

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

Present: Hon'ble Mr. Capt. Alok Shekhar Tiwari

----- Member (A)

Claim Petition No. 97/NB/SB/2021

Mohan Singh Surya, Late Shri Gopal Singh Surya, presently working as Registration Clerk in the office of Sub Registrar Registration, Haldwani, District Nainital

..... Petitioner

Versus

1. State of Uttarakhand through Secretary, Finance, Government of Uttarakhand, Dehradun.
2. Inspector General, Registration/Commissioner, Tax, Uttarakhand, Dehradun.
3. Assistant Inspector General, Registration, Nainital.
4. District Magistrate/Collector, District Nainital.
5. Accountant General, Uttarakhand, Dehradun.

..... Respondents

Present : Sri Alok Mehra, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents No. 1 to 4
Sri Rajesh Sharma, Advocate for the respondent No. 5
(Online)

JUDGMENT

DATED : **DECEMBER 21, 2024**

By means of this petition, the petitioner seeks the following relief:

- “i). Issue order or direction directing the respondents to forthwith adjust/transfer the GPF Amount deducted by the Drawing and Disbursing Authority from the year 1985 to 1996, when petitioner served on Class-IV post in the Registration Department in his current GPF Account No. RGUA-3533 maintained by respondent no. 5 alongwith interest.
- ii). to issue any other order or direction, which this Hon'ble Tribunal may deem fit and proper in the circumstance of the case.

iii). to award the cost of the petition in favour of the applicant.”

2. Brief facts of the case are that the petitioner was initially engaged on leave vacancy vide order dated 07.10.1983, after his name was sponsored by District Employment Office, Nainital and being selected on the post pursuant to the interview taken by District Registrar. He was appointed on Class-IV post in the pay scale of Rs. 305-390/- vide order dated 10.02.1985 passed by the competent authority i.e. District Registrar, Nainital. After his regular appointed on a Class-IV post his G.P.F. was deducted regularly from the month of January, 1985 till January, 1996 as he was promoted on Class-III post vide order dated 29.01.1997. G.P.F. of Class-IV employee is deposited in the local account maintained by the Drawing and Disbursing Authority, i.e. District Registrar and G.P.F. account of Class-III and above employee is maintained by the Accountant General. A new GPF Account number is given when an incumbent is promoted from Class-IV to Class-III by the Accountant General. The petitioner was promoted on Class-III post vide order dated 29.01.1997 in the pay scale of Rs. 950-1500/- and G.P.F., which was deducted pursuant to his promotion on Class-III post was deposited in new G.P.F. Account No. RGUA-3533 allotted by the Accountant General. Pursuant to his promotion on Class-III post, the petitioner was posted as Registration Clerk in District Itawa (at that time erstwhile State of U.P.), but on his request he was transferred to District Nainital vide order dated 26.05.1999 passed by Inspector General, Registration, Uttar Pradesh. In pursuance of the transfer order dated 26.05.1999, the petitioner was relieved from the office of Assistant Inspector General, Registration, Itawa vide order dated 08.06.1999 and pursuant to his reliving order dated 08.06.1999, the petitioner gave his joining in the office of District Registrar, Nainital on 11.06.1999. The District Registrar, Nainital passed an order dated 15.06.1999, whereby the petitioner was posted as Registration Clerk in the office of Sub-Registrar, Dhari, District Nainital. Since the petitioner has domicile of State of Uttarakhand and he gave his option to serve in State of Uttarakhand, therefore, pursuant to reorganization of State of Uttar Pradesh, the petitioner was finally allotted State of Uttarakhand. The petitioner has

discharged his duties with utmost sincerity and dedication to the utmost satisfaction of Higher Authorities. No disciplinary enquiry is pending or contemplated against the petitioner. In view of his unblemished service record, the petitioner was granted selection grade w.e.f. 25.02.2005. After completing 10 years' satisfactory service he was granted the benefit of first ACP in grade pay of Rs. 2400/- w.e.f. 01.09.2008 and after completing 16 years' satisfactory service, was granted second ACP in grade pay of Rs. 2800/- w.e.f. 25.02.2013. Since the petitioner was not granted two promotions after rendering 16 years' service, therefore, he was granted the benefit of promotional pay in the pay band of Rs. 9300-34,800/- grade pay Rs. 4600/- w.e.f. 01.11.2013 on the recommendations of Departmental Screening Committee.

3. Despite granting the benefit of ACP, the petitioner was not paid arrears of ACP, the petitioner made representations to the respondent No. 2 through proper channel, wherein he had requested that his G.P.F. amount which was deducted while he had served on Class-IV post be adjusted/absorbed in his present G.P.F. amount or in the alternate the G.P.F. amount deducted while he had served on Class-IV post be paid to him and arrears of benefit of ACP be granted to him. On 16.10.2019, the respondent No. 2 had issued a letter addressed to the respondent No. 3, whereby he had directed to Assistant Inspector General, Registration, Nainital that either the G.P.F. amount deducted when the petitioner was working on Class-IV from 26.04.1986 to year 1997 be paid to him or that amount be deposited in his current G.P.F. account and the respondent No. 2 had also directed the respondent No. 3 to look into the grievances of the petitioner and to submit his report in this regard to his office.

4. Even after letter dated 16.10.2019 issued by the respondent No. 2, the G.P.F. amount of the petitioner deducted, while he had served on Class-IV post, was not adjusted in his present G.P.F. account nor arrears of ACP were paid to him. On 15.02.2021, the petitioner had again moved a representation and notice dated 22.03.2021 seeking the said reliefs. Arrears of ACP have now been paid to the petitioner by the respondents, but, his G.P.F. amount deducted from the year 1985 till 1996, when he had served

on Class-IV have not been adjusted/transferred in his current G.P.F. Account No. RGUA-3533.

5. The respondent No. 5 issues guidelines to the Drawing and Disbursing Officers in respect of GPF. As per these guidelines, when a Class-IV employee is promoted to Class=III cadre, the GPF balance indicating full details of GPF should be transferred to the Accountant General, on getting new GPF Account Number allotted to the official in Class-III cadre by the Accountant General. The interest of GPF balance in Class-IV cadre should be calculated upto the end of previous financial year. The petitioner had retired from service on 31.12.2022. The petitioner is suffering continuous monetary loss month after month due to inaction on the part of the respondents, in not transferring his GPF balance which was deducted while he had served on Class-IV post. Hence, the claim petition has been filed by the petitioner before the learned Tribunal.

6. Counter affidavit has been filed by the respondent No. 5 stating therein that the GPF account of Class-IV employee is maintained at concerned DDO/department level. The details sought can be provided by the department only. The answering respondent has been maintaining the Class-III GPF account of the petitioner under Account No. RGUA-3533 since 02.09.2013. The petitioner's GPF subscriptions w.e.f. 11/2013 are reflected in answering respondent's record under the said account since month of 11/2013. The record of prior period subscriptions (upto 10/2013) is maintained at DDO level. As per procedure, on the basis of the prescribed format/form forwarded by concerned DDO the answering respondent allots GPF Class-III account number under which DDO concerned transfer GPF Class-IV balances alongwith interest due through challan and answering respondent accordingly account for such balance transferred by DDO. However, as per GPF account of the petitioner (Account No. RGUA-3533) no such Class-IV balance had been transferred by concerned DDO till date.

7. A letter to the petitioner's Drawing & Disbursing Officer (DDO) i.e. Sub-Registrar, Registration, Haldwani, Nainital has been issued by

Answering Respondent vide letter No. FUND-5/Mohan Singh Surya/Court Case/2021-22/1559-61 dated 22.10.2021 seeking factual position alongwith supported/relevant documents in this regard. The copy of letter had also been endorsed to the petitioner. However, no reply of the aforesaid letter had been received from Sub-Registrar, Registration, Haldwani, Nainital (concerned DDO) till date. As and when the details of the clarification in regard to GPF contribution particularly details with respect to Class-IV balance transferred through challan are received from DDO concerned, necessary action shall be taken in the matter.

8. Counter Affidavit has also been filed by the learned A.P.O. appearing for the respondents No. 1 to 3 in which it is stated that the claim petition filed by the petitioner is time barred because after 25 years this prayer for adjustment of GPF has been made pertaining to the time period since 1985 till 1997. Hence, this present claim petition filed by the petitioners is liable to be dismissed.

9. Rejoinder Affidavit has been filed on behalf of the petitioner denying the contention of the respondents and have reiterated the averments made in the claim petition.

10. I have heard learned Counsel for the parties and perused the record carefully.

11. The learned Counsel for the petitioner has emphatically reiterated the facts of the petition and mentioned that the Chief prayer of the petitioner is for adjustment/transfer of the G.P.F. amount deducted by the Drawing and Disbursing Officer from the year 1985 to 1996, when the petitioner served on the Class-IV post in the Registration Department, into the petitioner's current G.P.F. Account No. RGUA-3533 maintained by the respondent No. 5 alongwith the accrued interest.

12. The learned Counsel for the respondent No. 5 that is the Accountant General, Uttarakhand, Dehradun drew the attention of the Court towards the C.A./W.S. as filed by the respondent No. 5, particularly towards the paragraphs No. 4 & 8, wherein it has been submitted that GPF account of

Class-IV employees is maintained at concerned DDO/Department level. The details sought can be provided by the department only. The answering respondent maintains the Class-III GPF account of petitioner under Account No. RGUA-3533 since 02.09.2013. The petitioner's GPF subscriptions w.e.f. 11/2013 are reflected in answering respondent's record under Account No. RGUA-3533 since month of 11/2013. The record of prior period subscriptions (upto 10/2013) is maintained at DDO level and as per procedure, on the basis of the prescribed format/form forwarded by concerned DDO the answering respondent allots GPF Class-III account number into which the DDO concerned transfers the GPF class-IV balances alongwith interest due, through Challan and answering respondent accordingly accounts for such balance transferred by DDO. However, as per GPF account of the petitioner (Account No. RGUA-3533) no such Class-IV balance has been transferred by concerned DDO till date. A letter to the petitioner's Drawing & Disbursing Officer (DDO), i.e., Sub-Registrar, Registration, Haldwani, Nainital has been issued by answering respondent vide letter No. Fund-5/Mohan Singh Surya/Court Case/2021-22/1559-61 dated 22.10.2021 seeking factual position alongwith supported/relevant documents in this regard. The copy of letter has also been endorsed to petitioner. A copy of the letter dated 22.10.2021 is annexed herewith and marked as Annexure No. CA-1 to this affidavit. However, no reply of the aforesaid letter has been received from Sub-Registrar, Registration, Haldwani, Nainital (concerned DDO) till date. As and when the details of the clarification regarding GPF contribution particularly details with respect to Class-IV balance transferred through Challan are received from DDO concerned, necessary action shall be taken in the matter.

13. The learned A.P.O. nevertheless emphasized on behalf of the Government side that the petition is heavily time barred as the petitioner has sought a relief pertaining to the time period between the year 1985 to 1997. This is a delay of approximately of 25 years and the cause of delay on day-to-day basis has not been brought before the Court. This extraordinary delay cannot be condoned as it is beyond judicial power of this Court. Therefore, this petition deserves to be dismissed.

14. On the perusal of the records available on case file it seems that the petitioner served from 1985 to 1997 as a Class-IV employee where allegedly the Drawing and Disbursing Officer regularly deducted the G.P.F. amount from the petitioner's salary, which should have been spontaneously transferred into the petitioner's new G.P.F. Account No. RGUA-3533 when he was promoted to Class-III post vide order dated 29-01-1997 and began working as the Registration Clerk in the Registration Department. The petitioner has submitted many a documents as Annexures, which seem to corroborate the petitioner's averments about his service period and promotion and later on, his career as the Registration Clerk. Nevertheless, there are no documents submitted as documentary evidence by the petitioner which could substantiate his claim that mandatory G.P.F. amounts had been deducted by the Drawing and Disbursing Officer during his tenure as a Class-IV employee between 1985 to 1997. At least there could have been definite documents submitted showing his continuity into Class-III service between 1985 to 1997, may be his service-book or the like, salary- slip showing the deducted amounts, and the then GPF Account number into which the alleged GPF deduction might have been deposited. The correspondence submitted by the petitioner as documentary evidence (Annexure No. 1 to 6) pertain to his appointment as a Class-IV employee and later on, his promotion on the Class-III post etc. For the first time, the petitioner has submitted his application before the Inspector General of Registration for the matter in question on 16.05.2019 (Annexure No. 7), on the basis of which the Annexure No. 8 has been initiated on 16.10.2019. Further the Annexure No. 9 dated 15.02.2021 is not related at all with the petitioner's prayer for the relief. Then the petitioner has served a notice under Section 80 C.P.C. dated 22.03.2021 (Annexure No. 10) wherein he has amalgamated his altogether different grievances (as raised earlier separately, independent of each other in Annexure No. 7, 8 & 9), addressed to the Government and the Registration Department. There seems to be a deliberate attempt by the petitioner to fabricate a grievance that probably never existed in reality. The petitioner has taken a lot of pains to build-up a case for the alleged relief, so much so that he has submitted even the G.P.F. guidelines issued by the Principal Accountant General (A & E),

Uttarakhand, Dehradun (Annexure No. 11) whereby the procedure of transfer of G.P.F. Class-IV balance has been depicted. Nevertheless, the petitioner has failed miserably to produce even a single documentary evidence to substantiate his claim that mandatory G.P.F. deduction was made between 1985 to 1996, so much so that even the petitioner has failed to mention his G.P.F. account number during his service on the Class-IV post. Therefore, apparently the petitioner does not seem to have appeared before this Court with clean hands. This is unbelievably surprising that the petitioner had been serving on Class-III post since 1996, and that too on a post of Registration Clerk in the Registration Department which is practically a post held by fairly knowledgeable employees. So on the very first instance it is surprising that the petitioner never bothered to address his grievance before the year 2019. Therefore, there is not an iota of doubt that this entire petition has been woven around fabricated falsehood and is an attempt to mislead the Government agencies and the Court alike, as the learned A.P.O. has emphasized in the C.A./W.S. dated 20.12.2022.

15. Furthermore, apart from the above observations, the extraordinary delay in raising the issue before the Court is inexcusable. The claim petition suffers heavily by delay and is not maintainable.

ORDER

Accordingly, the claim petition is hereby dismissed. No orders as to costs.

(Capt. Alok Shekhar Tiwari)
Member (A)

DATE: DECEMBER 21, 2024
NAINITAL
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