

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

**CLAIM PETITION NO. 36/SB/2024**

Sri Ram Gopal Singh, aged about 73 years, s/o late Sri Malkhan Singh, r/o House No. 52/3, I.R. Colony, Roorkee, District Haridwar.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Irrigation, Govt. of Uttarakhand, Sachivalaya, Subhash Road, Dehradun.
2. Executive Engineer, Administrative Division, Irrigation Research Institute, Roorkee, Uttarakhand.

..... Respondents

Present: Sri B.B. Naithani, Advocate, for the Petitioner  
Sri V.P. Devrani, A.P.O., for the Respondents

**JUDGEMENT**

**Dated: 10<sup>th</sup> October, 2024**

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

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

“(i) This Hon'ble Tribunal may be pleased to quash the impugned order dated 15.09.2023 (Annexure No. A-1).

(ii) This Hon'ble Tribunal may further be pleased to direct the respondents to reconsider the grant of revised pay band with Grade Pay 5400 in accordance with provisions made vide above said G.O. dated 07.04.2011 (Annexure No. 3) and G.O. dated 06.11.2013 (Annexure No. 4).

(iii) This Hon'ble Tribunal may further be pleased to direct the respondent to grant consequential benefits like revision of pension after grant of revised pay band with Grade Pay 5400.

(iv) This Hon'ble Tribunal may further be pleased to issue any order or direction which this Tribunal may deem fit and proper under the circumstances of the case.

(v) This Hon'ble Tribunal may kindly be further pleased to award cost to the petitioner."

2. Petitioner was serving in the respondent department as Stenographer. He retired on 31.12.2010.

2.1 After retirement, the petitioner was granted 3<sup>rd</sup> ACP with pay band 9300-34800 grade pay 4800/- *vide* order dated 22.06.2011 by respondent no. 2, as per G.O. No. 872/XXVII(7)/2011 dated 08.03.2011 (copy Annexure: A2) and G.O. No. 10/XXVII(7)/40(IX)/ 2011 dated 07.04.2011 (copy Annexure:A3). The petitioner has reproduced relevant portion of G.O. dated 07.04.2011 in para 4.3 of the claim petition.

2.2 Govt. of Uttarakhand reconsidered all the Govt. orders issued in the past including G.O. dated 08.03.2011 and G.O. dated 07.04.2011 regarding grant of ACP to resolve the difficulty of those employees, who were stuck at the stage of grade pay 4800/- and did not have any promotional post.

2.3 Govt. of Uttarakhand, *vide* G.O. No. 770/XXVII(7)/40(IX)/2011 dated 06.11.2013 (copy Annexure: A4) revised pay band with grade pay 4800/- of those employees, who were not having next promotional post like petitioner, who had no post higher than the post of Stenographer.

2.4 In cases of employees, who were stuck at grade pay 4800/- or less but had no promotional avenue, Govt. of Uttarakhand *vide* para 2 of the G.O. dated 06.11.2013 ordered to grant next grade pay in the concerned pay band *w.e.f* 01.11.2013 in personal capacity, as per table attached with G.O. No. 395/XXVII(7)/2003 dated 17.10.2008 (copy Annexure: A5).

2.5 Petitioner also had no promotional avenue to be promoted from the post of Stenographer, so the G.O. dated 06.11.2013, by

which the pay band with grade pay 4800/- had been amended as per para 2 of the above said G.O. dated 06.11.2013 also has been applicable in the case of the petitioner as it was clearly and unequivocally stated in para 2 of the G.O. dated 07.04.2011.

2.6 Petitioner, after having the knowledge of the above said amendment dated 06.11.2013 in pay band with grade pay, had been making repeated requests to grant him the amended pay band with higher grade pay of 5400/-, as per G.O. dated 06.11.2013 (copy of letters: Annexures A6 *colly*). Having received no reply from the respondent, petitioner further issued legal notice upon the respondents on 03.08.2022 but the same was also not replied.

2.7 *Vide* impugned order dated 15.09.2023, the request of the petitioner to get the pay band with grade pay 4800/-, revised as per G.O. dated 07.04.2011 and G.O. dated 06.11.2013, was rejected arbitrarily and illegally without considering the provision made in the said G.O.s. By reading the provisions of the G.O. dated 07.04.2011 and G.O. dated 06.11.2013, it is apparent that a substantial right has been crystallized in favour of the petitioner to get the revised pay band 15600-39100 with grade pay 5400/-.

2.8 The petitioner was granted 3<sup>rd</sup> ACP *vide* order dated 22.06.2011 on the basis of the G.O. dated 08.03.2011 and G.O. dated 07.04.2011 and both the G.O.s have been reconsidered and their contents have been amended *vide* G.O. dated 06.11.2013. Consequent the said amendment, the petitioner has become eligible in all respect to get the sanctioned 3<sup>rd</sup> ACP in pay band 9300-34800 grade pay 4800 revised into pay band 15600-39000 grade pay 5400/-.

3. Petitioner has filed affidavit in support of his claim petition. Relevant documents have also been filed with the claim petition.

4. Office Order dated 15.09.2023 issued by Executive Engineer, Administrative Division, Irrigation Research Institute,

Roorkee, is in the teeth of present claim petition (copy Annexure: A1).

5. The claim petition has been contested by the respondents. Sri Gunanand Sharma, Executive Engineer, Administrative Division, Irrigation Research Institute, Roorkee, has filed counter affidavit on behalf of respondents no. 1 and 2.

5.1 Brief facts of the case have been mentioned in para 1 to 6 of the counter affidavit thus filed.

5.2 In para 7 of the C.A., it has been mentioned that after attaining the age of superannuation, petitioner has retired on 31.12.2010 as Stenographer with grade pay 4800/- from the Irrigation Department. The relationship of employee and employer has ceased on 31.12.2010, hence, the petitioner is not legally entitled to get the benefit of grade pay 5400/- as 3<sup>rd</sup> ACP.

5.3 A reference of G.O. No. 65/XXVII/18-50(09)/20 dated 09.03.2019 (copy: Annexure CAR-1) has been given in para 8 of the C.A. to submit that as per para 2 of the said G.O., ACP is only one time benefit and the same cannot be re-opened if it has not been granted to an employee mistakenly.

5.4 Parawise replies have also been given in the C.A. The Tribunal does not feel it necessary to reproduce those parawise replies, for, they are already part of record.

6. Rejoinder affidavit has been filed by the petitioner reasserting the facts contained in the claim petition.

7. Learned A.P.O. submitted that it is settled proposition of law that the benefit is ACP is given to the serving employees, who, due to stagnation, could not get the benefit of next promotional pay scale. Defending departmental action, learned A.P.O., relying upon para 10 of the C.A., submitted that the petition is devoid of merits

and is liable to be dismissed. A plea of limitation has been taken in para 13 of the C.A. According to learned A.P.O., the claim petition is time barred as the petitioner is seeking relief of 3<sup>rd</sup> ACP *w.e.f.* 01.09.2008 under the garb of order dated 15.09.2023.

8. In reply to the objection of limitation, Sri B.B. Naithani, learned Counsel for the petitioner submitted that when department did not pay any heed to the representations of the petitioner followed by legal notice for grant of grade pay 5400/-, the petitioner again moved an application, which was rejected by the Executive Engineer of the respondent department *vide* letter dated 15.09.2023 (copy Annexure: A1), therefore, the claim petition is within time.

9. In the said letter dated 15.09.2023, the petitioner has been informed that he has retired on 31.12.2010, therefore, there is no occasion to grant him grade pay 5400/-. The petitioner was informed of the same earlier also that he is not entitled to such benefit.

10. Much reliance has been placed by Sri B.B. Naithani, learned Counsel for the petitioner on para 2 of the G.O. dated 07.04.2011, which has been quoted in 4.3 of the claim petition, to submit that even a retired employee is entitled to benefit of ACP, according to the amendments made in the G.O.s.

11. Learned Counsel for the petitioner submitted that petitioner's case is not of re-opening of original sanction of 3<sup>rd</sup> ACP, he is praying benefit according to the amended G.O.s.

12. In reply, learned A.P.O. submitted that the amendment came into light in the year 2016, whereas the petitioner has retired in the year 2010.

13. Learned Counsel for the petitioner further replied that original sanction of 3<sup>rd</sup> ACP was itself after retirement of the petitioner, hence, the said G.O. is applicable to him.

14. It may be noted here that the G.O.s are silent on the point whether amendment in the 3<sup>rd</sup> ACP will be applicable to the retired employees or not. The order impugned has been passed by the Executive Engineer, Administrative Division, Irrigation Research Institute, Roorkee, in which the provisions of the G.O. issued by the Govt. has not been discussed.

15. It will, therefore, be in the fitness of things if a request is made to respondent no. 1 to consider petitioner's prayer in the light of G.O.s thus issued by the Govt., from time to time, as per law.

16. The claim petition is disposed of by making a request to respondent no. 1 to consider petitioner's prayer in the light of the G.O.s thus issued by the Govt. of Uttarakhand from time to time, as per law. No order as to costs.

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

*DATE: 10<sup>th</sup> October, 2024*  
*DEHRADUN*  
*RS*