

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
BENCH AT NAINITAL**

**WRIT PETITION NO 300(S/B) OF 2019  
[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 77/NB/SB/2022]**

Mahim Kumar Joshi aged about 62 years, s/o Sri Pooran Chandra Joshi, r/o E-27, Judge Farm, Barimukhani, Haldwani, Tehsil and Post Haldwani, District Nainital.

.....**Petitioner**

**VS.**

1. State of Uttarakhand through Secretary, Panchayatiraj and Rural Works Department, Section-2, Govt of Uttarakhand, Dehradun.
2. Chief Engineer, Level-I Rural Works Department, Uttarakhand, Rajpur Road, Near Block Office, Tapovan Marg, Dehradun.
3. Chief Engineer, Level-II, Kumaon Division Rural Works Department, Near Aakas Resort, Bhimtal, District Nainital.

.....**Respondents.**

(virtually)

Present: Sri Rahul Consul, Advocate, for the petitioner.

Sri Kishore Kumar, A.P.O., for State Respondents.

**JUDGMENT**

**DATED: AUGUST 09, 2024.**

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

Hon'ble High Court of Uttarakhand at Nainital, passed an order, in WPSB No. 300/2019 , Mahim Kumar Joshi vs. State of Uttarakhand and others, on 07.09.2022, as follows:

“The reliefs sought in the present Writ Petition are the following:-

“I. Issue a writ, order or direction in the nature of mandamus commanding the respondents to forthwith produce the enquiry report submitted to the State Government i.e. Additional Secretary, Panchayati Raj, Rural Works Department vide Office Order no. 2490/277/parivad (2018) dated 19.12.2018.

II. Issue a writ, order or direction in the nature of mandamus commanding the respondents to forthwith grant the admissible post retiral dues to the petitioner if the Petitioner stands exonerated in the enquiry conducted by the enquiry officer.”

2. The petitioner is a government servant. The subject matter of the writ petition squarely falls within the jurisdiction of the Uttarakhand Public Services Tribunal.

3. Considering the fact that the petition has been pending since the year 2019, we direct the Registry to transmit the complete record of the present writ petition to the Tribunal forthwith to be registered as a Claim Petition.

4. The writ petition is disposed of accordingly.”

2. Writ Petition No. 300 (S/B) of 2019 is, accordingly, reclassified and renumbered as Claim Petition No. 77/NB/SB/2022. Since the reference in this Tribunal shall be of the writ petition filed before the Hon’ble High Court, but shall be dealt with as claim petition, therefore, the claim petition shall be referred to as ‘petition’ and petitioner shall be referred to as ‘petitioner’, in the body of the judgment.

3. Present petition has been filed by the petitioner for directing respondents to forthwith release post retiral benefits- pension, gratuity with interest and leave encashment, which have not been paid to the petitioner.

As per para 2 of the petition, enquiry report has been submitted to the State Govt. *vide* order dated 19.12.2018 against the petitioner. The prayer of the petitioner in para 2 of the petition is that- (i) if there is no substance in the enquiry report, post retiral dues of the petitioner may be released, and (ii) if certain charges are there against the petitioner in the enquiry report, the same may be produced before the Court at an early date.

The petitioner was appointed as Junior Engineer in Public Works Department, Almora. Subsequently, he was appointed as Junior Engineer through Commission in Rural Works Department. Thereafter he was promoted as Assistant Engineer in the office of Chief Engineer, Level-2, Nainital. Petitioner retired on attaining the age of superannuation on 30.05.2018. Respondent department sanctioned only 90% amount of GPF, but till date no gratuity, pension and other retiral dues have been released to him. He made representation to the respondent department with a request to release pensionary benefits. He was informed that he was charge-sheeted for irregularities in the construction work while he was on duty in P.M.G.S.Y. Kapkot, Bageshwar.

Petitioner filed a writ petition being WPSV No. 415/2018 before the Hon'ble High Court. The said writ petition was disposed of *vide* judgment and order dated 20.09.2018, with a direction to the respondents to conclude the disciplinary proceedings against the petitioner within a period of six months from the date of the order. Later, the petitioner came to know that the enquiry against the petitioner has been completed, but the respondents have neither informed him about the outcome of the enquiry nor have they released the post retiral dues of the petitioner. Hence, present petition.

4. Petition is supported by the affidavit of the petitioner. Relevant documents have been filed along with the petition.

5. No Counter Affidavit has been filed on behalf of the respondents. Registry of the Hon'ble High Court has made an endorsement that, "all the respondents are served".

6. Sri Rahul Consul, Ld. Counsel for the petitioner submitted that the petitioner is not in his contact, yet he prays that a direction may be given to the respondent department to release admissible post retiral dues to the petitioner, if the petitioner has been exonerated in the enquiry conducted by the enquiry officer and if there is some substance against him in the charge sheet, the same should be informed to him. It is the submission of Ld.

Counsel for the petitioner that no litigant should suffer on account of unintentional lapse on his part in doing *Pairvi* of the case.

7. Sri Kishore Kumar, Ld. A.P.O. has no objection to the prayer of Ld. Counsel for the petitioner. He submitted that innocuous prayer of Ld. Counsel for the petitioner may be considered in the interest of justice, if post retiral dues have not been released in favour of the petitioner, without plausible reason, so far.

8. The Tribunal deems it proper to pass the following order in the interest of justice:

The petition is disposed of with the consent of Ld. Counsel for the parties, by directing the respondent department to consider releasing admitted post retiral dues to the petitioner, if he has been exonerated in the enquiry conducted by the enquiry officer and if there is some substance against him in the charge sheet, the same should be informed to him, on presentation of certified copy of this order along with representation, without unreasonable delay.

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

*DATE: AUGUS 09, 2024*  
*DEHRADUN*

VM