

**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. 145/NB/DB/2023**

Smt. Meena Chauhan (Female aged about 58 years) W/o Ashok Chauhan  
R/o Shri Shyam Apartment, 4<sup>th</sup> Floor, 412c, Near Kahan Office, Mukhani, Talli  
Bamori, Haldwani, District Nainital.

..... **Petitioner**

Versus

1. State of Uttarakhand through Secretary, Medical Health and Family Welfare, Secretariat, Dehradun.
2. Director, Medical Health and Family Welfare, Dehradun.
3. Principal, Regional Medical Health and Family Welfare Training Centre, Moti Nagar, Haldwani, District-Nainital.

..... **Respondents**

Present: Sri Arun Pratap Sah, Advocate for the petitioner  
Sri Kishore Kumar, A.P.O. for the respondents

**JUDGMENT**

**DATED: MARCH 04, 2025**

**Hon'ble Mr. A. S. RAWAT, VICE CHAIRMAN (A)**

This claim petition has been filed seeking the following reliefs:-

- “i). to quash and set aside the impugned orders dated 24.06.2023 as well as order dated 28.07.2023 passed by respondent no. 3 (Contained as Annexure No. 1 to this claim petition).*
- ii) to direct the respondents to reimburse the amount deducted from her salary till date as well as adjusted from the dues of arrears, alongwith interest.*

*iii). issue any other relief, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case be passed in favour of the petitioner."*

2. The facts of the case are:

2.1 The petitioner was appointed in Medical Department, Uttar Pradesh vide appointment letter dated 16-2-1990 on the post of Basic Health Worker (BHW) and her first place of posting was in Dahgawa, District- Badaun (U.P.). Thereafter in the year 1995, the petitioner's services were transferred to Nainital District on the same post vide order dated 7-9-1995. During the year 2007 to 2011, the petitioner completed her course of B.Sc. Nursing after obtaining the permission as well as study leave from the respondent department. Thereafter, the petitioner has registered herself before the Uttarakhand Nurses & Midwives Council in the year 2012. The petitioner's services were attached to the office of B.D. Pandey College of Nursing, Nainital on the post of clinical Instructor/Tutor on 06.12.2012.

2.2 On 14.01.2015, the petitioner's services were transferred and she was directed to be attached before Regional Medical Health and Family Welfare Training Centre, Moti Nagar, Haldwani, District- Nainital on the post of Tutor. On 08.12.2017, the petitioner's services were attached to the office of ANM Training Centre Gadarpur, District- Udham Singh Nagar. Prior to that vide order dated 11-9-2017, the attachment of petitioner was cancelled. Thereafter, vide order dated 22-11-2018 passed by the respondent no.2, the petitioner's services were attached to Regional Medical Health and Family Welfare Training Centre, Haldwani i.e. her present place of posting against the vacant post of PHN Tutor.

2.3 The petitioner has been receiving timely increments every year and she received a net salary of Rs. 103878/- (One Lac Three Thousand Eight Hundred Seventy-Eight) for the month of April 2023. The pay slip is generated through Integrated Financial Management System (IFMS). Surprisingly, the salary of May 2023 is not paid to the petitioner in the next month i.e. June 2023 and on 3-7-2023 the salary slip of petitioner

was generated wherein her salary of Month of May 2023 is shown as Rs. 91472 (Ninety One Thousand Four Hundred Seventy Two), therefore, the salary has been reduced to Rs. 12406/-

2.4 As without issuing any notice, reason or opportunity of hearing, the salary of petitioner is reduced, hence the petitioner on 3-7-2023 made a representation but in vain and then the petitioner immediately filed claim petition before the Uttarakhand Public Service Tribunal, Nainital seeking following relief:

- i. To direct the respondents to clarify as to why the salary of petitioner was deducted without issuing a show cause notice or opportunity of hearing.
- ii. To direct the respondents to reimburse the petitioner the deducted salary with interest deemed appropriate by this Learned Tribunal.
- iii. Issue any other relief, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case be passed in favour of the petitioner.

2.5 The Tribunal vide order dated 17-07-2023, directed the respondents to inform about the deduction of salary to the petitioner by way of speaking order. In the meantime, after filing of claim petition before the Tribunal, the respondent department on 15-7-2023 through one colleague of petitioner, sent the copy of order dated 24-6-2023 on her Whatsapp. Furthermore, after the order of Tribunal, the respondent no.3 on 25-7-2023 issued a show cause notice to the petitioner that why recovery should not be done in twelve installments. The salary of petitioner for the month of July 2023 is released whereby an amount of Rs. 36181/- is deducted from her salary. Earlier also the salary for the month of June 2023 is also reduced to the tune of Rs. 12406/-.

2.6 The petitioner has filed writ petition no. 1547 of 2023 (S/S) for the same or ancillary relief before the Hon'ble High Court of Uttarakhand at Nainital which came up for hearing on 24.08.2023 and Hon'ble High

Court dismissed the writ petition with liberty to the petitioner to approach the Uttarakhand Public Service Tribunal, Nainital.

3. Ld. A.P.O. appearing for the respondent No. 3 has filed counter affidavit, in which it has been stated that the petitioner has been under direct administrative control of MOIC, CHC Bhimtal and received salary from 15.01.2015 to 22.11.2018. The negligent & callous act of MOIC/DDO, CHC Bhimtal amounts to criminal breach of trust which resulted in misappropriation of public funds by excess payment to the petitioner. She kept on enjoying the unjust enrichment despite knowing her disentitlement which she was duty-bound to report to her superiors forming great example of collusion & connivance with negligent authorities, who did everything to maintain this illegality.

3.1 She got 06 basic increments from 01.01.2017 to 01.01.2018 despite knowing that she was eligible for just one increment on 01.07.2017. The excess payment of increments got recorded in "Form-16" provided by MOIC CHC Bhimtal for Financial Year 2016-17 & 2017-18. When her salary was reduced, she immediately reported on 01.07.2023 and refused to accept the salary amendment order dated 24.06.2023. She did not reply the show-cause notice sent to her on 25.07.2023 to avoid and delay in correction in salary & recovery in compliance of DG's order dated 24.04.2023, so as an administrative measure the employer was bound to initiate recovery in order to retrieve excess payments made in fraudulent and malafide manner.

3.2 The petitioner's collusive mischievous connivance with the then Principal, DHFWTC, Haldwani Dr. Tara Arya (from 22.06.2020 to 24.11.2021), who falsified Page 33 of Service Book with office seal & signature, in which the basic salary was reduced to Rs. 68000/- but she kept on paying Rs. 76500/- till 01.01.2021 and again Rs. 78800/- on 01.01.2021 in place of Rs. 70000/- was not in record. The service book was forged by entire modus was not recorded by the respondent No. 3, which amounts to collusive suppression of benefits to both Dr. Tara Arya

and the petitioner. The suppression of facts related to excess payment has not been reported to superior authorities.

3.3 The petitioner while examining the service book on 02.07.2022 expressed satisfaction on the forged entry related to her salary which is on record as Rs. 68000/- on 01.07.2020 as against the actual payment of Rs. 76500/-. She conceded to get excess salary @ Rs. 78800/- despite sanction of Rs. 70000/- from 01.01.2021. She was due for ACP on 20.10.2018, but she did not apply and further appealed on 08.09.2023 after excess payment of salary was corrected vide order dated 24.06.2023 and order of recovery dated 28.08.2023.

3.4 The forged documents were created by the then authorities in collusion with petitioner to escape responsibility, even the then Principal DHFWTC, Haldwani & Director Kumaun gave a false information under RTI Appeal 35/2024 order No. 15314 "अधिक भुगतान का प्रकरण अधोहस्ताक्षरी के संज्ञान में नहीं था" The Principal in collusion with the petitioner has given wrong information under RTI relating to the actual payment made to the petitioner. She kept quiet while receiving 06 increments in the year 2016-17 which she was duty-bound to report to her superiors and for which she got Treasury SMS & Bank SMS Alert.

3.5 A sum of Rs. 863877/- was found to be the excess payment made to her as reported vide order No. लेखा /2024-25/839, dated 27.06.2024, as Rs. 8,27,696/- which has been recovered from her arrears of ACP and monthly installment upto November 2024 and one instalment is left which will be recovered as mentioned in her relieving order.

3.6 In view of the facts mentioned above as well as abuse of procedure in payment of salary due to her, indicates her with the Principal shows that the petitioner has been made excess payment, so the judgment of Hon'ble Supreme Court in the matter of Rafiq Masih Vs. State of Punjab & others is not applicable in the case of the petitioner. The petitioner was granted opportunity for hearing vide show-cause notice dated 25.07.2023 & 28.07.2023. The internal enquiry conducted

by the Committee, headed by Dr. Renu Sutha found her guilty which is informed to CMO, Nainital on 05.12.2023 & 19.01.2024 by the respondent No. 2.

4. Rejoinder affidavit has also been filed reiterating the facts mentioned in the present claim petition. .

5. Heard learned Counsel for the petitioner and the learned A.P.O.

6. Learned Counsel for the petitioner pleaded that the respondents have made a recovery of the actual payment made to the petitioner, which was disbursed to her time to time as a salary from 2016-17 to 2021-22, When her salary for the month of May 2022 was reduced, she made a representation for reason for deduction her salary. When she did not get adequate reply she filed a claim petition before the Uttarakhand Public Services Tribunal, Nainital Bench, to give a show-cause notice for deducting salary, which was issued on 25.07.2023, but only three days' time was given her to reply to the notice. The respondents have passed an order to deduct Rs 36181/- per month from her salary in 12 installments, after deducting the amount of arrears of Rs. 4,29,766.00 arrear of ACP on 28.07.2023. The case of the petitioner is covered under the judgment of State of Punjab Vs. Rafiq Masih (2015) 4 SCC 334. The excess amount has been paid to the petitioner by the respondents due to mistake on their part and the petitioner is not at all involved in this act of omission or commission. The claim petition filed by the petitioner is liable to be allowed.

7. Learned A.P.O. pleaded that the petitioner has received six increments during the year 2016-17, which were not admissible to her. She did not report about this excess payment to the higher authorities. The then Principle has colluded with her by incorporating the admissible basic pay in her service book by removing the earlier excess payment entry but kept on paying salary as per excess rates. The petitioner on 02.07.2022 has given a certificate in the service book on tempered admissible entry, so the admissible payment and the actual amount being paid to her was in her knowledge. When the salary being paid to

her was reduced by the respondents, she refused to take it and represented against the order. It shows that the petitioner was knowing about the excess payment by way of extra increments which she did not report to the higher authorities. The claim petition is not covered under the judgment of State of Punjab Vs. Rafiq Maish. So, the claim petition is liable to be dismissed.

8. Based on the pleadings of the parties and perusal of records, we hold that the excess payment by way of extra increments given to the petitioner was in knowledge of the petitioner. Earlier the internal enquiry conducted by the committee under the Chairmanship of Dr. Renu Sutha, acting Principal has established the involvement of the petitioner and the then Principal of the College, Dr. Tara Arya. The service book of the petitioner was tempered to show the salary admissible to her. The petitioner received the excess payment by way of extra increments which was not admissible to her. The actual payment made to her was replaced by admissible payment in the service book on the aforesaid circumstances. The case of the petitioner is not covered under the judgment of Hon'ble Apex Court in the case of State of Punjab Vs. Rafiq Masih and her claim petition is liable to be dismissed. The respondent should initiate disciplinary proceedings against the then Principal, Dr. Tara Arya and the petitioner for inadmissible payment of salary to the petitioner and suppressing the facts by tempering the entries related to excess salary payment in service, so that such incidents are not repeated in future.

### **ORDER**

The claim petition is hereby dismissed. No orders as to costs.

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

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

*DATE: MARCH 04, 2025*  
*NAINITAL*  
*BK/KNP*