

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

CLAIM PETITION NO. 81/SB/2024

Ankit Sharma, s/o Sri R.P. Sharma, aged about 43 years, r/o 8-Shakti Vihar,
Phase-2, Majra, Dehradun.

.....Petitioner

vs.

1. State of Uttarakhand through Secretary, Labour Medical Services, Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Director, Directorate, Employees State of Insurance Scheme, Uttarakhand 74/1, GMVN Campus, First Floor, Rajpur Road, Dehradun.
3. Chief Medical Officer (In-Charge), Employees State of Insurance Scheme, Uttarakhand, 2/2 Rajpur Road, Dehradun.
4. Director, Directorate, Treasury, Pension and Entitlement, Uttarakhand, 23 Laxmi Road, Dehradun.
5. Officiating Medical Officer, State Employees Insurance Hospital, Patel Nagar, Dehradun.

.....Respondents

Present: Sri R.C.Raturi, Advocate, for the petitioner.
Sri V.P. Devrani, A.P.O. for the State Respondents.

JUDGMENT

DATED: SEPTEMBER 17, 2024

Justice U.C.Dhyani (Oral)

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

“ (i) To quash the impugned order dated 31.07.2024 with its effects and operation.

ii) To issue an order or direction to the concerned respondents to pay the outstanding dues of Late Smt. Kishna Devi to the petitioner with interest since the date of death of Smt. Kishna Devi till the date of actual payment.

(iii) To issue any other order or direction which this court may deem fit and proper in the circumstances of the case in the favour of the petitioner.

(iv) To award the cost of the petition.”

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

3. Petitioner claims himself to be the successor of Krishna Devi, who was working in Primary Health Centre, Patel Nagar, District Dehradun, as A.N.M. She passed away on 31.03.2016.

4. It is the submission of Sri R.C.Raturi, Ld. Counsel for the petitioner that the petitioner was recorded as nominee of Krishna Devi in her service record and 50% of her GPF was released to the petitioner on 27.03.2020 and 03.12.2021.

5. *Vide* order dated 31.07.2024, representation of the petitioner was rejected by the Director, Employees State Insurance Scheme, Uttarakhand by a reasoned order. Communication dated 31.07.2024 (Annexure- 1) is impugned in present claim petition.

6. Ld. A.P.O., while defending the departmental action, submitted that the petitioner was never recorded as nominee of Krishna Devi, in her service record. Krishna Devi was not married, therefore, petitioner does not come within the definition of 'legal heirs'/ 'family'. Ld. A.P.O. further submitted that the respondent department has rightly rejected the representation of the petitioner by stating that the petitioner does not come within the definition of 'family' under the Uttar Pradesh Retirement Benefits Rules, 1961.

7. It is not within the competence of the Tribunal to decide as to who is the legal heir of the deceased. It is beyond Tribunal's jurisdiction to decide succession. This Tribunal can only say, at this stage, that the retiral dues of a deceased public servant should be released as per the scheme of the Uttarakhand Pension Cases (Submission, Disposal and Avoidance of Delay) Rules, 2003, in accordance with law.

8. Hon'ble Supreme Court, in catena of decisions has dealt with this issue, from time to time. In *State of Kerala and others vs. M.Padmanabhan Nair, 1985 (1) SLR 750*; *S.K. Dua vs. State of Haryana and Another, (2008)1 Supreme Court Cases (L&S) 563*; & *D.D. Tiwari (D) vs. Uttar Haryana Bijli Vitran Nigam Ltd. & Others, 2014 (5) SLR 721*, Hon'ble Apex Court observed that retiral benefits are no longer any bounty to be distributed by the Government to its employees on their retirement but have become valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest.

9. The claim petition is disposed of, at the admission stage, by directing the respondent department to release the retiral dues of Krishna Devi (since deceased) to her legal heir(s)/ legal representatives(s), as per the scheme of the Uttarakhand Pension Cases (Submission, Disposal and Avoidance of Delay) Rules, 2003, in accordance with law.

10. It is made clear that the Tribunal has not expressed any opinion on the issue of legal entitlement of any one to receive retiral dues of Krishna Devi (since deceased).

11. Rivel contentions on such issue are left open.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: SEPTEMBER 17, 2024.
DEHRADUN

VM