

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

CONTEMPT PETITION NO. C-02 /DB/2025

*(Arising out of judgment dated 10.10.2024,
passed in Claim petition No. 138/DB/2024)*

Anirudh Kumar Bisaria, aged about 63 years, s/o Late Sri K.K. Bisaria, r/o 699-Pragati Vihar, P.O. Araghar, Dehradun, Uttarakhand.

.....Petitioner/applicant

vs.

Sri Manuj Goyal, Chief Executive Officer, Bsheshaj Development Unit, Department of Horticulture, 8 A- Bangali Library Road (Old E.C. Road), Dehradun, Uttarakhand.

.....Respondent/ O.P.

Present: Dr. Aparna Singh (online) & Sri Sourabh Kumar, Advocates,
for the petitioner/applicant..
Sri V.P. Devrani, A.P.O. in assistance of the Tribunal.

JUDGMENT

DATED: FEBRUARY 24, 2025

Justice U.C.Dhyani (Oral)

Claim Petition No. 138/DB/2024 (Annexure: 1) was disposed of by the Tribunal vide order dated 10.10.2024, at the admission stage. Relevant paragraphs of such judgment read as under:

“1.....

2. When hearing on admission of the claim petition was going on, the Tribunal observed that the Office Memorandum No. 208022/ E.Patra.-57601/XIII-1/2023, Dehradun, dated 06.04.2023 issued by *Krishi Evam*

Krishak Kalyan Anubhag-1, Govt. of Uttarakhand was issued on 06.04.2023 (Annexure: 1). In this O.M., there is reference of an order passed by Hon'ble High Court of Uttarakhand on 25.04.2023 in WPSS No. 1194/2010 (Annexure: 3). Digital signatures are of 01.05.2024. It is thus apparent that O.M.(Annexure:1) was not issued on 06.04.2023.

3. Petitioner was Grading Assistant (Border), working with Respondent No.3. Recovery of Rs.6,55,574.02/- has been ordered against him, which is under challenge in present claim petition.

4. Dr. Aparna Singh, Ld. Counsel for the petitioner drew attention of the Tribunal towards letter dated 07.09.2007, issued by the Chief Executive Officer, *Bheshaj Vikas Ikaee*, addressed to the Deputy Secretary, Govt. of Uttarakhand, to submit that no substance was found in the allegations levelled against the petitioner. Petitioner was suspended on 16.12.2002. His suspension order was revoked on 24.03.2003. Nothing was found against him in the audit report. The amount of embezzlement in the first charge-sheet and second charge-sheet is different. Ld. Counsel for the petitioner submitted that there are glaring mistakes in the enquiry conducted by the enquiry officer, report of the disciplinary authority and order of the appellate authority. Petitioner wants to highlight these anomalies before the Secretary, Department of Horticulture, State Secretariat, Dehradun, Uttarakhand (Respondent No. 1), because the material error of law has occurred, which has the effect of changing the nature of the case. Ld. Counsel for the petitioner prayed that the petitioner may be given liberty to file review application before the appropriate authority.

5. Rule 14 of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003, reads as under:

“Review - The Governor may, at any time, either on his own motion or on the representation of the concerned Government Servant review any order passed by him under these rules, if it has brought to his notice that any new material or evidence which could not be produced or was not available at the time of passing the impugned order or any material error of law occurred which has; the effect of changing the nature of the case.”

[Emphasis supplied]

6. Petitioner can make representation to the competent authority for reviewing its order dated 06.04.2023 (01.05.2024), Annexure: 1. He is entitled to file representation before the reviewing authority.

7. The claim petition is disposed of, at the admission stage, leaving it open to the petitioner to file representation for reviewing order dated 06.04.2023 (01.05.2024), Annexure: 1, before the competent authority, who may pass appropriate order after hearing the petitioner and considering the grounds taken in the review application.

8. Rival contentions are left open.

9. At this stage, Ld. Counsel for the petitioner prayed that a direction be given to the respondent department to pay admissible dues to the petitioner. Ld. A.P.O. pointed out that the department is willing to release

the admissible retiral dues to the petitioner, as has been mentioned in the letter dated 06.06.2024, which has been filed along with O.M. dated 06.04.2023 (01.05.2024), issued by the Chief Executive Officer to the petitioner.

10. Respondent department is, accordingly, directed to release the admissible retiral dues to the petitioner, as expeditiously as possible and without unreasonable delay.”

2. Petitioner filed representation for reviewing order dated 06.04.2023 (01.05.2024) before the Chief Executive Officer, who did not find favour with the submissions of the petitioner and passed an order on 26.12.2024 (Annexure: 7).

3. Instead of challenging the said order dated 26.12.2024, petitioner has filed present contempt petition, which, on the face of it, is not maintainable at present. Petitioner should have challenged order dated 26.12.2024 and filed fresh claim petition for redressal of his grievance(s).

4. Rule 50 of the Uttar Pradesh Public Services (Tribunal) Rules, 1992, reads as under:

“**50. Initiation of proceedings.**—(1) Any petition, information or motion for action being taken under the Contempt shall, in the first instance, be placed before the Chairman.

(2) The Chairman or the Vice-Chairman or such other Members as may be designated by him of this purpose, shall determine the expediency or propriety of taking action under the Contempt Act.”

[Emphasis supplied]

5. In the circumstances, as have been narrated above, the Tribunal does not feel it proper or expedient to initiate proceedings against the alleged contemnor(s)/ opposite party(ies) under the Contempt of Court Act, at this stage, leaving it open to the petitioner to challenge the impugned order dated 26.12.2024, by filing fresh claim petition.

6. Ld. Counsel for the petitioner submitted that the petitioner will file fresh claim petition for redressal of his grievances.

7. In Para 9 of the decision dated 10.10.2024, respondent department was directed to release the admissible retiral dues to the

petitioner. Ld. Counsel for the petitioner/applicant submitted that the same has not been done.

8. Ld. A.P.O. pointed out that the admissible retiral dues should have been released to the petitioner, but in the absence of any instruction, it is not possible to say, as to why admissible retiral dues have not been released to the petitioner. It is possible that there might not be any admissible retiral dues in the estimation of the respondent department.

9. Ld. Counsel for the petitioner/applicant submitted that petitioner will file his claim petition in respect of such relief also and he be permitted to withdraw the present contempt petition.

10. Petitioner is permitted to withdraw the contempt petition, with liberty to file the fresh claim petition, for seeking the above noted reliefs, in accordance with law.

11. Contempt petition thus stands disposed of, at the admission stage.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: FEBRUARY 24, 2025
DEHRADUN

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