

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

Writ Petition No. 281 (S/B) of 2021

[Reclassified and Renumbered as Claim Petition No. 90/NB/SB/2023]

Sri Khushhal Singh Rawat, aged about 60 years, s/o late Sri Puran Singh Rawat, r/o 46/16 Vishwanath Enclave, Sahastradhara Road, Dehradun, District Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Additional Chief Secretary, Forest and Environment, Secretariat, Dehradun.
2. Principal Chief Conservator of Forest (HoFF), Uttarakhand, Dehradun.
3. Additional Principal Chief Conservator of Forest (Administration), Uttarakhand, Dehradun.
4. Directorate, Treasury, Pension and Entitlement, Uttarakhand, 23 Laxmi Road, Dalanwala, Dehradun through its Additional Director.
5. Divisional Forest Officer, Civil Soyam, Forest Division, Almora.
6. Divisional Forest Officer, Garhwal Forest Division, Pauri.

..... Respondents

Present: Sri Khushal Singh Rawat, Petitioner
Sri Kishore Kumar, A.P.O., for the Respondents

JUDGEMENT

Dated: 16th October, 2024

Justice U.C. Dhyani (Oral)

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 12.06.2023 in WPSB No. 281 of 2021, Khushal Singh Rawat vs. State of Uttarakhand and others, which (order) reads as under:

“Urgency application (IA No.03 of 2023) is taken up and disposed of.

2. The matter is taken up on board.

3. The relief sought by the petitioner in the present writ petition squarely falls for consideration within the jurisdiction of the Uttarakhand Public Services Tribunal, since the petitioner was a public servant.

4. Since the writ petition has remained pending since the year 2021, and the counter-affidavit has been filed by respondent no. 4, we direct the Registry to transmit the record of the present writ petition to the Tribunal, at its Nainital Bench, forthwith to be registered as a claim petition.

5. We request the Tribunal to expedite the hearing of the present petition considering the fact that the petitioner is a retired person.

6. The writ petition is disposed of accordingly.

2. The original record of the writ petition has been transferred to this Tribunal *vide* letter no. 9472/UHC/Service Section(S/B)/ PST/ Nainital dated 15.06.2023 of the Deputy Registrar (Judicial) of the Hon’ble High Court. The same has been registered as claim petition no. 90/NB/SB/2023.

3. Present petition has been filed by the petitioner, *inter alia*, for directing the respondents to release petitioner’s entire retiral dues, leave encashment, General Provident Fund, gratuity etc. along with penal interest on the basis of his last drawn salary forthwith.

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

5. Petition has been contested on behalf of the respondents. Sri Anup Malik, Principal Chief Conservator of Forest (HoFF), Uttarakhand, has filed short counter affidavit on behalf of respondents no. 2 and 3. Sri Pankaj Tiwari, Director, Treasury, Pension and Entitlement, Uttarakhand, has filed counter affidavit on behalf of respondent no. 4. Relevant documents have also been filed in support thereof.

6. Petitioner, who is present in person, drew the attention of the Bench towards order dated 13.09.2023 to submit that this order

has not been complied with by the respondent department. He prays that a direction be given to respondent department to strictly comply with the aforesaid order. Order dated 13.09.2023 reads as under:

“Short Counter Affidavit has been filed on behalf of respondents no. 2 & 3, which is taken on record. The petitioner seeks and is granted three weeks' time to file R.A. to the same.

The petitioner further submits that only provisional pension by calculating his salary with Grade Pay of Rs. 7600/- (of the 6th Pay Commission) is being paid to him and no payment of Gratuity, Leave Encashment has been made to him. The commutation of pension, as requested by him, has also not been paid to him.

The Tribunal directs that Gratuity, Leave Encashment and Commutation while treating his last drawn salary to be with Grade Pay of Rs. 7600/- (of the 6th Pay Commission) be paid to him within a period of three weeks, on presentation of certified copy of this order before the PCCF (HOFF). The interest on late payment of Gratuity and Leave Encashment shall also be payable as per Government Rules in this regard. If the last pay drawn of the petitioner is revised, in accordance with the Court decision, the amount of Gratuity, Leave Encashment, Commutation and pension shall also be revised accordingly.

List on 10.10.2023.

Let a copy of this order be given to the petitioner and learned A.P.O. today itself.”

7. A direction is, therefore, given to the respondent department to comply with the above noted order as expeditiously as possible.

8. Petitioner, thereafter, prayed that a direction be given to respondent no. 2 to consider petitioner's case in the light of Section 5 of The Uttarakhand Retirement Benefits Act, 2018. Section 5 of such Act reads as under:

“5. Amount of Pension— Amount of pension shall be equivalent to the 50% of drawn basic pay on last day of service or average salary of 10 months before the retirement date, which is beneficial, for the pensioner;

Provided that the said amount shall not be less than the amount of minimum pension prescribed and shall not be more than the amount of maximum pension prescribed by the State Government.”

9. Learned A.P.O. has no objection to such innocuous prayer, if the matter is remitted to the respondent department for consideration.

10. Respondent No. 2 is, accordingly, directed to consider petitioner's case in the light of Section 5 of The Uttarakhand Retirement Benefits Act, 2018, as above. This should be done as expeditiously as possible and without unreasonable delay.

11. Lastly, petitioner prayed that Principal Chief Conservator of Forest (HoFF), Uttarakhand (respondent no. 2) be directed to release 10 months' leave encashment, as per rules.

12. Petitioner submitted that the petition be disposed of in terms of the above. Learned A.P.O. agrees with the same.

13. Accordingly, respondent no. 2 is also directed to consider releasing 10 months' leave encashment to the petitioner, if not paid earlier, as per rules, as expeditiously as possible, without unreasonable delay.

14. This disposes of the petition with the consent of petitioner and learned A.P.O. No order as to costs.

(JUSTICE U.C. DHYANI)
CHAIRMAN

DATE: 16th October, 2024
DEHRADUN
RS