

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

CONTEMPT PETITION NO. 13/SB/2024

Sri Kumiya.

.....Petitioner-Applicant

versus

1. Sri R.K. Sudhanshu, State of Uttarakhand, through Secretary (Forest Department), Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Sri Anup Malik, Principal Chief Conservator of Forest (HoFF), Uttarakhand, 85, Rajpur Road, Dehradun.
3. Sri Mayank Kumar Jha, Divisional Forest Officer, Chakrata Forest Division, Chakrata.
4. Sri Romil Chaudhary, Chief Treasury Officer, District Dehradun.

..... Respondents/Alleged Contemnors

Present: Sri Abhishek Chamoli, Advocate, for the Petitioner
Sri V.P. Devrani, A.P.O., in assistance of the Tribunal

JUDGEMENT

Dated: 26th June, 2024

Justice U.C. Dhyani (Oral)

Present contempt application has been filed by the petitioner-applicant for awarding appropriate punishment to the respondents-alleged contemnors and directing them to comply with the order dated 20.09.2023, passed by this Tribunal in claim petition no. 104/DB/2020, Sri Kumiya vs. State of Uttarakhand, through Secretary, Forest and others.

2. Claim Petition No. 104/DB/2020, Sri Kumiya vs. State of Uttarakhand and others, was disposed of by the Tribunal *vide* order dated 20.09.2023. Relevant paragraphs of the said judgement/order read as under:

“

5. It is the submission of Ld. A.P.O. that due to wrong fixation of 3rd ACP, petitioner was made over payment of Rs.7,85,567/- which amount has been adjusted *vide* order dated 29.11.2022. Correct pay fixation order has been issued on 29.11.2022 on the advise of Finance Controller of the department. Ld. A.P.O. also submitted that petitioner has been paid GPF, GIS and leave encashment and so far as the payment of gratuity and pension is concerned, order for provisional pension has been issued *vide* Office Order dated 18.09.2023. Ld. A.P.O. also submitted that when provisional pension will be given to the petitioner, Gratuity will automatically be given to him.

6. The Tribunal records the aforesaid statement of Ld. A.P.O., which (statement) has been given by him on the basis of the note appended to Office Order No. 1197/ 29-3 Chakrata, dated 18.09.2023 issued by DFO, Chakrata Forest Division, Chakrata. The said office-order is made part of the record.

7. Petitioner is satisfied with the same.

8. Respondents are directed to pay the admissible interest on delayed payment of gratuity.

9. When the very purpose of filing the claim petition is fulfilled, there is no use in keeping the claim petition pending. The claim petition is, accordingly, closed, with the consent of Ld. Counsel for the parties. No order as to costs.”

3. When the order dated 20.09.2023 was not complied with, the petitioner filed execution application no. 17/SB/2023. The same was disposed of by the Tribunal *vide* order dated 10.11.2023. Relevant paragraphs of the order dated 20.09.2023 are as under:

“

4. It is the submission of Ld. Counsel for the petitioner that petitioner supplied the copy of judgment dated 20.09.2023 to the respondent department on 03.10.2023 (Annexure: 2), but, till date order dated 20.09.2023 has not been complied with by the authority concerned. It is also the submission of Ld. Counsel for the petitioner/executioner that casual approach on the part of opposite party(s)/respondent(s) should not be tolerated and strict direction should be given to them to ensure compliance of such order. [Ld.

counsel for the petitioner/executioner submitted that such direction can be given by the Single Bench of the Tribunal. Ld. A.P.O. agrees with such legal proposition].

5. Considering the facts of the case, this Tribunal directs the authority concerned to comply with the order dated 20.09.2023, passed by this Tribunal in Claim Petition No. 104/DB/2023, Sri Kumiya vs. State & others, if the same has not been complied with so far, without further loss of time, failing which the concerned respondent(s) may be liable to face appropriate action under the relevant law governing the field.

6. Petitioner/ executioner is directed to place a copy of this order before the authority concerned to remind that a duty is cast upon said authority to do something, which has not been done.

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

.....”

4. It is the submission of Sri Abhishek Chamoli, learned Counsel for the petitioner-applicant that orders of the Tribunal dated 20.09.2023 and 10.11.2023 have not been complied with. Learned Counsel for the petitioner prayed that the respondents-alleged contemnors be punished suitably and a direction be given to them to comply with the aforesaid orders of the Tribunal.

5. Rule 50 of the U.P. Public Services (Tribunal) (Procedure) Rules, 1992, reads as below:

“50. Initiation of proceedings.— (1) Any petition, information or motion for action being taken under the Contempt shall, in the first instance, be placed before the Chairman.

(2) The Chairman or the Vice-Chairman or such other Members as may be designated by him of this purpose, shall determine the expediency or propriety of taking action under the Contempt Act.”

6. Basic responsibility of securing compliance of order dated 20.09.2023, passed by the Tribunal in claim petition no. 104/DB/2020, is of respondent no. 3. The Tribunal, therefore, does not feel it proper or expedient to take action against respondents no. 1, 2 and 4 under the Contempt of Courts Act.

7. The Bench made an endeavour to hold conference with respondent no. 3 *virtually*. His mobile no. 9536931685 was switched off. Sri Pradeep Bhatt, Head Assistant, D.F.O., Chakrata Forest Division was contacted on his mobile no. 9917529741. Sri Bhatt submitted that D.F.O. has gone to Govind National Park and Sanctuary, Purola, Uttarkashi. It was informed that respondent no. 3 is holding dual charge. Sri Bhatt also submitted that he will inform D.F.O., Chakrata Forest Division, no sooner he returns from Purola, Uttarkashi.

8. Considering the facts noted above, the Tribunal does not deem it proper or expedient to initiate contempt proceedings against D.F.O., Chakrata Forest Division, as of now. The Tribunal reminds respondent no. 3 that a duty was cast upon him to do something, which has not been done. The Tribunal, while reiterating its order dated 20.09.2023, passed in claim petition no. 104/DB/2020, directs respondent no. 3 to ensure compliance of Tribunal's order, failing which he may be liable to face appropriate action under the law governing the field. This should be done at the earliest, without unreasonable delay.

9. The petitioner is directed to serve a copy of this order upon respondent no. 3 by registered post acknowledgement due.

10. Contempt petition is closed with the aforesaid directions.

(JUSTICE U.C. DHYANI)
CHAIRMAN

DATE: 26th June, 2024
DEHRADUN
RS