

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

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. Arun Singh Rawat

-----Vice Chairman (A)

**CLAIM PETITION NO.138/DB/2024**

Anirudh Kumar Bisaria, s/o Late Sri K.K. Bisaria, r/o 699- Pragati Vihar,  
P.O. Araghar, Dehradun, Uttarakhand.

.....Petitioner

**vs.**

1. State of Uttarakhand through Secretary, Department of Horticulture, State Secretariat, Dehradun, Uttarakhand.
2. Chief Executive Officer, Bheshaj Development Unit, Department of Horticulture, 8 A- Bangali Library Road (Old E.C. Road), Dehradun, Uttarakhand.
3. Zila Bheshaj Sahkari Vikas Sangh Ltd. Through its Secretary, 52- Jhanda Bazar, Saharanpur Road, Dehradun, Uttarakhand.

.....Respondents

Present : Dr. Aparna Singh, Advocate for the petitioner.  
Sri V. P. Devrani, A.P.O. for the Respondent No.1.

**JUDGMENT**

**DATED: OCTOBER 10, 2024**

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

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

“a) To issue an order or direction for quashing the impugned order dated 06.04.2023 along with order dated 06.06.2024 (contained as Annexure no. A-1) and the impugned Order No. 1423-31/ *Stha.*/2010-11 Dated 25.11.2010 (Annexure A-2 of the Claim petition) with all consequential benefits after calling the entire records from the respondents.

(b) To issue an order or direction, directing to the respondents for quashing the impugned orders dated 30.07.2010 /03.08.2010 (Annexure A-29 of the Claim Petition).

(c) To issue an order or direction, directing to the respondents No. 1 and 2 to grant the petitioner all consequential benefits of salary difference etc., pensionary benefits, gratuity, benefits of ACP and further restraining the respondents from effecting any recovery in pursuance of the impugned order dated 30.07.2010/03.08.2010 or the impugned order dated 06.04.2023 along with order dated 06.06.2024 and the impugned Order No. 1423-31/*Stha.* I2010-11 Dated 25.11.2010.

(d) Issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

(e) Award the cost of the petition in favour of the petitioner.”

2. When hearing on admission of the claim petition was going on, the Tribunal observed that the Office Memorandum *No. 208022/ E.Patra.-57601/XIII-1/2023, Dehradun, dated 06.04.2023* issued by *Krishi Evam Krishak Kalyan Anubhag-1, Govt. of Uttarakhand* was issued on 06.04.2023 (Annexure: 1). In this O.M., there is reference of an order passed by Hon'ble High Court of Uttarakhand on 25.04.2023 in WPSS No. 1194/2010 (Annexure: 3). Digital signatures are of 01.05.2024. It is thus apparent that O.M.(Annexure:1) was not issued on 06.04.2023.

3. Petitioner was Grading Assistant (Border), working with Respondent No.3. Recovery of Rs.6,55,574.02/- has been ordered against him, which is under challenge in present claim petition.

4. Dr. Aparna Singh, Ld. Counsel for the petitioner drew attention of the Tribunal towards letter dated 07.09.2007, issued by the Chief Executive Officer, *Bheshaj Vikas Ikaee*, addressed to the Deputy Secretary, Govt. of Uttarakhand, to submit that no substance was found in the allegations levelled against the petitioner. Petitioner was suspended on 16.12.2002. His suspension order was revoked on 24.03.2003. Nothing was found against him in the audit report. The amount of embezzlement in the first charge-sheet and second charge-sheet is different. Ld. Counsel for the petitioner submitted that there are glaring mistakes in the enquiry conducted by the enquiry officer, report of the disciplinary authority and order of the appellate authority. Petitioner wants to highlight these anomalies before the Secretary, Department of Horticulture, State Secretariat, Dehradun, Uttarakhand (Respondent No. 1), because the material error of law has occurred, which has the effect of changing the nature of the case. Ld. Counsel for the petitioner prayed that the petitioner may be given liberty to file review application before the appropriate authority.

5. Rule 14 of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003, reads as under:

**“Review** - The Governor may, at any time, either on his own motion or on the representation of the concerned Government Servant review any order passed by him under these rules, if it has brought to his notice that any new material or evidence which could not be produced or was not available at the time of passing the impugned order or any material error of law occurred which has; the effect of changing the nature of the case.”

*[Emphasis supplied]*

6. Petitioner can make representation to the competent authority for reviewing its order dated 06.04.2023 (01.05.2024),

Annexure: 1 . He is entitled to file representation before the reviewing authority.

7 The claim petition is disposed of, at the admission stage, leaving it open to the petitioner to file representation for reviewing order dated 06.04.2023 (01.05.2024), Annexure: 1, before the competent authority, who may pass appropriate order after hearing the petitioner and considering the grounds taken in the review application.

8. Rival contentions are left open.

9. At this stage, Ld. Counsel for the petitioner prayed that a direction be given to the respondent department to pay admissible dues to the petitioner. Ld. A.P.O. pointed out that the department is willing to release the admissible retiral dues to the petitioner, as has been mentioned in the letter dated 06.06.2024, which has been filed along with O.M. dated 06.04.2023 (01.05.2024), issued by the Chief Executive Officer to the petitioner.

10. Respondent department is, accordingly, directed to release the admissible retiral dues to the petitioner, as expeditiously as possible and without unreasonable delay.

**(ARUN SINGH RAWAT)**  
VICE CHAIRMAN (A)

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

*DATE: OCTOBER 10, 2024*  
*DEHRADUN*

*VM*