

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

**CLAIM PETITION NO. 151/SB/2023**

Sri Jagdish Chandra Khulbe, aged about 63 years, s/o Late Sri D.D. Khulbe,  
r/o Shastri Nagar Dhal, behind Vishal Megamart, Post Office- Natthanpur,  
Dehradun.

**.....Petitioner**

**VS.**

1. State of Uttarakhand through Secretary, Secretariat Administration Department, Secretariat, Subhash Road, Dehradun.
2. State of Uttarakhand through Secretary, Department of Agriculture, Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.

**.....Respondents.**

Present: Sri Sandeep Kothari, Sri Akram Parvez, Advocates,  
for the petitioner. (online)  
Sri V.P.Devrani, A.P.O., for the Respondents.

**JUDGMENT**

**DATED: JULY 04, 2024**

**Justice U.C.Dhyani (Oral)**

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

*“i) To quash the impugned order dated 07.09.2022 (Annexure No.-4 to the claim petition) passed by the respondent no.- 2, whereby, the claim of the*

*petitioner for grant post retiral benefits pension on the basis of the last pay drawn by the petitioner has been rejected.*

*ii) To direct the respondents to sanction the pension to the petitioner on the basis of last pay drawn by the petitioner and further to re-calculate / re-determine the post retiral benefits on the basis of the last pay drawn by the petitioner and further prayed that the aforesaid arrears so accrued due to incorrect determination of pension be granted along with the interest @ 12% per annum.*

*iii) To award the cost of the petition and compensation or to pass any such order or direction which this Hon'ble Tribunal may deem fit and proper."*

2. The claim petition is supported by the affidavit of petitioner. Relevant documents have been filed along with the claim petition.

3. The petitioner filed writ petition, being WPSB No. 279/ 2023 before Hon'ble High Court of Uttarakhand, who was pleased to pass an order on 05.07.2023 (Annexure: 1), as follows:

"The petitioner was a public servant. His claim for higher pension can be entertained by the Uttarakhand Public Services Tribunal.

2. We, accordingly, dismiss this petition with liberty to the petitioner to approach the Uttarakhand Public Services Tribunal.

3. Pending application, if any, also stands disposed of."

4. Order No. 61243/E-30859/XIII-1/2022-03(01)2021 Agriculture and Farmer Welfare Section -1 Dehradun dated 07.09.2022, issued by the Secretary to the Government in Agriculture Department and addressed to the Director, Agriculture, (Annexure: 4) is in the teeth of present claim petition. The said order reads as under:

".....

Kindly refer to the letter No. 5057/ Estt.-2/ Category-2/ Vya. Patra,/2020-21 dated 24.12.2020, by which by the representation dated 20.11.2020 of Mr. Jagdish Chandra Khulbe, Retired Assistant Director-in-Charge, Directorate of Agriculture, Dehradun, former Officer on Special Duty, Chief Minister, Uttarakhand Government, a request has been made to take necessary action in connection with the request made for fixation of pension on the basis of the salary received on the post of Officer on Special Duty of Hon'ble Chief Minister.

2- It is to be informed that Mr. Khulbe was working on the post of Assistant Director in the parent Department, Agriculture Department in Grade Pay of Rs.7600/-. It is also clearly mentioned in the Office Memorandum dated October 29, 2018 of the Secretariat Administration Department that "the pay scale of Rs.8700/- will be paid to Sri Khulbe as long as he remains posted as the Officer on Special Duty in the Office of the Chief Minister. After reversion to his original cadre, he will receive the same salary which will be admissible to him on remaining in the cadre post at the relevant time."

3- In this connection, I am directed to say that Mr. Khulbe has also been retired by the Agriculture Department. Since Mr. Khulbe's original post is of Grade Pay Rs.7600/- and Mr. Khulbe has retired from the said post itself, therefore there is no occasion to give the benefit to Mr. Khulbe of Grade Pay on the basis of Rs. 8700/- received on the post of Officer on Special Duty."

*[English translation, as supplied by the petitioner]*

5. The claim petition has been contested by respondents. Counter Affidavit has been filed by Sri Devendra Singh Chauhan, Deputy Secretary, Agriculture and Farmer Welfare Department, Govt. of Uttarakhand, Dehradun, on behalf of Respondents No. 1 & 2.

6. Supplementary Counter Affidavit has been filed by Sri Kavindra Singh, Additional Secretary, Secretariat Administration Department (SAD) on behalf of Respondent No.1.

7. Sri Sandeep Kothari, Ld. Counsel for the petitioner, vehemently espoused the cause of the petitioner by arguing that-

- (i) The petitioner was Assistant Director, Agriculture, before being appointed as OSD to the Hon'ble Chief Minister (C.M.).
- (ii) He was appointed on *co-terminus* basis.
- (iii) Whereas the Hon'ble C.M., with whom he was appointed as OSD, continued in his office as such, the petitioner retired on 31.10.2019.
- (iv) Petitioner's is not a case in which his appointment as OSD terminated with demitting of the office by Hon'ble C.M. The Hon'ble C.M. continued to serve as C.M. as such, whereas petitioner reached his age of superannuation midway on 31.10.2019.

- (v) The petitioner retired as an official of SAD and not as an official of Agriculture Department.
- (vi) Petitioner was never repatriated to his parent department by SAD.
- (vii) Hence, the petitioner is entitled to get post retiral dues on the basis of last pay drawn, which he was getting in the capacity of OSD to the Hon'ble C.M.

8. Thus, according to Ld. Counsel for the petitioner, the petitioner retired as an official of SAD, hence, he is entitled to post retiral dues on the basis of last pay drawn in Hon'ble C.M's office.

9. In reply, Ld. A.P.O. submitted that that the Secretary, Secretariat Administration Department (SAD) is considering the matter, whether the petitioner should be given post retiral dues on the basis of last salary drawn as OSD to the Hon'ble C.M. or not. SAD is seized with the matter.

10. That being so, the Tribunal deems it appropriate to request Respondent No.1 to consider the grievance of the petitioner on the basis of the points thus raised by Ld. Counsel for the petitioner, as per law. Request accordingly.

11. The claim petition is disposed of, as above. No order as to costs.

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: JULY 04, 2024.*  
*DEHRADUN*

*VM*