

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

Present: Hon'ble Mr. Justice U.C.Dhyani
----- Chairman

Hon'ble Mr. D.K.Kotia
-----Vice Chairman (A)

CLAIM PETITION NO. 20/DB/2015

Ram Kishan Sharma S/o Late Sh. Prakash Chand Sharma aged about 71 years,
Retd. Inspector, Nagar Nigam, Dehradun R/o 73- Shakti Vihar, Dehradun.

.....Petitioner

VS.

1. State of Uttarakhand through Secretary, (Urban Development), Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Director, Urban Development Directorate Uttarakhand, 43/6, Mata Mandir Marg, Dharampur, Dheradun.
3. Nagar Nigam through Mukhya Nagar Adhikari, Dehradun.

.....Respondents.

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

Sri U.C.Dhaundiyal, A.P.O.
for the Respondents No. 1 & 2.

None for Respondent No.3 despite
sufficient service.

JUDGMENT

DATED: FEBRUARY 17, 2018

Justice U.C.Dhyani (Oral)

1. By means of present claim petition, petitioner seeks following reliefs:-

“(i) To issue an order or direction to the concerned respondents to grant the next higher/ promotional pay scale to the petitioner w.e.f.21.12.1995.

(ii) To issue an order or direction to the respondents that arrears on account of grant of next higher pay scale along with dearness allowance and other incidental allowances be paid to the petitioner along with penal interest @ 18% per annum compounded annually be paid to the petitioner from the date, the same admissible.

(iii) Issue an order or direction to the respondents that pension and other retiral dues be recalculated and the difference paid to him on account of relief No.(i) above.

(iv) Issue any other order or direction, which this Hon’ble Tribunal may deem fit and proper in the circumstances of the case.

(v) Award the cost of the case to the petitioner.”

2. Brief facts giving rise to present claim petition are that, on 23.10.1962, the petitioner was initially appointed as Clerk in Nagar Palika, Dheradun. On 21.12.1981, petitioner was promoted to the post of Tax Inspector. On 25.05.2000, selection grade was given to the petitioner w.e.f. 21.12.1993 after completion of 12 years’ satisfactory service. In the year 2001, the petitioner preferred a representation for grant of promotional pay scale. On 31.08.2002, the petitioner retired from service after attaining the age of superannuation. On 12.07.2007, Respondent No.3 informed the petitioner that, during petitioner’s tenure as Tax Inspector in 2001, he was found mutating Nagar Nigam property in the name of some private person by task force and sought explanation from the petitioner. On 05.09.2005, the petitioner submitted his reply to Respondent No.3. On 27.06.2006, charge sheet was given to the petitioner. The petitioner replied the charge sheet. On 19.09.2007, respondent sent a copy of charge

sheet and report of inquiry officer to the petitioner. Petitioner submitted detailed representation to the respondents.

3. On 08.02.2016, during the pendency of claim petition, departmental inquiry, which was initiated against the petitioner in August, 2005, was closed, vide Office Memorandum dated 08.02.2016, issued by the Urban Development Department of the Government. Principal reason for doing so was that, the petitioner retired on 31.08.2002 and the charge sheet was served upon him in August, 2005 for irregularities committed during his tenure as Tax Inspector in the assessment year 1999-2004. The reason assigned for closing the departmental proceedings was that, since thirteen years have elapsed, the delinquent employee has superannuated, therefore, he could neither be dismissed or removed from service nor any penalty could be imposed upon him on gratuity.
4. Subsequent thereto, vide Office Memorandum dated 04.04.2016, issued by Directorate, Urban Development, the petitioner was granted promotional pay scale of Rs.4000-6000/- w.e.f. 21.12.1999. Ld. Counsel for the petitioner has confined his prayer only to the extent that, a direction be given to the respondents to grant the next higher promotional pay scale w.e.f. 21.12.1999. In the relief clause of the petition, a prayer was made to grant relief w.e.f. 21.12.1995, but in rejoinder affidavit, the petitioner has confined the prayer only to the extent that, the next higher promotional pay scale be granted w.e.f. 21.12.1999.
5. It is admitted fact that A.C.P./ promotional pay scale was granted to the petitioner late, on 08.02.2016. The petitioner cannot be held responsible for the delay caused in late payment of A.C.P., as is evident from Office Memorandum dated 08.02.2016 (Annexure: R-1).

6. The question which arises for consideration of this Court is – how much interest should be granted to the petitioner for delayed payment of promotional pay scale? Whereas submission of Ld. Counsel for the petitioner is that, some reasonable interest be awarded to the petitioner, learned Counsel for the respondents submitted that, 6% simple interest per annum would be sufficient to meet the ends of justice.
7. Considering the peculiar facts of the case, this Court deems it proper to direct Respondents No. 2 and 3 to pay 6% simple interest per annum w.e.f. 21.12.1999 till the date of actual payment of promotional pay scale.
8. Needless to say that, pension, gratuity and leave encashment of the petitioner are to be re-fixed in the light of the promotional pay scale granted to the petitioner on 04.04.2016.
9. The next question which arises for consideration is – how much interest should be awarded to the petitioner on delayed payment of gratuity and leave encashment?
10. This question is no more *res integra*, for, the same has already been settled by the Hon'ble Supreme Court 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.)**, in which it was observed 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 regard.
11. 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. Sri U.C.Dhaundiya, Ld. A.P.O. submitted that the decision rendered by this Court in claim petition No. 30/DB/2013 has not been assailed by the

respondents and, therefore, the said judgment has attained finality. The direction given in claim petition No. 30/DB/2013 has also been carried out. Ld. A.P.O. fairly conceded that facts of the present petition are identical to the facts of the Claim Petition No.30/DB/2013, insofar as grant of interest on delayed payment of gratuity, pension and leave encashment is concerned.

12. Respondents are, therefore, directed to pay to the petitioner (i) interest on monthly pension from 01.12.2002 till the date of actual payment; (ii) interest on the amount of gratuity from 01.12.2002 till the date of actual payment; and (iii) interest on the amount of leave encashment from 01.12.2002 till the date of actual payment. The rate of interest shall be simple rate of interest payable on General Provident Fund during the relevant period.
13. The petitioner shall also be paid 6% simple interest per annum on delayed payment of promotional pay scale to the petitioner from 21.12.1999 till the date of actual payment.
14. Respondents are directed to pay the aforesaid amount of interest to the petitioner within a period of 12 weeks from the date of presentation of certified copy of this order, by the petitioner, before Respondents No. 2 and 3. No order as to costs.

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

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: FEBRUARY 17, 2018

DEHRADUN

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