

**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. 33/DB/2017

Virendra Prasad Pant S/o Late Sri Umanand Pant aged about 71 years, Retired Food Inspector, Office of Chief Medical Officer, Pauri, R/o House No. 192, Lane No. 1, Phase-II, Panditwadi, Dehradun..

.....Petitioner

VS.

1. State of Uttarakhand through Principal Secretary, Medical and Health, Government of Utarakhand, Secretariat, Subhash Road, Dehradun.
2. Director General, Medical, Health and Family Welfare, Uttarakhand, Sahastradhara Road, Near I.T.Park, Dehradun.
3. Chief Medical Officer, Pauri Garhwal, Uttarakhand.
4. Accountant General, Accounts and Entitlement, Uttarakhand, Oberoi Motors Building, Majra, Dehradun.

.....Respondents.

Present: Sri L.K.Maithani &
Sri Sunil Kumar Jain, Counsel
for the petitioner.

Sri U.C.Dhaundiya, A.P.O.
for the Respondents

JUDGMENT

DATED: MARCH 07, 2018

Justice U.C.Dhyani (Oral)

Petitioner was posted as Food Inspector in the office of Respondent No.3. Petitioner remained absent and applied for medical

leave from 27.02.2004 to 19.01.2006 and no decision was taken on such application. In the meanwhile, the petitioner retired on 30.09.2006. Medical leave was sanctioned on 05.11.2014. The period between 14.02.2006 to 30.09.2006, was decided by Respondent No.1 as 'compulsory wait', vide government order dated 05.11.2014 (copy Annexure: A 8). 120 days' earned leave w.e.f. 27.02.2004 to 25.06.2004 was granted to the petitioner by the self same order. 573 days' extraordinary/ L.W.P. was sanctioned to the petitioner from 26.06.2004 to 19.01.2006. In a nutshell, after about eight years of superannuation of the petitioner, leave account of the petitioner was settled by the department.

2. It is the submission of Ld. Counsel for the petitioner that the gratuity, leave encashment and computation of pension was paid to the petitioner on 29.03.2016. 90% of GPF was not paid to him immediately on his retirement. Such an amount was credited to the account of the petitioner only on 27.12.2017. Remaining 10% of the GPF is yet to be paid to him. The petitioner has prayed for 12% interest per annum on gratuity, pension, leave encashment and GPF from the date of superannuation till the date of actual payment.
3. The question, which arises for consideration of this Court is, how much interest should be awarded to the petitioner for delayed payment of gratuity, leave encashment, pension and GPF?
4. 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.)**, it was held by Hon'ble Supreme Court 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.

5. 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.Dhaundiyal, 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.
6. Respondents are, therefore, directed to pay to the petitioner (i) interest on monthly pension from 01.01.2007 till the date of actual payment; (ii) interest on the amount of gratuity from 01.01.2007 till the date of actual payment; and (iii) interest on the amount of leave encashment from 01.01.2007 till the date of actual payment. The rate of interest of gratuity, leave encashment and pension shall be simple rate of interest payable on General Provident Fund during the relevant period.
7. In the absence of any Government Order, fixing the rate of interest, payable on delayed GPF, we feel it appropriate to direct that the petitioner shall be given interest on delayed payment of 90% of GPF, from 01.01.2007 till the date of actual payment, according to the GPF rates of interest prevalent from time to time during the aforesaid period. Order accordingly.
8. Respondents No. 2 & 3 are directed to pay the aforesaid interest to the petitioner, within a period of 12 weeks from the date of presentation of certified copy of this order before them.
9. Regarding balance 10% of GPF, Ld. A.P.O. submitted that Respondents No.2 & 3 have already sent a proposal to Accountant

General, Uttarakhand (Respondent No.4). We hope and trust that Respondent No.4 shall soon take a decision on the same

10. The claim petition is, accordingly disposed of. No order as to costs.

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

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MARCH 07, 2018
DEHRADUN

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