

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

Present: Hon'ble Mr. Ram Singh

----- Vice Chairman (J)

Hon'ble Mr. D.K.Kotia

-----Vice Chairman (A)

CLAIM PETITION NO. 36/SB/2015

Harish Chandra Kotiyal, S/o Late Sri Satya Narian Kotiyal, Retd. Driver Grade-I, Agriculture and Soil Conservation Officer, Vikas Nagar, Dehradun, R/o Saraswati Vihar, Dakpathar, District Dehradun, Uttarakhand.

.....Petitioner

VERSUS

1. State of Uttarakhand through Secretary, Agriculture, Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Director of Agriculture Directorate, Uttarakhand, Nandaki Chowki, Prem Nagar, Dehradun.
3. Chief Agriculture Officer, Department of Agriculture, Niranjapur, Dehradun.
4. Agriculture and Soil Conservation Officer, Chakrata, Kalsi, Dehradun.

.....Respondents.

Present: Sri L.K.Maithani, Ld. Counsel
for the petitioner

Sri Umesh Dhaundiyal, Ld. A.P.O.
for the respondents

JUDGMENT**DATED: AUGUST 09, 2017****(HON'BLE MR. D.K.KOTIA, VICE CHAIRMAN (A))**

1. The petitioner has filed the present claim petition for seeking the following relief:

“i) to issue an order or direction to the concerned respondents to correct/rectify the impugned order dated 23.06.2015 (Annexure No. A-1) to the petition) and grant the benefit of grade pay Rs. 4600 to the petitioner from the date when he completed his 20 years service or from the date when the petitioner had been promoted to the post of driver grade-I in grade pay Rs. 4200 i.e. from 06.10.2007.

ii) To issue an order or direction to the respondent to refix the pay and pension of the petitioner accordingly and pay the arrears of difference of pay to the petitioner alongwith interest.

iii) To issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

iv) To award the cost of the case.”

2. The petitioner has worked as driver in the Soil Conservation wing of the department of Agriculture, Government of Uttarakhand. The petitioner, who was appointed as driver in 1980, has retired from the service after attaining the age of superannuation on 31.10.2014 from the post of driver (Grade-I) with Grade Pay of Rs. 4200.

3. The petitioner has contended that the cadre structure of drivers was reorganized by the State Government on 03.07.2006 (Annexure: A2). According to the reorganized structure, after the direct recruitment of drivers in Grade-4, three promotional Grades (Grade-3, Grade-2 and Grade-1) were provided to the drivers. The petitioner was promoted in Grade-1 on 29.03.2011 and later on vide order dated 02.02.2012, he was granted the benefit of Grade-1 (pay band Rs. 9300-34,800 with Grade Pay Rs. 4200) w.e.f. 06.10.2007. Thereafter, the cadre structure of drivers was modified on 01.07.2013 and one more promotional opportunity was provided as Special Grade in Pay Band Rs. 9300-34800 with Grade Pay Rs. 4600. The State Government vide G.O. dated 31.01.2014 (Annexure: A8) again reorganized the cadre and after the direct recruitment (at Grade Pay Rs. 1900), Grade Pay Rs. 2400 (after 9 years), Grade Pay Rs. 2800 (after 15 years), Grade Pay Rs. 4200 (after 18 years) and Grade Pay Rs. 4600 (after 20 years) was provided to the drivers.

4. As a result of G.O. dated 31.01.2014, the petitioner was sanctioned the Grade Pay of Rs. 4600 with effect from the date of G.O. that is 31.01.2014.

5. The contention of the petitioner is that he was appointed on the post of driver on 06.10.1980 and he had completed 20 years of service on 06.10.2000. Also, he was promoted to Grade -1 of the drivers (Grade Pay Rs. 4200) on 06.10.2007. The petitioner has claimed the Grade Pay Rs. 4600 as per the G.O. dated 31.01.2014 either w.e.f. 06.10.2000 or 06.10.2007 and has stated that he has been wrongly sanctioned the Grade Pay Rs. 4600 w.e.f 31.01.2014 i.e. the date of the Government Order.

6. Respondents No. 1 to 4 have opposed the claim petition and it has been stated in their joint written statement that the Grade Pay of Rs. 4600 to the drivers was introduced by the State Government vide G.O. dated 31.01.2014 and this G.O. came into effect from 31.01.2014 and the petitioner has been rightly sanctioned the Grade Pay Rs. 4600 w.e.f 31.01.2014 and, therefore, there is no claim of the petitioner for the Grade Pay Rs. 4600 from any earlier date.

7. No rejoinder affidavit has been filed by the petitioner.

8. We have heard learned counsel for the petitioner and learned A.P.O. on behalf of the respondents No. 1 to 4 and perused the record.

9. The only issue before us for examination is whether the Government Order dated 31.01.2014 is applicable from its date (as contended by the respondents) or it has retrospective effect (as contended by the petitioner).

10. It would be appropriate to look at the G.O. dated 31.01.2014 which is reproduced below:

“संख्या 44 /xxvii(7)27(3) / 2013

प्रेषक,

राकेश शर्मा,
अपर मुख्य सचिव,
उत्तराखण्ड शासन।

सेवा में,

1. समस्त प्रमुख सचिव/ सचिव, उत्तराखण्ड शासन।
2. समस्त विभागाध्यक्ष/ कार्यालयाध्यक्ष।

वित्त (वे0आ0-सा0नि0)अनु0-7

देहरादून: दिनांक: 31 जनवरी, 2014

विषय:- प्रदेश के राजकीय वाहन चालक सेवा-संवर्ग के पुर्नगठन के संबंध में।

महोदय,

उपरोक्त विषयक शासनादेश संख्या- 588/xxvii(7)27(3)/2013 दिनांक 01 जुलाई, 2013 द्वारा कतिपय शर्तों एवं प्रतिबन्धों के साथ अनुमन्य की गयी थी। शासन द्वारा विचारोपरान्त लिये गये निर्णय के क्रम में प्रदेश के वाहन चालकों के सेवा-संवर्ग को 05 ग्रेडों में विभाजित संबंधी लागू व्यवस्था के स्थान पर तात्कालिक प्रभाव से निम्नवत संशोधित रूप में पुनर्गठित करने का निर्णय लिया गया है।

2- वाहन चालकों को 04 श्रेणियों में सीधी भर्ती के पद ग्रेड वेतन रू0 1900 से क्रमशः 09 वर्ष पर ग्रेड वेतन रू0 2400, 15 वर्ष पर ग्रेड वेतन रू0 2800, 18 वर्ष पर ग्रेड वेतन रू0 4200 एवं 20 वर्ष पर ग्रेड वेतन रू0 4600 अनुमन्य किये जाने की राज्यपाल सहर्ष स्वीकृति प्रदान करते हैं।

3- पदोन्नति की स्थिति में वित्त विभाग के शासनादेश दिनांक 17 अक्टूबर, 2008 के प्रस्तर- 12 में पदोन्नति के फलस्वरूप वेतन निर्धारण की व्यवस्था पूर्व से ही विद्यमान है।

4- उपरोक्त शासनादेश उक्त सीमा तक संशोधित समझा जाय।

(राकेश शर्मा)

अपर मुख्य सचिव।”

11. Learned counsel for the petitioner has argued that there is nothing in the G.O. dated 31.01.2014 which denies the benefit of Grade Pay Rs. 4600 from the date of completion of 20 years of service and, therefore, the petitioner is entitled to get the Grade Pay Rs. 4600 when he completed 20 years of service on 06.10.2000 or he should have been given this Grade Pay w.e.f. 06.10.2007 when he was promoted in Grade-I of the drivers. Learned A.P.O. in his counter argument has stated that the perusal of the G.O. dated 31.01.2014 makes it crystal clear that the said G.O. has come into force with immediate effect (तात्कालिक प्रभाव से) and, therefore, various Grade Pays which are allowed after completion of certain years of service can be given from 31.01.2014 only. It has further been argued by learned A.P.O. that when the petitioner completed his service of 20 years on 06.10.2000 or when he was promoted in Grade-I of the drivers

on 06.10.2007, the benefit of Grade Pay Rs. 4600 did not exist. The Grade Pay Rs. 4600 has been introduced by the G.O. dated 31.01.2014 and the said G.O. is prospective and the G.O. does not mention that the benefit is to be given from an earlier date. Learned counsel for the petitioner has also stated that in the Health and Medical Department, a driver has been allowed the benefit from an earlier date (Annexure: A 10). Learned A.P.O. in reply to this has stated that full facts of the said case are not on record and therefore, it cannot be relied upon. The petitioner has been rightly given the benefit of Grade Pay Rs. 4600 from 31.01.2014 when the G.O. dated 31.01.2014 introduced this Grade Pay.

12. After hearing both the parties and perusal of record, we agree with the contention of learned A.P.O. that the G.O. dated 31.01.2014 comes into force w.e.f. 31.01.2014. The first paragraph of the said G.O. has very specifically mentioned that “शासन द्वारा विचारोपरान्त लिये गये निर्णय के क्रम में प्रदेश के वाहन चालकों के सेवा-संवर्ग को 05 ग्रेडों में विभाजित संबंधी लागू व्यवस्था के स्थान पर तात्कालिक प्रभाव से निम्नवत संशोधित रूप में पुर्नगठित करने का निर्णय लिया गया है।” It is, therefore, clear that the G.O. dated 31.01.2014 related to the Grade Pay Rs. 4600 will apply in future or from the date of commencement of the G.O. that is 31.01.2014. The G.O. is prospective in nature. The G.O. does not expressly provide that it should be deemed to have come into effect from a past date. Rather, it very clearly specifies that it applies with immediate effect (तात्कालिक प्रभाव से). Unless it is expressly provided, a G.O. cannot have retrospective effect. We are of clear view that the G.O. dated 31.01.2014 is prospective in nature and it has come into force from 31.01.2014 i.e. the date of G.O. The contention of the learned counsel for the petitioner that in Medical and Health Department, one driver has

been granted benefit from an earlier date is not relevant in reaching our above conclusion regarding interpretation of the G.O. dated 31.01.2014 in respect of the date from which it has come into force. Moreover, full facts of the case are not on record and, therefore, it is of no value in the case in hand. Thus, learned counsel for the petitioner has failed to demonstrate that the said G.O. is retrospective and comes into effect from a past date.

13. For the reasons stated above, we find the claim petition devoid of merit and the same is liable to be dismissed.

ORDER

The petition is hereby dismissed. No order as to costs.

(RAM SINGH)
VICE CHAIRMAN (J)

(D.K.KOTIA)
VICE CHAIRMAN (A)

DATE: AUGUST 09, 2017
DEHRADUN

KNP