

**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. 127/NB/DB/2023

Laxmi Tamta (Female), aged about 60 years, W/o Shri Mukesh Tamta, R/o Village Chorpani Manila Vihar, Ramnagar, District-Nainital.

..... Petitioner

Versus

1. State of Uttarakhand through Principal Secretary, Women Empowerment and Child Development Department, Government of Uttarakhand, Dehradun.
2. Director, ICDS Uttarakhand (Women Empowerment and Child Development Department) Uttarakhand, Dehradun.
3. District Programme Officer Udham Singh Nagar, District Udham Singh Nagar,
4. Tehsildar, Tehsil Almora, District Almora.
5. District Magistrate, District Almora.

..... Respondents

Present : Sri Harisht Sanwal, Advocate for the petitioner  
Sri Kishore Kumar, A.P.O. for the respondents

**JUDGMENT**

DATED: **FEBRUARY 18, 2025**

This claim petition has been filed by the petitioner for following reliefs:

- (a) *Graciously be pleased to the set aside the order dated 28.07.2023 passed by the Respondent No. 3 (Annexure No. 1), and grant all consequential benefits to the petitioner, along with applicable interest;*
- (b) *Set aside the order dated 14/16.8.2019 passed by the District Magistrate, Almora (Annexure No. 2);*
- (c) *Direct the respondents to pay the entire due subsisting backwages to the petitioner for the period from March, 2019 to February, 2023, alongwith interest;*

- (d) *Direct the respondent no. 1, 2 and 3 to release all the retiral dues of the petitioner, with interest since the date of their accrual;*
- (e) *Pass any such other order as this Court may deem fit, otherwise the petitioner shall suffer irreparable loss and injury.*

2. During Course of arguments, learned A.P.O. has raised preliminary objection that claim petition is premature, as the petitioner has an alternative remedy to file appeal against the impugned order to the appellate authority under Rule 11(1) of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003. He further submitted that Section 4 (5) of the Public Services Tribunal Act provides that no reference shall ordinarily be entertained by the Tribunal until all departmental remedies (under the rules applicable to the petitioner) are exhausted.

3. Learned Counsel for the petitioner confined his relief to the extent of seeking liberty to appeal to the next higher authority, as per rules and also to condone the delay in filing the appeal.

4. It would be appropriate to quote Rule 11 of the Uttarakhand Govt. Servant (Discipline and Appeal) Rules, 2003, as under:

*Appeal- "11. (1) Except the orders passed under these rules by the Governor, the Government Servant shall be entitled to appeal to the next higher authority from an order passed by the Disciplinary Authority.*

*(2) The appeal shall be addressed and submitted to the Appellate Authority. A Government Servant Preferring an appeal shall do so in his own name. The appeal shall contain all material statements and arguments relied upon by the appellant.*

*(3) The appeal shall not contain any intemperate language. Any appeal, which contains such language may be liable to be summarily dismissed. (4) The appeal shall be preferred within 90 days from the date of communication of impugned order. An appeal preferred after the said period shall be dismissed summarily.*

5. It is provided under Rule 11(1) of the 'Discipline and Appeal Rules' that a government servant is entitled to 'Appeal' against any punishment order to the next higher authority.

6. It would be, therefore, justified that the controversy in question is first considered and decided by the Departmental Appellate Authority, in the interest of justice.

7. In view of above, we allow the petitioner to avail the remedy of 'Appeal' under Rule 11 (1) of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 as amended from time to time. The petitioner shall file the 'Appeal' before the Appellate Authority within two weeks from the date of receipt of the certified copy of this order and the Appellate Authority, after receiving it, will decide the Appeal in accordance with law and rules, after affording an opportunity of hearing to the petitioner, as expeditiously as possible, without unreasonable delay. The delay, if any, in filing the appeal is condoned, in the interest of justice.

8. The petition is disposed of accordingly, no order as to costs.

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

**RAJENDRA SINGH**  
VICE CHARMAN (J)

DATED: FEBRUARY 18, 2025  
NAINITAL

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