petitioner;

(iii) Any other order, which the Hon’ble Court deems fit and
proper in the facts and circumstances of the case and in the
interest of justice.”

2. Office Memorandum dated 07.06.2024, issued by Secretary, Secondary Education, Govt. of Uttarakhand (Annexure No. 1) is in the teeth of the present claim petition. Recovery of Rs. 2,17,392/- from pay of the petitioner for pecuniary loss caused to the Govt. has been ordered. Minor penalty under Rule 3(a)(iii) of the Uttaranchal Government Servants (Discipline and Appeal) Rules, 2003 (as amended in 2010) (for short, 'Rules of 2003') has been imposed. Such pecuniary loss has been ordered to be recovered in seven monthly installments from pay of the petitioner, who will retire in December, 2024.

3. It has specifically been mentioned in the penultimate paragraph of impugned order dated 07.06.2024 (Annexure No. 1) that the mistake on the part of the petitioner was not deliberate but was done under misinterpretation of Hon'ble Court's order dated 07.04.2017.

4. Ms. Medha Gaur, learned Counsel for the petitioner drew attention of the Bench towards grounds (A) to (T) taken in the claim petition to submit that the petitioner wants to file review application against the impugned order dated 07.06.2024, inasmuch as various material error of law have occurred, which have the effect of changing the nature and outcome of the case, therefore, liberty may be granted to make a representation to the reviewing authority under Rule 14 of the Rules of 2003.

5. Learned Counsel for the petitioner also pointed out that the beneficiary Sri Pramod Prasad Joshi has been ordered to be reinstated by the Hon'ble Court *vide* order dated 04.06.2024 in WPSS No. 466/2021.

6. In reply, learned A.P.O. submitted that if the petitioner wants to file representation in the form of review, it is his 'entitlement' under Rule 14 of the aforesaid Rules. Liberty to file representation is not required from the Tribunal.

7. Rule 14 of the Rules of 2003 reads as under:

“14. Review— The Governor may, at any time, either on his own motion or on the representation of the concerned Government Servant review any order passed by him under these rules, if it has brought to his notice that any new material or evidence which could not be produced or was not available at the time of passing the impugned order or any material error of law occurred which has the effect of changing the nature of the case.”

[Emphasis Supplied]

8. Learned Counsel for the petitioner further submitted that if need be, the petitioner may deposit the amount ‘under protest’, if at all he is unable to get the relief from any corner, therefore, recovery of money under the impugned order may be kept in abeyance till review application is decided.

9. The Bench is of the opinion that considering the facts of the case, the petitioner may file representation, in the form of review application, to the appropriate authority, as per law. It will also be in the fitness of things, considering the peculiar facts of the case, and in the interest of justice, if recovery from the salary of the petitioner is kept in abeyance till such review application is decided.

10. Learned Counsel for the parties submitted that the claim petition may be disposed of by Single Bench of the Tribunal, at the admission stage.

11. The claim petition is disposed of, at the admission stage, by leaving it open to the petitioner to make a representation to the appropriate authority under Rule 14 of the Uttaranchal Government Servants (Discipline and Appeal) Rules, 2003 (as amended in 2010), as per law. Till such review application is decided, the recovery under the impugned office-memorandum dated 07.06.2024 shall be kept in abeyance. No order as to costs.

(JUSTICE U.C. DHYANI)
CHAIRMAN

DATE: 20th June, 2024
DEHRADUN
RS