

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

CLAIM PETITION NO.172/SB/2024

Sunder Lal Badoni s/o Late Sh Rarghwanand Badoni, Retd. Driver Rural Depot., Uttarakhand Transport Corporation, Dehradun.

.....Petitioner

vs.

1. State of Uttarakhand through Secretary (Transport) Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. The Managing Director, Uttarakhand Road Transport Corporation, UCF Bhawan Dehradun.
3. Assistant General Manager, Rural Uttarakhand Transport Corporation, Depot Workshop, Haridwar Road, Dehradun.

.....Respondents.

Present: Sri R.C.Raturi & Sri L K Maithani, Advocates, for the Petitioner.
Sri V.P.Devrani, A.P.O., for Respondent No.1. (On line)
Sri Vaibhav Jain. Advocate for Respondents No. 2 & 3.

JUDGMENT

DATED: JANUARY, 01, 2025

JUSTICE U.C. DHYANI (Oral)

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

- (i) To issue an order or direction to the concerned respondent to pay the interest @10 percent per annum on the amount of gratuity and leave encashment from the date of retirement of the petitioner till the date of actual payment.
- (ii) To issue any other order or direction which this Court may deem fit and proper in the circumstances of the case in favour of the petitioner.
- (iii) To award cost of the petition.

2. Petitioner retired as Driver in the respondent Corporation on 31-12-2019. Gratuity amount Rs. 992250/- was released to him on 15-3-2021. Leave encashment worth Rs. 233142/- was paid to him on 6-8-2024. Petitioner gave a representation, but no action was taken on the same. Hence, the petition.

3. There is general denial of the above noted material facts, but the denial is evasive. Sri Vaibhav Jain, Ld. Counsel for the contesting respondents submitted that the petitioner is not entitled to any relief as per law. Sri V.P.Devrani, Ld. A.P.O., submitted that he is adopting the same line of argument, which has been put forward by Ld. Counsel for the Corporation, inasmuch as the Respondent Corporation is the real contestant, the State is only a formal party.

4. The question, which arises for consideration of the Tribunal is - Whether the petitioner is entitled to interest on delayed payment of retiral dues?

5 In the decision of *D.D.Tiwari (D) Thr. Lrs. vs. Uttar Haryana Bijli Vitran Nigam Ltd. and Others, 2014 (5) SLR 721 (SC)*, it was held by Hon'ble Supreme Court that retiral benefit is a valuable right of employee and culpable delay in settlement/ disbursement must be dealt with penalty of payment of interest. Regard may also be had to the decision of Hon'ble Apex Court in *S.K.Dua vs. State of Haryana and Another, (2008) 1 Supreme Court Cases (L&S) 563*, wherein the Hon'ble Supreme Court has held that even in the absence of specific Rule or order for providing interest, an employee can claim interest on the basis of Articles 14,19 and 21 of the Constitution of India, as retirement benefits are not a bounty. The relevant paragraph of the judgment is being reproduced herein below for convenience:

*“14. “In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. **If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence of statutory rules, administrative***

instructions or guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14,19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature

Of "bounty" is, in our opinion, well founded and needs no authority in support thereof."

6. Thus it is clear that the respondent Corporation is liable to pay interest on delayed payment of retiral dues to the petitioner.

7. The next question is, what should be the amount of interest?

This Tribunal has taken a stand while deciding the claim petition No. 30/DB/2013, Dwarika Prasad Bhatt vs. State & others, on 22.09.2016 that interest on gratuity and amount of leave encashment should be given to the petitioner from a date, which will be after three months of his retirement till the date of actual payment. It has further been held in the claim petition of Dwarika Prasad Bhatt (*supra*) that the rate of interest shall be the simple rate of interest payable on General Provident Fund during the relevant period. This is based on Government Order No.979/XXVII(3)Pay/2004 dated 10.08.2004 issued by the Government of Uttarakhand. The Tribunal should, therefore, pass similar order in present claim petition also.

8. Respondents are, accordingly, directed to pay to the petitioner, (i) interest on the amount of leave encashment (Rs.233142) from 01.04.2020 till the date of actual payment and (ii) interest on the amount of gratuity (Rs.992250/-) from 01.04.2020 till the date of actual payment. The rate of interest shall be the simple rate of interest payable on General Provident Fund during the relevant period.

9. The claim petition thus stands disposed of. No order as to costs.

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

*DATE: JANUARY, 01, 2025
DEHRADUN
BSR*