

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

ORDER SHEET

Dated: 23.09.2024

ORDER IN

Execution Application No. 05/2011

Devendra Kumr Saxena Vs. State of Uttarakhand and Others

Present: Sri M.C.Pant (online) & Sri Abhishek Pant, Advocates,
for the Petitioner-executioner.
Sri V.P.Devrani, A.P.O., for Respondents No. 1 & 2.
Sri Atul Virmani (online) & Sri S.K.Jain, Advocates,
for Respondents No. 3 & 4.

State Public Services Tribunal, Lucknow, passed an order on 07.01.1994 in claim petition no. 102/F/IV/1983 (Copy: Annexure-1), as follows:

“...In view of the above discussion the impugned order is hereby quashed and the claim petition is allowed.

2. The petitioner would be deemed to be on the post as if the orders of reversion were not passed, with consequential benefits.

3. Regarding his regularization etc. the Board is directed to consider it in accordance with the directions issued by them in cases of similarly placed candidates.”

2. For securing compliance of the aforesaid order, Execution Application No. 05/2011, Devendra Kumar Saxena vs. Uttarakhand Power Corporation Ltd., was filed before this Tribunal. The Tribunal, *vide* detailed order dated 19.10.2012. directed as under:

“In the light of the above discussion, we come to the conclusion that Respondent No.3 is responsible to take suitable action to implement the decision of the Tribunal passed in claim petition No. 102/F/IV/83.

Hence, the Respondent No.3 UPCL is directed to comply with the judgment and order of the Tribunal dated 7.1.1994 within a period of three months from today, Put up after three months on 24.01.2013.”

3. The Uttarakhand Power Corporation Ltd. (for short, UPCL) assailed order dated 19.10.2012, passed by the Tribunal in writ petition being WPSB No. 92 of 2013, which was dismissed by the Hon'ble High Court *vide* order dated 09.08.2018. Relevant paragraphs of the decision dated 09.08.2018 are reproduced herein below for convenience:

“Respondent No. 2 - workman has filed a claim petition before the Uttar Pradesh Public Service Tribunal. The same was allowed on 07.01.1994. At that time, he was an employee of UPSEB Distribution Zone. He retired on 30.11.1997.

Since, the monetary benefits were not paid to the respondent/workman, therefore, he filed Execution Application No. 05/11 before Public Service Tribunal for executing the judgment and order dated 07.01.1994. The said application was allowed by learned Tribunal on 19.10.2012.

The case of the petitioner in nutshell is that the liability to pay the monetary benefit is of the UPSEB Distribution Zone. The respondent has raised the specific plea in the execution application that he (workman) was paid pension by the Uttarakhand Power Corporation Ltd. There was no specific denial to this effect in the reply filed to the execution application (application No.05/2011). Moreover, the functions, which were being discharged by the implementation of Uttarakhand Reorganization Act, 2000 are now being discharged by the Uttarakhand Power Corporation Limited.

Accordingly, there is no merit in the writ petition and same is hereby dismissed.”

4. Aggrieved with the same, UPCL filed Review Application No. 131/ 2019 in the Hon'ble High Court. The review application was dismissed. Complete order passed by the Hon'ble Court is reproduced herein below for convenience:

“This application is filed seeking review of the order passed by a Division Bench of this Court in Writ Petition (S/B) No.92 of 2013 dated 09.08.2018.

2. The respondent-workman filed a claim petition before the Uttar Pradesh Public Services Tribunal, which was allowed by order dated 07.01.1994. At the relevant time, the workman was an employee of the UPSEB Distribution Zone. He retired from service on 30.11.1997. On the ground that the monetary benefits, which he claimed were due and payable in terms of the order of the Tribunal dated 07.01.1994, were not paid, he filed Execution Application No.05 of 2011 before the Public Services Tribunal at Dehradun.

3. In its order dated 19.10.2012, the Tribunal held that it was the responsibility of the review applicant herein to take suitable action to implement the decision of the Tribunal in Claim Petition No.102/F/IV/83 date 07.01.1994. The review applicant herein was directed to comply with the judgment and order of the Tribunal dated 07.01.1994 within a period of three months from the date of the order, and the matter was directed to be listed after three months. Questioning the validity of the said order, the jurisdiction of this Court was invoked by way of Writ Petition (S/B) No.92 of 2013, resulting in the order, review of which is now sought, being passed.

4. Mr. Bhagwat Mehra, learned counsel appearing for the review applicant, would submit that the Uttarakhand Public Services Tribunal lacks territorial jurisdiction to entertain an execution application, since the respondent-writ petitioner had retired from service in 1997 when he was serving the Uttar Pradesh State Electricity Board; the order, execution of which is sought, was passed by the Uttar Pradesh Public Services Tribunal; and the Uttarakhand Public Services Tribunal lacks territorial jurisdiction to entertain an application seeking execution of the order passed by the Uttar Pradesh Public Services Tribunal.

5. We have examined the contents of the affidavit filed by the review applicant herein, in the execution application filed before the Uttarakhand Public Services Tribunal. No such plea of lack of territorial jurisdiction was taken therein. The order under review does not also reflect any such contention having been raised even during the course of hearing of the Writ Petition. It is for the first time, in this review proceedings, is such a contention now being urged. We see no reason, therefore, to entertain any such contention for the first time in review proceedings.

6. The Review Application fails and is, accordingly, dismissed....”

5. Not satisfied with the same, UPCL filed SLP before the Hon’ble Supreme Court, who was pleased to pass an order on 08.07.2024, as under:

“In the peculiar facts of the instant case, we are not inclined to interfere with the orders impugned herein under Article 136 of the Constitution of India.

2. The Petitions for Special Leave to Appeal are dismissed. Pending application(s), if any, are disposed of.

3. However, the questions of law raised by the petitioner in the present petitions are left open for adjudication in an appropriate case.

4. Needless to state that if the petitioner is inclined to recover any amount directed to be paid to the respondent No.1, from the respondent No.2 or any other authority, it is at liberty to do so, if permissible and in accordance with law.”

6. The aforesaid narration would indicate that the writ petition against the order of the Tribunal has been dismissed. Review application met the same fate. When UPCL filed SLP against it, the same was also dismissed with certain observations, which have been reproduced in the foregoing paragraph of this order.
7. Order has attained finality.
8. UPCL is, accordingly, directed to comply with the order(s), as expeditiously as possible, without unreasonable delay.
9. List on 14.11.2024 for further orders.

(JUSTICE U.C.DHYANI)
CHAIRMAN