

**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. 37/DB/2017

Bharat Raj Shahi, S/o Late Sri Raghuvir Singh Shahi, Retired, S.I.A.P,
Uttarakhand Police, R/o Village and Post Anarwala, Dehradun.

.....Petitioner

VERSUS

1. State of Uttarakhand through Secretary (Home) Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Deputy Inspector General of Police, Uttarakhand, Police Headquarters, Dehradun.
3. Senior Superintendent of Police, Dehradun.

.....Respondents.

Present: Sri L.K.Maithani, Ld. Counsel
for the petitioner
Sarvasri Umesh Dhaundiyal &
V.P.Devrani, Ld. A.P.Os.
for the respondents

JUDGMENT

DATE: MARCH 23, 2018

HON'BLE MR. RAM SINGH, VICE CHAIRMAN (J)

1. The petitioner has filed this petition for the following reliefs
"i) To issue an order or direction to the concerned respondents to grant the benefit of grade pay 4600 to the

petitioner since 01.01.2006 as per G.O. dated 17.10.2008 and G.O. dated 25.09.2013.

ii) To issue an order or direction to the concerned respondent to grant the benefit of Illrd ACP to the petitioner w.e.f. 01.01.2006 which is admissible to the petitioner after the completion of 26 years satisfactory service under the provisions of G.O. dated 08.03.2011, with all consequential benefits and further grant interest @ 12 % on the amount to be paid to the petitioner from the date of entitlement of benefit.

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 cost of the case."

2. As per facts of the petition, the petitioner was appointed as Constable in the respondent department on 30.06.1965 and later on was promoted to the post of Sub-Inspector. He retired from the service on 31.05.2007 and at that time, he was getting the basic pay of Rs. 7075 and grade pay of Rs. 4200 in the pay scale of Rs. 5500-9000.

3. The pay scale of the employees of the State was revised w.e.f. 01.01.2006 vide order dated 17.10.2008.

4. Vide G.O dated 08.03.2011, the scheme of Assured Career Progression (ACP) was implemented by the Government and the State Government employees were provided the benefit of such scheme w.e.f. 01.01.2006 on completion of 10, 16 and 26 years of satisfactory service. As the petitioner completed his 26 years of service before 01.01.2006, he was fully eligible to get the benefit

of 3rd ACP. The government changed the cut-off date of admissibility of the benefit of ACP from 01.01.2006 to 01.09.2008 vide G.O. dated 30.10.2012, due to which, the petitioner was deprived from the benefit of 3rd ACP. Vide G.O. dated 25.09.2013, Government revised the pay scale of Rs. 5500-9000 to those persons whose basic pay was Rs. 7075 in the pay band of Rs. 13160 along with grade pay of Rs. 4600 w.e.f. 01.01.2006. Hence, in view of the above G. O., he became eligible for grade pay of Rs. 4600 in place of Rs. 4200 w.e.f. 01.01.2006. Under G.O. dated 08.03.2011, petitioner was also eligible to the benefit of 3rd ACP, so he preferred representations on 06.06.2014 and 15.01.2016 and prayed for the benefit of grade pay of Rs. 4600 and 3rd ACP, but the respondents paid no heed to his request, hence, this petition was filed.

5. During hearing of the petition, respondents filed their written statement and submitted that the petitioner retired from the service on 31.05.2007 and he was granted all the retiral benefits and after considering the request of the petitioner, respondents vide letter No. 4/17 dated 07.09.2017, benefit of grade pay of Rs. 4600 in place of 4200 has already been allowed to him. Hence, the prayer as sought by the petitioner has been fulfilled and his petition has become infructuous. Regarding grant of 3rd ACP, the respondents have stated that two ACP were already granted to him and as per G.O. dated 31.10.2012, the ACP scheme was made effective w.e.f. 01.09.2008 and before that date, the petitioner retired from service on 31.05.2007. Hence, he is not entitled for the same and according to the respondents, first relief has been granted. The petition was opposed accordingly.

6. We have heard both the parties and perused the record.

7. In his petition, the petitioner has prayed for two relief:-

8. Firstly, he has prayed for the benefit of grade of pay of Rs. 4600 in place of 4200 w.e.f. 01.01.2006. According to the respondents, this relief has already been granted to the petitioner and to prove it, copy of the order dated 07.09.2017, granting the same has been filed by the respondents alongwith their C.A., which is on record. As the petitioner has got this relief hence, to this extent, his petition has become infructuous.

9. In the second relief, the petitioner has sought a direction to the respondents to grant the benefit of 3rd ACP to him w.e.f. 01.01.2006 as per the provisions of G.O. dated 08.03.2011. Respondents have opposed this relief on the ground that the said scheme was made effective w.e.f. 01.09.2008 vide G.O. dated 30.10.2012 and by that date, the petitioner was already retired from the service. Hence, he is not entitled for the same.

10. The petitioner has argued that he cannot be debarred from the benefit accrued to him under the G.O. dated 08.03.2011 on the basis of later G.O. dated 30.10.2012. This court is of the view that even under the G.O. dated 08.03.2011, the petitioner was not entitled for the benefit of 3rd ACP w.e.f. 01.01.2006 because of the reason that as per the said G.O. dated 08.03.2011 only the government employees in the pay scale of Rs. 8000-13500 with grade pay of Rs. 5400 were entitled for the benefit from the date 01.01.2006. Whereas, for the employees up to the grade pay of Rs. 4800, the scheme was initially made effective w.e.f. 01.09.2008. The relevant provision of the said G.O. dated 08.03.2011 reads as under:-

“.....(1) उक्त योजना दिनांक 01-01-2006 के पूर्व के वेतनमान रू0 7500-12000 पुनरीक्षित वेतन बैण्ड में ग्रेड पे रू0 4800 तक के पदधारकों के लिए दिनांक 01-09-2008 से तथा वेतनमान रू0 8000-13500 पुनरीक्षित वेतन बैण्ड में ग्रेड पे रू0 5400 तथा उससे उपर के वेतन बैण्ड एवं ग्रेड पे के पदधारकों के लिए दिनांक 01-01-2006 से प्रभावी होगी।”

11. Hence, in view of the court, without referring to later G.O. dated 30.10.2012, the petitioner was not entitled to get the benefit of said ACP scheme w.e.f. 01.01.2006 even under the G.O. dated 08.03.2011, as his entitlement was made to be effective w.e.f. 01.09.2008, whereas, the petitioner retired from service on 31.05.2007, hence, he is not entitled for the benefit of ACP as claimed by him.

12. For the reasons stated above, the petition deserves to be dismissed, hence, the claim petition is hereby dismissed. No order as to costs.

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

(RAM SINGH)
VICE CHAIRMAN (J)

DATE: MARCH 23, 2018
DEHRADUN

KNP