

**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/DB/2017

Bam Bahadur Rana S/o Sh. Hemlal Rana aged about 71 years, Retd. Head Constable, Uttarakhand Police, R/o Village Naya Gaon, Post Garhi Cantt, District Dehradun.

.....Petitioner

VERSUS

1. State of Uttarakhand through Secretary (Home), Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. D.I.G. (PAC) Uttarakhand, Headquarters, P.A.C., Dehradun.
3. Commandant, 40, Battalion, PAC, Haridwar.

.....Respondents.

Present: Sri M.C.Pant &
Sri L.K.Maithani, Ld. Counsel
for the petitioner
Sri V.P.Devrani, Ld. A.P.O.
for the respondents

JUDGMENT

DATED: MAY 23, 2018

HON'BLE MR. D.K.KOTIA, VICE CHAIRMAN (A)

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

“i) To quash the impugned order dated 07.02.2017 of respondent no. 3.

ii) *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.*

iii) *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 provision 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.*

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

v) *To award the cost of the case."*

2. The petitioner was a Constable in 40th Battalion of the PAC, Uttarakhand Police. After attaining the age of superannuation, the petitioner retired from the post of Head Constable on 31.3.2006.

3. The petitioner has filed the present claim petition for the following two claims:-

- (i) The benefit of 3rd ACP (Assured Career Progression) after completion of 26 years of satisfactory service w.e.f. 01.01.2006 as per the G.O. dated 08.03.2011 (Annexure: A-6).
- (ii) Grant of grade pay of Rs. 4600 in place of 4200 w.e.f. 01.01.2006 in accordance with the G.O. dated 25.09.2013 (Annexure-A 4).

4.1 In regard to the first claim, i.e. the benefit of 3rd ACP, it has been stated by the petitioner that according to the G.O. dated 08.03.2011, he is entitled to get the 3rd ACP. The petitioner gave representation to the Commandant, PAC, Haridwar for granting the 3rd ACP but the representation was rejected by the Commandant, PAC on the ground that the benefit of 3rd ACP was admissible in accordance with the G.O. dated 08.03.2011 w.e.f. 01.09.2008 and since the petitioner had retired on 31.3.2006, he is not entitled to get 3rd ACP as per the G.O. dated 8.3.2011. The same was communicated to the petitioner by the Commandant, 40th Battalion, PAC, Haridwar on 07.02.2017 (Annexure: A-1).

4.2 Respondents No. 1 to 3 in their joint written statement have also stated that the petitioner is not covered under the G.O. dated 08.03.2011 because he had retired from the service on 31.03.2006, while the benefit of 3rd ACP is admissible from 01.09.2008.

4.3 After hearing both the parties and perusing the record, we tend to agree with the contention of learned A.P.O. that the petitioner is not entitled to get 3rd ACP as per the G.O. dated 08.03.2011. The paragraph 1(1) of the said G.O. reads as under:

“(1) उक्त योजना दिनांक 1-01-2006 के पूर्व के वेतनमान रू0 7500-12000 पुनरीक्षित वेतन बैंड में ग्रेड पे रू0 4800 तक के पदधारकों के लिए दिनांक 01-09-2008 से तथा वेतनमान रू0 8000-13000 पुनरीक्षित वेतन बैंड में ग्रेड पे रू0 5400 तथा उससे उपर के वेतन बैंड एवं ग्रेड पे के पदधारकों के लिए दिनांक 01-01-2006 से प्रभावी होगी।”

The petitioner at the time of retirement was in the pay scale of Rs. 5500-175-9000 (pre-revised) which was revised to pay band-II Rs. 9300-34800 with grade pay of Rs. 4200 as per the

recommendations of the 6th Pay Commission. The provision of the G.O. as quoted above makes it clear that the persons whose grade pay was upto Rs. 4800 were eligible for the benefit of ACP w.e.f. 01.09.2008. The grade pay of the petitioner was Rs. 4200 and, therefore, the petitioner is not entitled for the benefit of 3rd ACP w.e.f. 01.01.2006 according to the G.O. dated 08.03.2011. The petitioner has also stated that vide G.O. dated 30.10.2012 (Annexure: A-7), the G.O. dated 8.3.2011 was amended and the cut-off date for granting the benefit of ACP was changed from 01.01.2006 to 01.09.2008 to disadvantage of the petitioner. Perusal of G.O. dated 30.10.2012 (Annexure: A-7) reveals that no amendment has been made with respect to cut-off date for granting the benefit of ACP to the employees from 01.01.2006 to 01.09.2008. The persons who were drawing the pay with grade pay upto Rs. 4800 are entitled for the benefit of 3rd ACP w.e.f. 01.09.2008 as per the G.O. dated 08.3.2011 and no change has been made in the G.O. dated 08.03.2011 by G.O. dated 30.10.2012 in this regard. The amendment in the G.O. dated 30.10.2012 has been made in respect of employees with grade pay of Rs. 5400 and above and cut-off date in respect of such employees also has been changed from 01.01.2006 to 01.09.2008.

4.4 In view of paragraphs 4.1 to 4.3 above, we find that the petitioner is not entitled for the benefit of 3rd ACP as per the G.O. dated 8.3.2011 as he had retired on 31.03.2006.

5. The second claim of the petitioner in the present claim petition is regarding grade pay. It is the contention of the petitioner that he retired from service in the pre-revised pay scale of Rs. 5500-175-9000 and by G.O. dated 17.10.2008 (Annexure: A-2), he was given the pay band—II Rs. 9300-34800 with grade pay of Rs. 4200 w.e.f. 01.01.2006. Petitioner has submitted that the G.O.

dated 17.10.2008 was amended by G.O. dated 25.09.2013 (Annexure:A-4) and according to this G.O., the petitioner is entitled to get grade pay of Rs. 4600. The petitioner has also stated that a representation was given by him on 31.10.2015 (Annexure: A-5) for sanction of grade pay of Rs. 4600 in place of Rs. 4200 which remained undecided. The petitioner has also pointed out at the "fitment table" enclosed with the G.O. dated 25.09.2013 by which grade pay of Rs. 4600 has been allowed w.e.f. 01.01.2006 to the employees working in the pre-revised pay scale of Rs.5500-175-9000. Without showing any details regarding non-applicability of the G.O. dated 25.09.2013 in respect of petitioner's grade pay, learned A.P.O. mentioned that only the Sub Inspectors were entitled to get the grade pay of Rs. 4600. Neither in the pleadings nor at the time of hearing, respondents could show as to why the petitioner is not entitled for grade pay of Rs. 4600 (in place of Rs. 4200) as per the amendment in the G.O. dated 17.10.2008 vide G.O. dated 25.09.2013.

4. After the arguments for a while, learned counsel for the petitioner confined his prayer for allowing him to submit a representation to the respondent No. 3 regarding sanction of Rs. 4600 grade pay as per the G.O. dated 25.09.2013 and the same may be decided by the respondent no. 3 by passing a reasoned and speaking order. Learned A.P.O. has also no objection to this prayer. Considering the facts of the case, innocuous prayer of the petitioner is worth accepting. Claim petition is, accordingly, disposed of by directing petitioner to move a representation before respondent No.3 regarding sanction of Rs. 4600 as Grade Pay, along with a copy of this Order within a period of two weeks. Respondent No.3, thereafter, is directed to decide such representation of the petitioner, by a reasoned and speaking order, in accordance with the G.O. dated 25.09.2013 within a

period of three months after the presentation of certified copy of this order along with a copy of representation. The decision taken by respondent No. 3 shall be communicated to the petitioner soon thereafter. No order as to costs.

(RAM SINGH)
VICE CHAIRMAN (J)

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

DATE: MAY 23, 2018
DEHRADUN

KNP