

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

CLAIM PETITION NO. 66/SB/2024

Dr. Nirdosh Sharma, s/o Sri Susheel Kumar Sharma, aged about 50 years, serving as Senior Medical Officer, Police Hospital, Dehradun, r/o E-65 Enginewali Haveli, Daksh Road, Kankhal, District Haridwar, Uttarakhand.

.....Petitioner

vs.

1. The Secretary, Medical Health and Family Welfare, Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. The Director General, Medical Health and Family Welfare, Dehradun.
3. The Chief Medical Officer, 105 Chandan Nagar, Dehradun, Uttarakhand.

.....Respondents

Present: Sri Uttam Singh, Advocate, for the petitioner.
Sri V.P. Devrani, A.P.O. for official Respondents.

JUDGMENT

DATED: JULY 30, 2024

Justice U.C.Dhyani (Oral)

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

“I. To quash the order No 156355/XXVIII-1-2023/E 57146/2023 dated 22-09-2023 by virtue of Statutory Rules 56 of the Financial Hand Book Part-II, Vol-II (Annexure No.A-1).

II. To declare the petitioner to be deemed retired from service on expiry of the notice period.

III. To direct the respondent to release the Pensionary and other service benefit from the date of deemed retirement after adjustment if any dues/over payment is pending against the petitioner.

IV To grant interest @ 12% on delayed pension, gratuity, leave encashment and others dues.

V. Any other order the Tribunal may deem fit and proper on the basis of facts and circumstances of the case.”

2. Petitioner, a medical officer, moved an application for voluntary retirement (for short, VRS), which was not responded to within three months, hence the petitioner claims that his VRS may be deemed to have been accepted.

3. It is the submission of Ld. Counsel for the petitioner that petitioner’s notice for VRS was not responded to by the respondent department, hence his voluntary retirement should be deemed to have been accepted after the expiry of three months (of notice).

4. Ld. Counsel for the petitioner also submitted that petitioner’s notice for VRS was kept pending by the respondent department. When he filed a claim petition before the Tribunal to direct the respondent department to decide his representation, then only the same was rejected. Had the Tribunal not directed the respondent department to decide the representation, petitioner’s VRS notice would have gathered dust in the department.

5. The respondent department has rejected the representation of the petitioner *vide* Office Memorandum dated 22.09.2023 (Annexure: A 1), stating that it is not possible to accept the VRS of the petitioner

because- (i) there is shortage of medical officers in the State and (ii) medical leave of 212 days was erroneously sanctioned to the petitioner, it's payment was made to him, the same has to be adjusted from the salary of the petitioner, who has given undertaking that the same may be recovered from his gratuity after accepting his VRS.

6. The Tribunal has been taken through Government Order No. 1844/*Karmik-2/2002* dated 09.04.2003, which is stated to be the sole G.O. on VRS to the Government servants. Ld. Counsel for the petitioner submitted that the said G.O. has not been followed by the respondent department, therefore, a direction be given to the respondents to decide the case of the petitioner in the light of G.O. dated 09.04.2003. Ld. A.P.O. has no objection to such innocuous prayer.

7. Ld. Counsel for the parties submitted that such an order may be passed by Single Bench of the Tribunal.

8. Without going into the veracity and legality of impugned Office Memorandum dated 22.09.2023 (Annexure: A 1), the claim petition is disposed of, at the admission stage, by directing the respondent department to decide the representation of the petitioner in the light of G.O. No. 1844/*Karmik-2/2002* dated 09.04.2003, as expeditiously as possible, without unreasonable delay, on presentation of certified copy of this order along with representation, enclosing the documents in support thereof, including copy of G.O. dated 09.04.2003 issued by Personal Department-2 of the Government of Uttarakhand. No order as to costs.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JULY 30, 2024.
DEHRADUN

VM