

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

Present: Hon'ble Mr. Ram Singh

----- Vice Chairman (J)

Hon'ble Mr. D.K.Kotia

-----Vice Chairman (A)

**CLAIM PETITION NO. 05/NB/SB/2015**

Naveen Chandra Bhatt, S/o Sri Prem Ballabh Bhatt, Retd. Junior Engineer,  
Vill.- Dhankhal, P.O. Dwarahat, District- Almora.

.....Petitioner

**VERSUS**

1. State of Uttarakhand through Secretary, Energy, Dehradun.
2. Managing Director, Power Corporation, Uttarakhand, Urja Bhawan, Kanwali Road, Dehradun.
3. Executive Engineer, Electricity Distribution Division, Uttarakhand Power Corporation, Ranikhet, District Almora.
4. Senior Accountant Officer, Pension Division, Uttarakhand Power Corporation Ltd. Urja Bhawan, Kanwali Road, Dehradun.
5. Deputy Chief Accountant Officer (Finance), Urja Bhawan, Kanwali Road, Dehradun.

.....Respondents

Present: Sri Vinod Tiwari, Ld. Counsel  
for the petitioner  
Sri V.P. Devrani, Ld. A.P.O.  
for the Respondent No. 1  
Sri Rajendra Arya, Ld. Counsel  
for the respondents No. 2 to 5

**JUDGMENT**

**DATED: May 08, 2018**

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

1. The petitioner has filed this claim petition for seeking following relief:-

*“i. To pass an order against the respondents to reimburse the amount of interest as per the present bank rate on the delayed payment of pensionary benefits to the petitioner.*

*ii. To pass any other suitable order as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.*

*iii. To allow the claim petition with cost.”*

2. The petitioner was a Junior Engineer in the Electricity Distribution Division, Ranikhet, district Almora under Uttarakhand Power Corporation Ltd. (UPCL). The petitioner after attaining the age of superannuation retired on 30.06.2011. The grievance of the petitioner is that he was paid his retiral benefits (pension and gratuity) after undue delay on the part of the respondents. The Pension Payment Order (PPO) was issued on 06.10.2012. The petitioner by this claim petition has claimed interest for delay in payment on amount of gratuity and the amount of pension arrears. It has been submitted by the petitioner that he had submitted all the relevant documents for the sanction of retiral dues to the concerned officer at Ranikhet on time but due to the inaction of the respondents, his pension and gratuity was released after one and half years, which caused great financial hardship to the petitioner. Due to financial difficulty, the marriage of daughter of the petitioner could not take place and his reputation in the society is adversely affected.

3. The petitioner gave many representations for release of pension and gratuity on time but the authority did not respond and delayed the payment by more than one year. After release of his pension and gratuity on 06.10.2012, he gave representation to make payment of interest for delay in releasing his pension and gratuity but of no avail.

4. Respondents No.1 to 4 have opposed the claim petition and have stated that the petitioner handed over the charge and submitted no dues certificate (NOC) on 16.12.2011; the salary of the employees of UPCL was refixed after 5<sup>th</sup> Pay Commission in January 2012; the service book of the petitioner was verified thereafter on 01.04.2012; the service book of the petitioner was got completed in July 2012; the petitioner was also requested to remove deficiencies in his pension papers in March 2012; thereafter, the pension papers of the petitioner were processed; it was also found that an amount of Rs.1100 which was paid to the petitioner in 1986 was also recoverable and the same was deposited by the petitioner on 20.07.2012; after that, the pension and gratuity of the petitioner was released on 6.10.2012. The contention of the respondents is that the payment of retiral dues was not delayed on account of fault of the respondents, rather petitioner himself is responsible for the delay. Therefore, the petitioner is not entitled for any relief in the form of interest on delay in payment of the pension and gratuity.

5. **THE QUESTION BEFORE US FOR ADJUDICATION IS WHETHER THE PETITIONER IS ENTITLED TO GET INTEREST ON PAYMENT OF RETIRAL DUES FOR THE PERIOD OF DELAY OR NOT?**

6. The respondents admit that the matter of retiral benefits of the petitioner is covered by the उत्तरांचल पेंशन के मामलों का (प्रस्तुतीकरण, निस्तारण और विलम्ब का परिवर्जन) नियमावली, 2003. It would be appropriate to look at the relevant provisions of the "Rules of 2003" which are extracted below:-

“उत्तरांचल शासन  
वित्त अनुभाग- 4  
संख्या 1033/वित्त अनु0-4 / 2003  
देहरादून, 10 नवम्बर, 2003

अधिसूचना संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्ति का प्रयोग करके राज्यपाल निम्नलिखित नियमावली बनाते हैं, अर्थात्-

उत्तरांचल पेंशन के मामलों का (प्रस्तुतीकरण, निस्तारण और विलम्ब का परिवर्जन )नियमावली, 2003

1. (1).....
- (2).....

2. जब तक कि विषय या संदर्भ में कोई बात प्रतिकूल न हो, इस नियमावली में—

(क).....

(ख) “विलम्ब” का तात्पर्य समय— अनुसूची से अधिक अवधि से है

.....

(ट) “समय अनुसूची” का तात्पर्य अनुसूची के स्तम्भ -2 में विनिर्दिष्ट किसी कार्य के सम्बन्ध में स्तम्भ-3 में विनिर्दिष्ट समय से है ।

3. किन्हीं अन्य नियमों या आदेशों में अन्तर्दिष्ट किसी बात के प्रतिकूल होते हुए भी, यह नियमावली प्रभावी होगी ।

4. (1).....

(2).....

(3).....

(4) सम्यक रूप से पूर्ण पेंशन के कागज—पत्रों को सभी सुसंगत दस्तावेजों के साथ उसके संबंध में अनुसूची में विनिर्दिष्ट समय के भीतर पेंशन स्वीकृतकर्ता प्राधिकारी को भेजा जायेगा ।

(5) मुख्य नोडल अधिकारी/नोडल अधिकारी और पेंशन स्वीकृतकर्ता प्राधिकारी पेंशन के मामलों का समय अनुसूची के भीतर निस्तारण सुनिश्चित करेगा ।

(6) पेंशन स्वीकृतकर्ता प्राधिकारी ऐसे अधिकारियों/ पदधारियों की नियमित मासिक बैठक आयोजित करेगा या आयोजित होने देगा, जो ऐसे मामलों में व्यवहार करते हों और ऐसे मामलों के परीक्षण और निस्तारण के लिए सभी समुचित कदम उठायेगा ।

(7) .....

#### अनुसूची

[नियम 2 (ख) और (ट) देखिये]

#### समय —अनुसूची

क्र० सं०	कार्य का विवरण	समय जिसके भीतर कार्य किया जाना है	कार्य के लिये उत्तरदायी व्यक्ति
1	2	3	4
1.....			
2.	सेवा पुस्तिका का पुनर्विलोकन और कमी यदि कोई हो, का पूरा किया जाना	सेवानिवृत्ति के आठ मास पूर्व	1— संबंधित अधिष्ठान लिपिक 2— कार्यालय का अधीक्षक 3— कार्यालयाध्यक्ष
3.	अदेयता प्रमाण— पत्र का जारी किया जाना	सेवानिवृत्ति के दो मास पूर्व अवधि में	कार्यालयाध्यक्ष
8.	पेंशन प्रपत्रों का अग्रसारण:	सेवानिवृत्ति के पाँच मास पूर्व	कार्यालयाध्यक्ष/ विभागाध्यक्ष
13.	(पेंशन/उपादान/पेंशन के या सारांशीकरण) के भुगतान आदेश पर का जारी किया जाना	सेवानिवृत्ति की संध्या तक	1— लेखाकार 2—सहायक लेखाधिकारी 3—पेंशन भुगतान आदेश जारी करने वाला अधिकारी आज्ञा से
.....			

इन्दु कुमार पाण्डे,  
प्रमुख सचिव, वित्त ।”

7. “Rules of 2003” have been framed under proviso to Article 309 of the Constitution of India. Perusal of “Rules of 2003” reveals that “time period” within which various actions are to be taken for disposing of the pension matter has been fixed along with the person responsible to do that work in the “Schedule” of the Rules. According to the prescribed period in the schedule, any deficiency in the Service Book is to be completed eight months before the retirement. “No Dues Certificate” is to be issued by the “Head of the Office” two

months before the retirement. All other necessary actions to process the papers of the pension are to be taken by various authorities of the department and the pension, gratuity etc. are to be paid to the employee on the date of his retirement.

8. The respondents have contended that the delay in sanction of retiral benefits has taken place because the petitioner did not submit No Dues Certificate. This reason given by the respondents cannot be accepted in view of the 'Rules of 2003'. Perusal of the 'Schedule' of the said Rules reveals that that NOC is required to be issued two months before the retirement of an employee by the Head of the Office. "Rules of 2003" do not provide that the NOC was to be submitted by the petitioner. Admittedly, there were 'no dues' against the petitioner and the NOC was issued by the department after nearly 5 months on 16.12.2011 though the petitioner had retired on 30.06.2011 and according to the 'Rules of 2003', it should have been issued by 30.04.2011. 'Rules of 2003' also lay down the time schedule for completing the service book by the department 8 months before the retirement of an employee and pending matters were also required to be processed by the department well before the retirement of the petitioner so that he could be paid pension and gratuity immediately after the retirement. It is crystal clear that the respondents have processed the matter of the retiral benefits of the petitioner in a careless manner and they have not at all followed the time schedule prescribed under the 'Rules of 2003'. It is also undoubtedly clear that the petitioner is not at all responsible for delay in processing of his pension papers. The respondent department is fully responsible for the delay in payment of the pension and gratuity to the petitioner. We, therefore, of the view that the petitioner is entitled to get interest on retiral benefits for the period of delay.

9. Learned A.P.O. was asked whether there are any rules/administrative orders in respect of situations where "interest" is

payable for delay in payment of retiral benefits, etc. Learned A.P.O. stated that the Government of Uttarakhand has issued a Government Order (G.O.) on 10.08.2004 dealing with “सेवानैवृत्तिक लाभ का समय से भुगतान, न्यायिक/विभागीय कार्यवाही की समाप्ति पर ग्रेच्युटी के विलम्ब से अदायगी के भुगतान पर ब्याज का भुगतान।” The said G.O. is reproduced below:

“संख्या-979/XXVII(3)पे/2004

प्रेषक,

इन्दु कुमार पाण्डे  
प्रमुख सचिव  
उत्तरांचल शासन।

सेवा में,

समस्त विभागाध्यक्ष एवं  
प्रमुख कार्यालयध्यक्ष  
उत्तरांचल।

वित्त अनुभाग-3

देहरादून: दिनांक 10 अगस्त, 2004

विषय: सेवानैवृत्तिक लाभ का समय से भुगतान, न्यायिक/विभागीय कार्यवाही की समाप्ति पर ग्रेच्युटी के विलम्ब से अदायगी के भुगतान पर ब्याज का भुगतान।

महोदय,

आप अवगत है कि राज्य सरकार द्वारा पेन्शनरो/पारिवारिक पेन्शनरों को अनुमन्य देयों का भुगतान समय से करने के सम्बन्ध में समय-समय पर विस्तृत आदेश निर्गत किए गये हैं। प्रशासनिक कारणों से “ग्रेच्युटी” की अनुमन्य धनराशि के समय से भुगतान न होने पर भुगतान अनुमन्य होने की तिथि से तीन माह की अवधि के बाद ब्याज दिये जाने की व्यवस्था की गई है।.....

2. शासन के संज्ञान में यह बात आई है कि प्रायः कर्मचारियों द्वारा ग्रेच्युटी के भुगतान में विलम्ब होने पर चक्रवृद्धि ब्याज दिये जाने की मांग की जाती है। उक्त के परिप्रेक्ष्य में स्थिति को स्पष्ट करते हुए मुझे यह कहने का निदेश हुआ है कि ग्रेच्युटी पर ब्याज के भुगतान की दर वही रखी गई है जो संगत अवधि में सामान्य भविष्य निधि खाते में जमा धनराशि पर ब्याज की हो, किन्तु चक्रवृद्धि ब्याज दिए जाने का कोई प्राविधान नहीं है। अतः ग्रेच्युटी पर तीन माह से अधिक विलम्ब पर भुगतान की अवधि में नियमानुसार साधारण ब्याज का ही भुगतान अनुमन्य होगा और उसकी दर संगत अवधि में सामान्य भविष्य निधि खाते में जमा धनराशि पर अनुमन्य ब्याज की दर के समान होगी।

3.(1).....

(2).....

(3) सेवानिवृत्त कर्मचारी के सेवानैवृत्तिक लाभों के भुगतानादेश सेवानिवृत्ति की तिथि को ही निर्गत किए जाने के प्राविधान है तथा इस सम्बन्ध में समय-समय पर शासनादेश भी निर्गत किए गये हैं। सेवानैवृत्तिक लाभों को समय से भुगतान करने के सन्दर्भ में भारतीय संविधान के अनुच्छेद 309 के अधीन उत्तरांचल पेन्शन के मामलों का (प्रस्तुतीकरण, निस्तारण और विलम्ब का परिवर्जन) उत्तरांचल नियमावली, 2003 अधिसूचना संख्या-1033/वित्त

अनु0-4/2003, दिनांक 10 नवम्बर, 2003 को निर्गत की जा चुकी है। उक्त नियमावली में पेनशन प्रकरणों के निस्तारण हेतु समय सारणी भी निर्धारित है तथा विलम्ब के लिए दोषी कार्मिकों को विरुद्ध दण्ड दिए जाने की भी व्यवस्था है। यह पुनः स्पष्ट किया जाता है कि उपर्युक्त नियमावली का कड़ाई से अनुपालन सुनिश्चित करें तथा कर्मचारी को सेवानिवृत्ति की तिथि को सेवानिवृत्तिक लाभों के भुगतानादेश निर्गत किए जाय तथा यदि पेन्शन निर्धारण में विलम्ब की सम्भावनना हो तो उक्त स्थिति में अनन्तिम पेन्शन का भुगतान किया जाय।

4. यदि प्रशासनिक कारणों से ग्रेच्युटी का भुगतान निर्धारित तिथि से तीन माह बाद किया जाता है तो भुगतान अनुमन्य होने की तिथि से तीन माह से अवधि के बाद से निर्धारित दर पर ब्याज दिया जायेगा। यदि यह निर्णीत हो जाता है कि ग्रेच्युटी का भुगतान किया जाना है तो इसका भुगतान तुरन्त कर दिया जाय और ब्याज की मद पर शीघ्र निर्णय लेकर कार्यवाही की जाय। ऐसा करने से ब्याज की मद में दी जाने वाली धनराशि में बचत की जा सकेगी। परन्तु यह ब्याज केवल उन्हीं परिस्थितियों में दिया जायेगा जहाँ यह स्पष्ट रूप से सिद्ध हो कि ग्रेच्युटी के भुगतान में विलम्ब प्रशासनिक त्रुटि के कारण अथवा उन कारणों से हुआ है जो सम्बन्धित सरकारी कर्मचारी के नियंत्रण के बाहर हो। ब्याज के भुगतान के प्रत्येक मामले में शासन के प्रशासनिक विभाग द्वारा विचार किया जायेगा और ब्याज का भुगतान शासन द्वारा ही प्राधिकृत किया जायेगा। जिन मामलों में ब्याज का भुगतान किया जाना होगा उन सभी मामलों में विलम्ब के लिए दोषी अधिकारी/कर्मचारी के विरुद्ध अनुशासनिक कार्यवाही भी की जायेगी तथा ब्याज के रूप में भुगतान की गई धनराशि की वसूली दोषी व्यक्तियों से उनके वेतन के अनुपात में की जाये।

5. सेवानिवृत्त कार्मिक अपनी पेन्शन के एक भाग के राशिकरण की धनराशि को विलम्ब से भुगतान किए जाने पर यदि ब्याज की मांग करते हैं तब ऐसे प्रकरणों हेतु स्पष्ट किया जाता है कि उक्त नियम के अधीन देय धनराशि के विलम्ब से भुगतान पर कोई ब्याज देय नहीं है, क्योंकि पेन्शन के एक भाग की राशिकृत मूल्य की स्वीकृति हो जाने पर भी उसके भुगतान की तिथि तक पेन्शन एवं देय मंहगाई राहत का भुगतान होता है।.....

कृपया उपरोक्त प्रस्तरों में स्पष्ट की गयी स्थिति का कड़ाई से अनुपालन सुनिश्चित किया जाय।

भवदीय

इन्दु कुमार पाण्डे  
प्रमुख सचिव, वित्त

10. The perusal of above G.O. reveals the following:-

- (i) If the payment of gratuity is delayed due to administrative reasons or reasons beyond the control of the employee, he will be paid interest on delayed payment of the gratuity for the delay beyond three months from the date of his retirement.
- (ii) The interest for delay in payment of gratuity (for the delay beyond three months from the date of retirement) will be paid at the same rate at which the interest is payable on General Provident Fund during that period.

- (iii) The rate of interest would be simple (not compounding) rate of interest.
- (iv) The interest for delay when permissible is payable automatically irrespective of claiming it by the employee.
- (v) No interest is payable for delay on commuted part of pension.

11. In the present case, the amount of gratuity was paid to the petitioner (who retired on 30.06.2011) on 06.10.2012. The gratuity could not be paid on time due to administrative fault and the petitioner is not responsible for the same. Thus, the delay in payment of gratuity is not attributable to the petitioner. The case of the petitioner is squarely covered by G.O. dated 10.08.2004 reproduced in paragraph 9 of this order and, therefore, the petitioner is entitled for simple interest from 01.10.2011 (three months after the retirement) to 06.10.2012 at the rate at which interest is payable on General Provident Fund during that period on the amount of gratuity paid to the petitioner on 06.10.2012.

12. In so far as delay in payment of arrears of pension is concerned, learned A.P.O. has argued that unlike gratuity, there is no Rule or Government Order for payment of interest on arrears of pension. In the **case S.K.Dua vs. State of Haryana and Another (2008)1 Supreme Court Cases (L&S) 563**, the Hon'ble Supreme Court has held that even in the absence of specific Rule or order for providing interest, an employee can claim interest on the basis of Articles 14, 19 and 21 of the Constitution of India as retirement benefits are not a bounty. The relevant paragraph 13 of the judgment are reproduced below:

**"13. .... If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution**



**relying on Articles 14,19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of "bounty" is, in our opinion, well founded and needs no authority in support thereof. ...."**

13. In the case of **D.D. Tiwari (D) Versus Uttar Haryana Bijli Vitran Nigam Ltd. & Others Civil Appeal No. 7113 of 2014 (arising out of SLP ( C) no. 19 25015 of 2011)**, Hon'ble Supreme Court has held in paragraph 3 as under:-

*"3. .... The retiral benefits of the appellant were withheld by the respondents on the alleged ground that some amount was due to the employer. The disciplinary proceedings were not pending against the appellant on the date of his retirement. Therefore, the appellant approached the High Court seeking for issuance of a direction to the respondents regarding payment of pension and release of the gratuity amount which are retiral benefits with an interest at the rate of 18% on the delayed payments. The learned single Judge has allowed the Writ Petition vide order dated 25.08.2010, after setting aside the action of the respondents in withholding the amount of gratuity and directing the respondents to release the withheld amount of gratuity within three months without awarding interest as claimed by the appellant. The High Court has adverted to the judgments of this Court particularly, in the case of **State of Kerala & Ors. Vs. M. Padmanabhan Nair, wherein this Court reiterated its earlier view holding that the pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement, but, have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be dealt with the penalty of payment of interest at the current market rate till actual payment to the employees.** The said legal principle laid down by this Court still holds good in so far as awarding the interest on the delayed payments to the appellant is concerned....."*

14. In the present case, the pension and gratuity which are retiral benefits, were due to be paid to the petitioner at the time of his retirement on 30.06.2011. As has been mentioned in detail in preceding paragraphs of this order, the delay in payment of retiral benefits is not attributable to the petitioner. There is no fault of the petitioner for delay. **It is very surprising to note that the interim**

**pension was also not paid to the petitioner on his retirement.** Thus, it is fair and just to pay interest for the delay in payment of pension also to the petitioner. It is fully justified to give interest to the petitioner on equitable grounds as respondents unjustifiably withheld the pension of the petitioner without any fault of the petitioner. In so far as rate of interest on period of delay for payment, the scheme of G.O. dated 10.08.2004 (reproduced in paragraph 9 of this order) with regard to gratuity can be applied in respect of pension also. Thus, we are of the opinion that the petitioner should be paid simple interest on monthly pension (arrears) from 01.10.2011 (three months after the retirement) till the date of payment at the rate at which interest is payable on General Provident Fund during that period.

15. For the reasons stated in preceding paragraphs, the claim petition deserves to be allowed.

#### **ORDER**

The claim petition is hereby allowed. Respondents are directed to pay to the petitioner (i) interest on monthly pension (arrears) from 01.10.2011 till the date of actual payment; and (ii) interest on gratuity from 01.10.2011 till the date of actual payment. The rate of interest shall be the simple rate of interest payable on General Provident Fund during the relevant period. The petitioner will be paid the amount of interest as above within a period of three months from the date of copy of this order is received by the respondents. No order as to costs.

Sd/-

**(RAM SINGH)**  
VICE CHAIRMAN (J)

Sd/-

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

*DATE: MAY 08, 2018*  
*NAINITAL*  
*KNP*