

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

CLAIM PETITION NO.173/SB/2024

Dinesh Gusain, aged about 64 years, s/o Late Sri Ganpati Gusain, Retd. Driver, Uttarakhand Transport Corporation, Hill Depot, Dehradun, r/o 1, Chandralok Colony, Near Thana Rajpur, Dehradun.

.....Petitioner

vs.

1. State of Uttarakhand through Secretary (Transport) Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. The Managing Director, Uttarakhand Transport Corporation, Office of the Transport Commissioner, Kulhan, Sahastradhara Road, Dehradun.
3. Deputy General Manager (Operation), Uttarakhand Transport Corporation, 66 Gandhi road, Dehradun.
4. Assistant General Manager, Uttarakhand Transport Corporation, Depot. Workshop, Transport Nagar, 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 & 4.

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 @18% on the amount of gratuity of Rs. 1,46,250/- from the date of retirement up to the date 18.10.2021 (the date

of payment) and further interest on the amount of interest calculated up to the date 18.10.2021 be also given to the petitioner from the date 19.10.2021 till the date of actual payment.

- (ii) To issue an order or direction to the respondents to pay the interest @ 18% on the amount of leave encashment of Rs. 5,08,950/- from the date of retirement up to the date 27.05.2022 (the date of payment) and further interest on the amount of interest calculated up to the date 27.05.2022 be also given to the petitioner from the date 28.05.2022 till the date of actual payment,
- (iii) To issue an order or direction to the respondents to pay the interest @ 18% on the amount of fixation/arrear of Rs. 74,055/ of the pay of the period 01.01.2012 to 30.11.2014 to the petitioner since the date of 01.12.2014 up to the August 2019.
- (iv) To issue an order or direction to the respondents to pay interest @ 18% on the amount of recovered gratuity and leave encashment of Rs. 11,61,000/- from the date of retirement up to the date 15.10.2024 (the date of actual payment) and further interest be given on the amount of interest calculated up to the date 15.10.2024 to the petitioner.
- (v) To issue any other order or direction which this court may deem fit and proper in the circumstances of case in favour of the petitioner.
- (vi) To award the cost of petition.”

2. Petitioner retired as Junior Foreman in the respondent Corporation on 29.02.2020. Gratuity amount Rs. 1,46,250/- was released to him on 18.10.2021. Leave encashment worth Rs. 5,08,950/- was paid to him on 27.05.2022. 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 retrial 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.5,08,950/-) from 01.06.2020 till the date of actual payment and (ii) interest on the amount of gratuity (Rs.1,46,250/-) from 01.06.2020 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. Arrears of salary are not retiral dues. Provision for interest is only on delayed payment of retiral dues. No law has been placed before the Bench to show that the petitioner, in the given facts of the case, is entitled to interest on delayed payment of arrears of salary. There appear to be no statutory rule occupying the field, on the basis of which the petitioner could claim payment of interest on arrears of salary. No administrative instruction, guideline or norms appear to be prescribed for the purpose, so that the petitioner may claim benefit of interest on that basis. Had the same been retiral benefits, the petitioner would have been entitled to interest on delayed payment of such retiral dues. But, as has been mentioned above, arrears of salary are not retiral dues, therefore, petitioner is not entitled to interest on delayed payment of arrears of salary.

10. Petitioner also claims interest on delayed refund of his retiral dues, as per the direction of the Court/ Tribunal. Hon'ble High Court, while deciding the bunch of writ petitions in WPSS No. 1593 of 2021, Balam Singh Aswal vs. Managing Director and others, nowhere directed the Respondent Corporation to pay interest while directing refund of recovery made from employee's retiral dues. Decision of Balam Singh Aswal was assailed by the

Respondent Corporation in Intra Court appeal. The Division Bench did not interfere with the decision of Hon'ble Single Judge. Even Hon'ble Supreme Court in Civil Appeal No.1985 of 2022, State of Maharashtra and another vs. Madhukar Antu Patil and another decided on 21.03.2022, nowhere directed that the employee should get interest on such amount. Hence the petitioner, in the instant case, is not entitled to interest for the period which was taken by the Respondent Corporation in refunding petitioner's recovered dues as per the direction of the Court/ Tribunal.

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

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JANUARY, 01, 2025
DEHRADUN
BSR