

**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. 18/DB/2018**

Brijpal Singh aged about 61 years, s/o Late Shri Kehar Singh, Village Bhaisi,  
District Muzzafarnagar.

.....Petitioner

**VS.**

1. State of Uttarakhand through Secretary, Agriculture, Secretariat, Subhash Road, Dehradun.
2. Director, Agriculture, Agriculture Directorate, Nanda-Ki-Chowki, Dehradun.
3. Sri P.K.Singh, Inquiry Officer/ Joint Director, Incharge Kumaun Mandal, Haldwani.
4. The Chief Agriculture Officer, Dehradun.

.....Respondents.

Present: Ms. Anupama Gautam and Sri A.S.Bisht, Counsel for the petitioner.  
Sri U.C.Dhaundiyal, A.P.O., for the Respondents.

**JUDGMENT**

**DATED: JULY 04, 2018**

**Justice U.C.Dhyani (Oral)**

By means of present claim petition, petitioner seeks to quash the inquiry report dated 31.03.2017 and punishment order dated 01.07.2017, on the basis of such inquiry report. The petitioner also seeks to direct the respondents to release him payment of pension, gratuity, LIC and encashment of E.L. along with interest from the day these have become due to the petitioner till payment.

2. Facts, giving rise to present claim petition, are as follows:

Petitioner served the department of Agriculture from 1986 to 2017. When petitioner retired on 31.10.2017, he was posted as Assistant Agriculture Officer, Grade-II in Soil Testing Lab of the Directorate of Agriculture at Dehradun.

In the year 2010, petitioner was posted as *Nyay Panchayat Prabhari* in Goverdhanpur, Haridwar. At that time *Dhencha Seeds* were purchased by the department. Higher Officers of the Directorate of Agriculture misappropriated huge amount of money. Sri Madan Lal, the then Director was issued charge sheet on 26.11.2013. Petitioner too received charge sheet on 19.10.2011. The charge sheet was issued by one Sri K.C.Pathak, who was neither appointing authority of the petitioner, nor could have signed the same in the capacity of inquiry officer/ punishing authority. Petitioner replied the charge sheet. Said charge sheet was recalled and another charge sheet was issued on the selfsame day. Documents were not supplied to the petitioner. Petitioner somehow managed to reply the charge sheet on 04.12.2015. Respondent No. 3 was appointed as inquiry officer on 12.01.2016. He prepared the inquiry report on 31.03.2017 arbitrarily.

Respondent No.4 has been immediate senior of the petitioner. All the payments for purchase of *Dhencha Seeds* were made by him. No financial transaction was conducted by the petitioner. Inquiry was conducted by respondent No.3, who never visited the spot. Punishment order was passed by Respondent No.2 on 01.07.2017. There are many fallacies in the inquiry report. The same is vitiated..

Petitioner filed departmental appeal against the punishment order on 14.07.2017. He retired on 31.10.2017 from Soil Testing Lab, Dehradun, but his appeal has not been decided.

3. C.A./W.S. has been filed on behalf of the respondents. In the C.A., following has been stated, among other things:

**(i) Pension, gratuity, commutation has been paid to the petitioner on May,23, 2018.**

- (ii) 90% of G.P.F. has been released in favour of the petitioner on 24.10.2018
- (iii) Remaining 10% of GPF has been paid to the petitioner on 29.05.2018.
- (iv) GIS has been released in favour of petitioner on 18.04.2018.
- (v) Amount equivalent to 300 days' leave encashment was received in the office of Chief Agriculture Officer, Dehradun on 04.06.2018. The same has been sent to the office of Additional Director Agriculture, Garhwal Division, Pauri on 05.06.2018 for sanction. As soon as the same is sanctioned by the Addl. Director, the amount of leave encashment shall be released in favour of the petitioner.
- (vi) Efforts have been made to release the retiral dues of the petitioner at an earliest. However, if there has been any delay in releasing the same, that is procedural and not deliberate.

4. Although R.A. has also been brought on record, but a perusal of the W.S./C.A. indicates that the respondent department has paid all the retiral dues to the petitioner except the amount of leave encashment, which, according to the deponent Chief Agriculture Officer, shall shortly be released in favour of the petitioner, once the same is sanctioned by Addl. Director, Agriculture.

5. **It, therefore, follows that most of the grievances of the petitioner have been redressed.**

6. Now comes the question of setting aside the inquiry report and punishment order, on the basis of such report. **It has already been indicated by the petitioner in Para 4(XIII) that the departmental appeal filed by the petitioner, against the punishment order, has not yet been decided.** Although the petitioner has given notice under Section 4(6) of the U.P. Public Services Tribunal Act, 1976 and the claim petition is in order because it will be presumed that the petitioner has exhausted all the other legal remedies, **still this Court feels appropriate to direct the appellate authority to decide the departmental appeal of the petitioner, in time bound manner, in accordance with law.**

7. During the course of arguments, Ld. Counsel for the petitioner confined her prayer only to the extent that the appellate authority be

directed to decide the appeal of the petitioner within 4 weeks, to which Ld. A.P.O. has no objection. In fact, departmental Pairokar, who was present in person before the Court, also stated that hearing on departmental appeal is already going on and hopefully the same should be decided at an early date. In Claim Petition No. 12/DB/2016, Suresh Chand Singh vs. State and others also, this Tribunal had directed the appellate authority to conclude the departmental appeal as early as possible. In order to maintain consistency in its approach, the Court deems it appropriate to pass the same order in respect of present petition as well.

8. Respondent No.1 is, accordingly, directed to make an endeavour to decide the departmental appeal of the petitioner at an earliest possible and at any rate within 4 weeks of presentation of certified copy of this order, by a reasoned and speaking order, in accordance with law.

Needless to say that the decision so taken, shall be communicated to the petitioner soon thereafter

9. We hope and trust that leave encashment amount shall also be disbursed to the petitioner within a period of three weeks from today.
10. The claim petition thus stands disposed of. No order as to costs.
11. It is made clear that we have not expressed any opinion on the merits of the claim petition.

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

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: JULY 04, 2018*  
*DEHRADUN*