

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

CLAIM PETITION NO. 25/DB/2018

Dr. Mahendra Pal Singh Grewal, s/o Sri Santa Singh, r/o Brar Nagar, Rampur Road, Rudrapur, District Udham Singh Nagar.

.....Petitioner

vs.

1. State of Uttarakhand through Additional Director of Education, Kumaun Region, Nainital, District Nainital.
2. District Education Officer, Udham Singh Nagar.
3. Principal, Aditya Nath Jha Inter College, Rudrapur, District Udham Singh Nagar.

.....Respondents.

Present: Sri V.P.Sharma, Counsel
for the petitioner.

Sri U.C.Dhaundiyal and
Sri V.P.Devrani, A.P.Os.
for the Respondents.

JUDGMENT

DATED: AUGUST 13, 2018

Justice U.C.Dhyani(Oral)

By means of present claim petition, petitioner seeks following reliefs:

“(i) To issue order or direction to the respondents to pay all the retiral benefits to the petitioner as such pension from 01.04.2006 to till date and future pension, gratuity, commutation of the pension, G.P.F., Leave encashment, G.I.S. and other benefits which are payable to the petitioner on the date of his superannuation along with 18% interest per annum from 01.04.2006 till the date of actual payment. .

(ii) Any other relief which the Hon'ble Court may deem fit and proper in the circumstances of the case.

(iii) To award cost of this petition to the petitioner.”

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

Petitioner served the respondents for the period 02.08.1986-31.03.2006, as Assistant Teacher (Punjabi). When the petitioner was refused joining in the year 1996, he filed a claim petition in U.P. Public Services Tribunal, Lucknow, being claim petition No.416/1996. Said claim petition was transferred to Uttarakhand Public Services Tribunal, Dehradun and was renumbered as 125/T/2002. After hearing, the claim petition was allowed, *vide* order dated 01.06.2011, as follows:

“The petition is partly allowed. Opposite parties are directed to pay the petitioner regular salary w.e.f. 08.03.1996 till the age of superannuation of the petitioner from the post of Assistant Teacher in Punjabi in the pay scale of Rs.1350-2070/- as revised from time to time along with all consequential benefits. No order as to costs.”

Aggrieved against the same, respondents filed Writ Petition No. (SB) 58/2012 before Hon'ble High Court of Uttarakhand at Nainital, which writ petition was dismissed *vide* order dated 06.12.2016 and order of the Tribunal was affirmed. Said judgment has been brought on record as Annexure: A 2. Despite the order of the Hon'ble High Court, order of the Tribunal was not complied with, and therefore, petitioner was compelled to file a contempt petition, being No. C-74/2011, before this Tribunal.

Petitioner repeatedly requested the respondents to pay pension and other retiral benefits, but the same have not been paid to the petitioner. Respondents paid salary for the period from 08.03.1996-31.03.2006, amounting to Rs. 9,79,937/-. From 01.04.2006, till date, no pension has been paid to the petitioner for the period 02.08.1986 to 31.03.2006.

It is also averred in the claim petition that Gratuity, Provident Fund and other retiral benefits have not been paid to the petitioner.

Other benefits such as, Group Insurance , Leave Encashment and Commutation of Pension have also not been paid to the petitioner. It is, therefore, prayed that entire retiral benefits with interest @ 18% per annum may kindly be directed to be paid to the petitioner by the respondents.

3. Payment of entire retiral dues was, and is to be made, by Respondent No.3, who has filed C.A./W.S. In the Counter Affidavit, filed by Sri Om Prakash Shukla, Principal, A.N.Jha Inter College, Rudrapur (Respondent No.3), it has been stated that salary for the period 08.03.1996 to 31.03.2006 has been paid to the petitioner. It is admitted in C.A. that no retiral benefits have been given to the petitioner. It has further been stated in the C.A. that the petitioner remained on leave without pay from 05.01.1988 to 30.04.1988. Whereas, the submission of Ld. Counsel for the petitioner is that petitioner has completed twenty years of service with respondent No.3, it is the submission of Ld. A.P.Os. that petitioner has not completed twenty years of qualifying service for the purpose of pension. Ld. Counsel for the petitioner replied that even if submission of Ld. A.P.Os. be conceded to be true, for the sake of arguments, the petitioner is entitled to proportionate pension, as per Rules. The Court finds substance in such submission of Ld. Counsel for the petitioner.
4. Since it is the admission of respondent No.3 in his C.A./W.S. that, no retiral benefits have been given to the petitioner, therefore, the respondents are directed to release all the retiral benefits, including Gratuity, Commutation of Pension, G.P.F., Leave Encashment, if any, G.I.S. within a period of twelve weeks from the date of presentation of certified copy of this order before the appropriate authority.
5. The next 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, if any, pension and GPF?

6. 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 respect.
7. 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. Ld. A.P.Os. 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.Os. 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 etc. is concerned.
8. Respondent No.3 is, therefore, directed to pay to the petitioner (i) interest on monthly pension from 01.06.2011 (the date of Tribunal's judgment) till the date of actual payment; (ii) interest on the amount of gratuity from 01.06.2011 till the date of actual payment; and (iii) interest on the amount of leave encashment, if any, from 01.06.2011 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.
9. 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 01.06.2011 till the date of actual payment, according to the GPF rates of interest prevalent from time to time during the aforesaid period. Order accordingly.

10. Respondent No. 3 is 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 him.
11. The claim petition is, accordingly, allowed. No order as to costs.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: AUGUST 13, 2018
DEHRADUN

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