

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

Present: Hon'ble Mr. Rajendra Singh

..... Vice Chairman (J)

Hon'ble Mr. A. S. Rawat

..... Vice Chairman (A)

**CLAIM PETITION NO. 08/NB/DB/2020**

1. Sri Rajendra Prasad Pant, aged about 62 years, s/o late Sri Tara Datt Pant, r/o 6-1/3, Om Sri Sadan, Vinekanand Enclave, Talla Bamori, Haldwani, District Nainital.
2. Sri Gauri Shankar Pandey, aged about 62 years, s/o Late Sri Chandra Shekhar Pandey, r/o E-57 Judge Famr, Rampur Road, Haldwani, District Nainital.
3. Sri Om Prakash Verma, aged about 62 years, s/o Late Sri Bhoodhar Lal, r/o 546, Adarsh Nagar Talli Bamori, Haldwani, District Nainital.
4. Sri Vinod Kumar Arya, aged about 62 years, s/o Late Sri Hari Singh, r/o Eco Town, Phase-1<sup>st</sup>, New I.T.I. Road, Dahariya, Haldwani, District Nainital.

..... **Petitioners**

Vs

1. State of Uttarakhand, through Principal Secretary, Forest & Environment, Dehradun.
2. Principal Secretary, Finance, Uttarakhand Shasan, Dehradun.
3. Principal Secretary, Forest & Environment, Uttarakhand Shasan, Dehradun.
4. Managing Director, Uttarakhand Forest Development Corporation, Aranya Bhawan, 73-A, Nehru Road, Dehradun.

..... **Respondents**

Present: Sri Yogesh Pant, Advocate for the petitioners  
Sri Kishore Kumar, A.P.O. for the respondents  
Mrs. Seema Shah, Advocate for respondent no. 4

**JUDGMENT**

**DATED: JANUARY 14, 2025**

The petitioners seek the following reliefs:

- 1. To set aside the impugned order dated 20.05.2019 of the respondent no. 3 and 27/ 8/2019 of respondent no 4 where the pay scale of the petitioners has been downwardly revised to the grade pay Rs 6600/-*

- II. *To direct the respondents to pay all the arrears and the dues with 12% of the interest per year from the due date.*
- III. *Award the cost of the petition.*

2. Brief Summary of the facts are as follows:

2.1 The petitioners were appointment as Assistant Logging Supervisor (later on renamed as Logging officer) in UP Forest Development Corporation from January 1983 to 1984.

2.2 The UP Govt merged the post of the Asstt. Logging Officer (ALO) into the Deputy Logging officer (DLO) on 23/02/2001. Uttarakhand Forest Development was created on 01/04/2001 after bifurcation from the U.P. Forest Development Corporation. The services of the petitioners were allotted to the Uttarakhand Forest Development Corporation and their pay scales were fixed as per the relevant provisions of the merged posts (DLO).

2.3 The Government vide letter dated 8/7/2011 clarified the matter related to the fixation of the time scale of the posts merged (DLO). The respondent no 4 fixed the scale as per the guidelines of the government dated 23/08/2005.

2.3 The Government of Uttarakhand amended the ACP provisions for the employees appointed originally upto the Grade Pay of Rs 4800/ per month. The Uttarakhand Forest Development Corporation refused to implement the order of the Govt dated 6<sup>th</sup> November 2013 in favor of the petitioners and other similarly placed persons. This forced the Junior Officers Associations UKFDC to file a writ petition No. WPSS 2659/ 2015 in the Hon'ble High Court of Uttarakhand on 07/04/2017. In the meantime, the petitioners retired from UKFDC between 28<sup>th</sup> Feb '17 to 30<sup>th</sup> Sep' 2017.

2.4 The Hon'ble High Court allowed the petition in favour of the petitioners and the Division Bench of the Hon'ble High Court dismissed the Spl. Appeal No. 523/2017 filed by UKFDC against the judgement of the Single Bench.

2.5 The respondent No. 4 fixed the salary of the petitioners in grade pay of Rs. 8700/- per month on 18/7/2017 which the Respondent No 4 cancelled on 26/04/2018. The Respondent No. 4 again cancelled their order dated 26/04/2018 and restored the grade pay of Rs 8700/- of the petitioners vide order dated 28/05/2018.

2.6 The petitioners filed the writ petitions No 180,181,182, 187/2018 in the Hon'ble High Court regarding the payment of the dues.

2.7. The respondent No. 3 issued the impugned order dated 20/5/2019 regarding fixation of salary of the petitioners and respondents No. 4 issued the show cause notice to the petitioners on 25/06/2019, and sole basis of the notice was the flawed administrative order of the respondent no. 3 in which, the vital fact of the merger of the posts of Asstt. Logging Officer with Deputy Logging Officer was concealed. The notices were sent in compliance of the order of Court to which the petitioners were not the party.

2.8 The petitioners duly replied the show cause notices from 25.06.2019 to 21.07.2019 and the Respondent No. 4 passed the order to reject the claim of the petitioners on 27.08.2019.

3.1 The Respondent No. 4 filed the Counter Affidavit and submitted that the petitioners were recruited on the posts of the Asstt. Logging Supervisors, they were promoted time to time as per the rules extant in the corporation. The posts of the Deputy Logging Officers and the Asstt. Logging Officers were existing on 01.09.2008, on the date of implementation of the ACP order of the Government in the Uttarakhand Forest Development Corporation. The Govt. restructured the Forest Development Corporation on 05.06.2007 and posts of Logging and Deputy logging officers were approved. There were employees working on the posts of Deputy Logging Officers and the Asstt. Logging Officer before creation of the state. So these were never merged.

3.2 The petitioners were entitled to get the 3<sup>rd</sup> ACP in the grade pay of Rs 6600/- after completion of 26 years' of the service. The order of the Finance Department has been wrongly interpreted and the petitioners were granted the Grade pay of Rs 8700/- in 3<sup>rd</sup> ACP, Managing Director of Corporation granted the Grade Pay of 8700/- with the presumption that the cadre of ALO and DLO were merged in UKFDC. The Managing Director further cancelled the above order vide order dated 18.7.2018 and ordered for the recovery of the amount paid to the petitioners and similarly placed persons.

3.3 Audit Team which conducted the Spl. Audit of UKFDC from the year 2014-15 to 2016-17 also indicated this irregular payment and other irregularities. The Principal Secretary, Forests also issued instructions after receiving the letter from the Secretary, Finance for refixing the salary of the employees who have been paid the excess amount. The petitioners through the Junior Officers Association filed a writ petition in the Hon'ble High Court and the Hon'ble High Court ordered for payment of Grade pay of Rs. 8700/- to the petitioners. As per the order of the Court, the respondents issued a show cause notice to the petitioners for payment of grade pay of Rs 8700/- or 6600/-. The Hon'ble High Court while disposing the petition asked the respondent to pass a reasoned order, which were issued as per Rules.

3.4 The petitioners have been paid all the amount in time which has been due to them and they are not entitled to get any type of interest, rather the petitioners to be directed to pay the excess govt money paid to them as a result of misinterpretation of the Rule. Hence the claim petition is liable to be dismissed.

4. The petitioners filed Rejoinder Affidavit and submitted that they worked in the merged posts of ALO and DLO. The order of the U.P. Forest Development Corporation for merger of the posts of ALO and DLO was also confirmed in the meeting of Management Committee of the Forest Development Corporation on 15/6/2001. The Committee in its meeting held on 18/7/2017 also approved the grade pay of Rs 8700/- to the petitioners. They have further submitted that all the posts

of Asstt. logging officers merged with the Deputy Logging Officers were kept supernumerary and the interest of the petitioners was kept protected. Hon'ble High Court in the judgement dated 07/04/2017 in WPSS 2679/2015 has taken this fact into consideration while deciding the writ petition. He requested that the Claim Petition be admitted.

5. The petitioner filed a Criminal Miscellaneous Application in the Claim Petition and submitted that Respondents 3 & 4 concealed the letter dated 19/03/2001 of Uttar Pradesh Forest Development Corporation, which mentions the merger of the post of Asstt. Logging Officer with the Deputy Logging Officer. Respondent No.4 also misinformed that service books of the petitioners also established that the petitioners were appointed as ALO, which is false. They have requested to institute criminal proceedings against Respondent No. 4 and the deponent Mr. Prakash Chandra Arya for the false statements and concealing the facts before the Hon'ble Tribunal.

6. Counter affidavit has been filed by the Respondent 1& 3 and submitted the same facts as by the Respondent No 4.

7. The petitioners filed a Supplementary Rejoinder Affidavit and submitted that the State Govt vide order dated 27/08/2021 has clarified the Govt Order dated 20/5/2019 and accepted the merger of post of ALO with DLO and further confirmed the Grade pay Rs. 8700/- to the petitioners.

8. We have heard the Learned Counsels for the parties and perused the record.

9.1 Learned Counsel on behalf of the petitioners has filed a written argument and submitted that the posts of the Asstt. Logging Officers were merged with the posts of Deputy Logging Officers. The petitioners came to the UKFDC as Deputy Logging Officers on the bifurcation of the U.P. Forest Development Corporation on 01/04/2001. Their pay was fixed as per the pay admissible to Deputy Logging Officer. But at the time of promotion to the time scale, the Uttarakhand Forest Development Corporation sought clarification

from the Government regarding the promotion to the time scale and the Govt allowed them the next promotional scale. The petitioners were given grade pay of Rs. 7600/- when 3<sup>rd</sup> ACP was given to the petitioner.

9.2 The Govt. vide letter dated 06/11/2013 amended the provisions of ACP in respect of the persons appointed upto the grade pay Rs 4800/- per month and below.

9.3 The UKFDC refused to implement the aforesaid order which compelled the Junior Officers Association of FDC to file a writ Petition in the Hon'ble High Court, which was decided in favour of the petitioners. The Division Bench of the Hon'ble High Court dismissed the appeal of some of the employees against the order of the Hon'ble Single Bench. In compliance of the judgement of the Hon'ble High Court, the Respondent No. 4 vide order dated 18.07.2017 fixed the grade pay of the petitioners in the scale of Rs. 8700/- per month. But the UKFDC did not pay the benefit of the Grade pay of Rs 8700/- despite numerous requests from the petitioners. The Hon'ble High Court passed an order in the Writ Petition no. 147/2018 and gave the order in favour of the petitioners. Even after the decision of the Hon'ble High Court, the respondents did not give the benefit of the scale to the petitioners. One person, who was not the petitioner in the present case Shri Vinod Kumar Pandey filed a Contempt Petition no. 783/2018 in the Hon'ble High Court. The Addl. Chief Secretary, Forests issued the office order dated 24/08/2018 and granted the Grade Pay of Rs 8700/-

9.4 Despite the order of the Court, the Respondent No. 4 reduced the pay scale of the petitioner to 6600/- on 27/8/2019, which was passed in the light of the order dated 20/5/2019 by Respondent no 3.

9.5 During pendency of the Claim petition, the Respondent no. 1 vide order dated 27/8/2021 issued the order giving the directions to the Managing Director, UKFDC to calculate the pay of the petitioners on the basis of the grade pay of Rs 8700/-.

9.6 The Managing Director, UKFDC vide order dated 02/09/2021 issued directions to the sub-ordinates offices to release the retiral dues of the petitioners after fixation of their pay in the grade pay of Rs 8700/-.

9.7 In such circumstances, the Relief No. 1 in the Claim petition becomes infructuous and the petitioners pressed Relief no. 2, the payment of the interest on the retiral dues from the date when the petitioners become eligible to receive them.

9.8 The petitioners also filed a Miscellaneous Criminal Application under section 340 read with section 195 of CrPC and pressed this application for deliberately delaying the payment of benefits of the grade pay of Rs 8700/- to them. Respondents have delayed the payment despite the order of the Hon'ble High Court, the office Memo. of the Addl. Chief Secretary, Uttarakhand dated 24/01/2019, in compliance of the order of the Hon'ble High Court in the WPSB No 174 of 2018 to release the retiral dues to the petitioners.

10. The Tribunal vide order dated 24.11.2020 has already ordered that Misc. Criminal Application be registered as separate proceedings, but by mistake of the Registry, it could not be registered so far. Registry is directed to register it separately for final disposal.

11. The Petitioners have relied on the following judgements of the Hon'ble Supreme Court for payment of interest on the delayed payment of retiral benefits:

i) **Hon'ble Apex Court has held in the decision of State of Kerala and others vs. M. Padmanabhan Nair, 1985 (1) SLR 750, that:**

“Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment.

2. Usually the delay occurs by reason of non-production of the L.P.C. (Last Pay Certificate) and the N.L.C. (No Liability Certificate) from the concerned Departments but both these documents pertain to matters, records whereof would be with the concerned Government Departments. Since the date of retirement of every Government servant is very much known in advance we fail to appreciate why the process of collecting the requisite information and issuance of these two documents should not be completed at least a week before the date of retirement so that the payment of gratuity amount could be made to the Government servant on the date he retires or on the following day and pension at the expiry of the following month. The necessity for prompt payment of the retirement dues to a Government servant immediately after his retirement cannot be over-emphasised and it would not be unreasonable to direct that the liability to pay penal interest on these dues at the current market rate should commence at the expiry of two months from the date of retirement.

3. The instant case is a glaring instance of such culpable delay in the settlement of pension and gratuity claims due to the respondent who retired on 19.5.1973. His pension and gratuity were ultimately paid to him on 14.8.1975, i e., more than two years and 3 months after his retirement and hence after serving lawyer's notice he filed a suit mainly to recover interest by way of liquidated damages for delayed payment. The appellants put the blame on the respondent for delayed payment on the ground that he had not produced the requisite L.P.C. (last pay certificate) from the Treasury Office under Rule 186 of the Treasury Code. But on a plain reading of Rule 186, the High Court held-and in our view rightly-that a duty was cast on the treasury Officer to grant to every retiring Government servant the last pay certificate which in this case had been delayed by the concerned officer for which neither any justification nor explanation had been given. The claim for interest was, therefore, rightly, decreed in respondent's favour.

4. Unfortunately such claim for interest that was allowed in respondent's favour by the District Court and confirmed by the High Court was at the rate of 6 per cent per annum though interest at 12 per cent had been claimed by the respondent in his suit. However, since the respondent acquiesced in his claim being decreed at 6 per cent by not preferring any cross objections in the High Court it could not be proper for us to enhance the rate to 12 per cent per annum which we were otherwise inclined to grant.

5. We are also of the view that the State Government is being rightly saddled with a liability for the culpable neglect in the discharge of his duty by the District Treasury Officer who delayed the issuance of the L.P.C. but since the concerned officer had not been impleaded as a party defendant to the suit the Court is unable to hold him liable for the decretal amount. It will, however, be for the State Government to consider whether the erring official should or should not be directed to compensate the Government the loss sustained by it by his culpable lapses. Such action if taken would help generate in the officials of the State Government a sense of duty towards the Government under whom they serve as also a sense of accountability to members of the public."



**(ii) Hon'ble Apex Court, in the decision of S.K. Dua vs. State of Haryana and Another, (2008)1 Supreme Court Cases (L&S) 563, has observed as below:**

“.....

2. This appeal is directed against an order passed by the High Court of Punjab & Haryana at Chandigarh on July 7, 2005 in Writ Petition (C) No. 10025 of 2005. By the impugned order, the High Court dismissed the petition in limine relegating the appellant writ petitioner to avail a remedy by approaching a Civil Court.

3. Facts in brief are that the appellant was working as an Engineer-in-Chief in the Department of Irrigation, Haryana. According to him, he joined the service in Irrigation Department of the erstwhile State of Punjab in August, 1961 and was allocated to the Department of Irrigation and Power in the State of Haryana. He was promoted as Engineer- in-Chief on May 31, 1996 and worked in that capacity till he attained the age of superannuation in June, 1998. The appellant had an unblemished record of service for 37 years. During the course of his duties as Head of the Department, he submitted reports in or about April-May, 1998 to the Government highlighting certain irregularities and mal- practices said to have been committed by Mr. S.Y. Quraishi, the then Secretary, Irrigation & Power and requested the Government to make enquiry through Central Bureau of Investigation (CBI). According to the appellant, in pursuance of the complaint made by him, the Government removed Mr. Quraishi as Secretary, Irrigation allowing him to work only as Secretary, Department of Power.

4. The appellant has alleged that, as a measure of vendetta, Mr. Quraishi organized to send the appellant on deputation on May 15, 1998 to a lower and unimportant specially created post of Engineer-in-Chief, Command Area Development Agency by upgrading it just few weeks before his retirement. In addition to the said action, the appellant was served with three charge-sheets/ show cause notices in June, 1998, few days before his retirement. The appellant, however, retired on June 30, 1998 on reaching the age of superannuation. The appellant was paid provisional pension, but other retiral benefits were not given to him which included Commuted Value of Pension, Leave Encashment, Gratuity, etc. totaling to about Rs. 12 lakhs. They were withheld till finalization of disciplinary proceedings. The appellant submitted replies to the charge- sheets/ show cause notices, inter alia, denying allegations and asserting that they were uncalled for and were issued with mala fide intention and oblique motive. He further submitted that he had acted in public interest in salvaging damage likely to be caused to public exchequer. The replies submitted by the appellant were accepted by the authorities and the appellant was exonerated of all the charges. All retiral benefits were thereafter given to him between June 11 and July 18, 2002. Thus, according to the appellant though he retired in June, 1998, retiral benefits to which he was otherwise entitled, were given to him after four years of his superannuation.

5. The appellant has stated that, in the aforesaid circumstances, he was entitled to interest on the amount which had been withheld by the respondents and paid to him after considerable delay. He, therefore, made several representations. He also issued legal notice on June 3, 2005 claiming interest at the rate of 18% per annum for delayed

payment. He had invited the attention of the Government to Administrative Instructions issued by the Government under which an employee is entitled to claim interest. Even otherwise, the action of non-payment of interest was arbitrary, unreasonable and violative of Articles 14 and 21 of the Constitution. There was, however, no reply whatsoever from the Government. The appellant as a senior citizen of 65 years of age then approached the High Court of Punjab & Haryana by filing a writ petition under Article 226 of the Constitution. But the High Court summarily dismissed the writ petition without even issuing notice to the respondents. The appellant has challenged the said order in the present appeal.

6. On October 28, 2005, notice was issued by this Court. Affidavits and further affidavits were filed thereafter and the Registry was directed to place the matter for final hearing. Accordingly, the matter has been placed before us for final disposal.

7. ....

8. The learned counsel for the appellant contended that the High Court was totally unjustified in dismissing the writ petition in limine and the said order is liable to be set aside. He submitted that no questions of fact, much less, disputed questions of fact were involved in the petition and the High Court was wrong in summarily dismissing it. It is well settled law, submitted the counsel, that retiral benefits are not in the nature of bounty and an employee is entitled as of right to get those benefits immediately after superannuation unless they are withdrawn or withheld as a matter of punishment. According to the appellant, he had always acted in the interest of the Government and saved public exchequer by inviting the attention to mal- practices committed by high ranking officers. As a measure of revenge against the appellant, charge-sheets were issued, but after considering the explanation submitted by the appellant, all proceedings against him were dropped. In view of exoneration of the appellant, the Government ought to have paid interest on retiral benefits which were given to him after long time. As per the Guidelines and Administrative Instructions issued by the Government, the appellant was entitled to such benefit with interest. The High Court ought to have allowed the writ petition of the appellant and ought to have awarded those benefits. It was, therefore, submitted that the appeal deserves to be allowed by directing the respondents to pay interest on the retiral dues payable to the appellant which were actually paid to him after considerable delay.

9. An affidavit in reply is filed by Special Secretary, Government of Haryana, Irrigation Department. In the counter affidavit which was filed in January, 2005, the deponent has stated that the appellant was paid all his retiral dues as soon as he was exonerated of the charges levelled against him. The deponent referred to the Haryana Civil Service (Punishment and Appeal) Rules, 1987 relating to benefits to which an employee is entitled and contended that after the charge-sheets were finally dropped, the appellant was paid all retiral benefits within three months from the date of dropping of the charge-sheets. But it was further stated that certain vigilance enquiries are "still pending" against the appellant. In the circumstances, according to the deponent, the appellant was not entitled to interest and the action taken by the Government could not be said to be illegal or otherwise unreasonable. A prayer was, therefore, made to dismiss the appeal.

10. In rejoinder affidavit, the appellant reiterated what he had pleaded in the petition for leave to appeal and submitted that the stand taken by the Government in counter- affidavit is misconceived and he is entitled to the relief prayed in the petition before the High Court and in the present appeal.

11. Having heard the learned counsel for the parties, in our opinion, the appeal deserves to be partly allowed. It is not in dispute by and between the parties that the appellant retired from service on June 30, 1998. It is also un-disputed that at the time of retirement from service, the appellant had completed more than three decades in Government Service. Obviously, therefore, he was entitled to retiral benefits in accordance with law. True it is that certain charge- sheets/ show cause notices were issued against him and the appellant was called upon to show cause why disciplinary proceedings should not be initiated against him. It is, however, the case of the appellant that all those actions had been taken at the instance of Mr. Quraishi against whom serious allegations of malpractices and mis-conduct had been levelled by the appellant which resulted in removal of Mr. Quraishi from the post of Secretary, Irrigation. The said Mr. Quraishi then became Principal Secretary to the Chief Minister. Immediately thereafter charge-sheets were issued to the appellant and proceedings were initiated against him. The fact remains that proceedings were finally dropped and all retiral benefits were extended to the appellant. But it also cannot be denied that those benefits were given to the appellant after four years. 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 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. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents.

12. ....

13. The order passed by the High Court, therefore, must be quashed and set aside.

..... Order accordingly."

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(iii) In the decision of Civil Appeal No. 7113 of 2014, D.D. Tiwari (D) vs. Uttar Haryana Bijli Vitran Nigam Ltd. & Others, 2014 (5) SLR 721, Hon'ble Supreme Court has held as under:-

"2. Heard learned counsel on behalf of the parties. The appellant (since deceased) is aggrieved by the impugned order dated 14.03.2011 passed by the High Court of Punjab and Haryana at Chandigarh in LPA No. 1818 of 2010 in affirming the judgment of the learned single Judge passed in C.W.P. No. 1048 of 2010 wherein he was not awarded interest for the delayed payment of pension and gratuity amount, for which he was legally entitled to. Therefore, the appellant approached this Court for grant of interest on the delayed payment on the retiral benefits of pension and gratuity payable to him by the respondents.

3. The appellant was appointed to the post of Line Superintendent on 30.08.1968 with the Uttar Haryana Bijli Vitran Nigam Ltd. In the year 1990, he was promoted to the post of Junior Engineer-I. During his service, the appellant remained in charge of number of transformers after getting issued them from the stores and deposited a number of damaged transformers in the stores. While depositing the damaged transformers in the stores, some shortage in transformers oil and breakages of the parts of damaged transformers were erroneously debited to the account of the appellant and later on it was held that for the shortages and

breakages there is no negligence on the part of the appellant. On attaining the age of superannuation, he retired from service on 31.10.2006. The retiral benefits of the appellant were withheld by the respondents on the alleged ground that some amount was due to the employer. The disciplinary proceedings were not pending against the appellant on the date of his retirement. Therefore, the appellant approached the High Court seeking for issuance of a direction to the respondents regarding payment of pension and release of the gratuity amount which are retiral benefits with an interest at the rate of 18% on the delayed payments. The learned single Judge has allowed the Writ Petition vide order dated 25.08.2010, after setting aside the action of the respondents in withholding the amount of gratuity and directing the respondents to release the withheld amount of gratuity within three months without awarding interest as claimed by the appellant. The High Court has adverted to the judgments of this Court particularly, in the case of *State of Kerala & Ors. Vs. M. Padmanabhan Nair*, 1985 91) SLR 750, wherein this Court reiterated its earlier view holding that the pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement, but, have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be dealt with the penalty of payment of interest at the current market rate till actual payment to the employees. The said legal principle laid down by this Court still holds good in so far as awarding the interest on the delayed payments to the appellant is concerned. This aspect of the matter was adverted to in the judgment of the learned single Judge without assigning any reason for not awarding the interest as claimed by the appellant. That is why that portion of the judgment of the learned single Judge was aggrieved of by the appellant and he had filed L.P.A. before Division Bench of the High Court. The Division Bench of the High Court has passed a cryptic order which is impugned in this appeal. It has adverted to the fact that there is no order passed by the learned single Judge with regard to the payment of interest and the appellant has not raised any plea which was rejected by him, therefore, the Division Bench did not find fault with the judgment of the learned single Judge in the appeal and the Letters Patent Appeal was dismissed. The correctness of the order is under challenge in this appeal before this Court urging various legal grounds.

4. It is an undisputed fact that the appellant retired from service on attaining the age of superannuation on 31.10.2006 and the order of the learned single Judge after adverting to the relevant facts and the legal position has given a direction to the employer-respondent to pay the erroneously withheld pensionary benefits and the gratuity amount to the legal representatives of the deceased employee without awarding interest for which the appellant is legally entitled, therefore, this Court has to exercise its appellate jurisdiction as there is a miscarriage of justice in denying the interest to be paid or payable by the employer from the date of the entitlement of the deceased employee till the date of payment as per the aforesaid legal principle laid down by this Court in the judgment referred to supra. We have to award interest at the rate of 9% per annum both on the amount of pension due and the gratuity amount which are to be paid by the respondent.

5. It is needless to mention that the respondents have erroneously withheld payment of gratuity amount for which the appellants herein are entitled in law for payment of penal amount on the delayed payment of gratuity under the provisions of the Payment of Gratuity Act, 1972. Having regard to the facts and circumstances of the case, we do not propose to do that in the case in hand.

6. For the reasons stated above, we award interest at the rate of 9% on the delayed payment of pension and gratuity amount from the date of entitlement till the date of the actual payment. If this amount is not paid within six weeks from the date of receipt of a copy of this order, the same shall carry interest at the rate of 18% per annum from the date of amount falls due to the deceased employee. With the above directions, this appeal is allowed."

(iv). It will also be useful to reproduce the relevant part of the judgment rendered by this Tribunal in Ramnarayan Singh vs. State of Uttarakhand, 2019(1) UD 698, herein below for convenience:

"22. In the backdrop of the above noted facts, the only other question, which is left for determination of this Tribunal now is—how much interest should be awarded to the petitioner for delayed payment of gratuity?

23. In the decision of D.D.Tiwari (D) Thr. Lrs. vs. Uttar Haryana Bijli Vitran Nigam Ltd. and Others, 2014 (5) SLR 721 (S.C.), 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, in this context.

24. The aforesaid decisions have been followed by this Tribunal in claim petition No.30/DB/2013 Dwarika Prasad Bhatt vs. State and others, decided on 22.09.2016. The direction given in claim petition No. 30/DB/2013 has also been carried out.

25. It is pointed out that Government Order No.979/XXVII (3) Pay/2004 dated 10.08.2004 has been issued by Government of Uttarakhand to regulate interest on delayed payment of gratuity etc. Respondents are, therefore, directed to pay the difference of gratuity, as admissible, and the amount of gratuity which has already been paid, to the petitioner, as per G.O. dated 10.08.2004. The rate of interest of gratuity shall be simple rate of interest payable on General Provident Fund till the date of actual payment.

26. Respondents are directed to pay the difference in the amount of gratuity along with admissible interest, as per G.O. dated 10.08.2004, on or before 30.06.2019."

12. Learned Counsel on behalf of the Respondents have pleaded that the petitioners have been paid the retiral dues as soon as the clarification was received from the Government. The claim of the petitioners for the payment of interest on the retiral dues is not

admissible as the claims have been settled when the Government clearly ordered for the payment of the Grade Pay of Rs 8700/- to the petitioners. The Claim Petition is liable to be dismissed.

13. On the basis of the above discussion, we are of the opinion that the Managing Director, Uttarakhand Forest Development Corporation did not approve the benefit of the grade pay of Rs 8700/, in time despite the order of the Hon'ble High Court, which clearly shows the harassment of the petitioner. The petitioners retired from the service from 28<sup>th</sup> February 2017 to 30<sup>th</sup> September 2017. The benefits of the enhanced pay were given to them at different times but with considerable delay after 02/09/2021 when the final order was given by the Managing Director of Uttarakhand Forest Development Corporation.

14. The respondents have earlier claimed that the petitioners were paid all the dues in time rather they have been made excess payment due to misinterpretation of the Govt orders and which is to be recovered from the petitioners and their claims are to be dismissed. But the Govt. changed their stand and agreed to pay the Grade pay of Rs. 8700/-, which they agreed to pay earlier also. There was delaying tactics and harassment of the petitioner on the part of the respondents to grant grade pay of Rs 8700/- to the petitioners.

15. Based on the documents submitted by the parties, we hold that the petitioners deserve the interest on the pension and gratuity by the respondents for the delay in payment of the retiral benefits, such as held in the following decisions of the Hon'ble Supreme Court and The Uttarakhand Public Service Tribunal:

- i) **Hon'ble Apex Court has held in the decision of State of Kerala and others vs. M. Padmanabhan Nair, 1985 (1) SLR 750,**
- (ii) **Hon'ble Apex Court, in the decision of S.K. Dua vs. State of Haryana and Another, (2008)1 Supreme Court Cases (L&S) 563,**
- (iii) **Hon'ble Supreme Court in the decision of Civil Appeal No. 7113 of 2014, D.D. Tiwari (D) vs. Uttar Haryana Bijli Vitran Nigam Ltd. & Others, 2014 (5) SLR 721,**

**(iv). Judgment rendered by this Tribunal in Ramnarayan Singh vs. State of Uttarakhand, 2019(1) UD 698.**

16. In view of the above, the petitioners are, therefore, entitled to interest on delayed payment of monthly pension and amount of gratuity as per prevalent G.P.F. rates as per G.O. dated 10.08.2004 issued by the Govt. of Uttarakhand, a reference of which has been given above.

17. The claim petition is disposed of, by directing the Respondent Department to release admissible interest as per G.O. dated 10.08.2004 on delayed payment of retiral dues to the petitioners within two months of getting the certified copy of the judgement. No order as to costs.

**(A.S.RAWAT)**  
VICE CHAIRMAN(A)

**(RAJENDRA SINGH)**  
VICE CHAIRMAN (J)

*DATED: JANUARY 14, 2025*  
*DEHRADUN.*  
*KNP*