

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

Present: Hon'ble Mr. Justice U.C.Dhyani
----- Chairman

Hon'ble Mr. A.S.Nayal
-----Member (A)

CLAIM PETITION NO.22/DB/2019

Swaraj Singh s/o Sri Sunehra Singh aged about 42 years r/o N-124, Shivalik Nagar, BHEL, Haridwar, presently posted as Workshop Instructor Government Polytechnic Quanshi Chakrata, Dehradun, District Dehradun & four others

.....Petitioner

VS.

1. State of Uttarakhand through Secretary, Finance Government of Uttarakhand Secretariat, Dehradun, Uttarakhand.
2. Secretary/Upper Secretary Technical Education, State of Uttarakhand, Secretariat Dehradun, District Dehradun.
3. Director, Technical Education Shrinagar, Pauri Garhwal.

.....Respondents.

Present: Sri Sahshank Pandey, Ms. Akanksha Juyal &
Ms. Mohini Bajaj, Counsel for the petitioners.

Sarvsri U.C.Dhaundiya & V.P.Devrani A.P.Os., for the Respondents

JUDGMENT

DATED: FEBRUARY 06, 2019

Justice U.C.Dhyani (Oral)

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

- “ (a) To issue order or direction directing the respondents to call for the records and set aside order dated 12.10.2018 enclosed as Annexure A-1 vide which the representation of the petitioners is rejected.

- (b) To issue order or direction to call for records and strike out words “immediate effect” in the order dated 31.01.2018 vide which the up-gradation of grade pay has been given and substitute it by the words “w.e.f. 01.01.2009 notionally and w.e.f. from 01.03.2013 actually” with all the consequential benefits by applying the principle of severability.

Or

To issue order or direction directing the respondents to upgrade the grade pay of the petitioners to Rs.4600/- notionally from 01.01.2009 and actually from 01.03.2013 as has been done in case of Junior Engineers working in State of Uttarakhand.

- (c) To give any other relief that this Hon’ble Court may deem fit and proper in the circumstances of the case.
 (d) To give cost to the petitioners.”

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

The petitioners are working as Workshop Instructors in Government Polytechnics in the State of Uttarakhand. The post of Workshop Instructor was considered equivalent to Junior Engineers as well as Workshop Instructors working in Government ITI’s of State of Uttarakhand. All the three posts were in the pay scale of Rs.5000-8000 in V Pay Commission. The pay scale of Rs. 5000-8000 was upgraded to pay band of Rs.9300-34800 and grade pay Rs.4200 in VI Pay Commission. This grade pay was upgraded to Rs.4600 *vide* order dated 10.10.2017 for the Junior Engineers working in the State of Uttarakhand *w.e.f.* 01.01.2009 notionally and *w.e.f.* 01.03.2013 actually. The Committee set up for giving parity to the petitioners recommended for up-gradation of grade pay of the petitioners finding them equivalent in rank, status and position. However, the petitioner’s grade pay was upgraded with “immediate effect” *vide* order dated 31.01.2018 thus bringing huge difference in the salaries of the petitioners in comparison to the other similarly situated persons. Hence, present claim petition.

3. The Government Order dated 31.01.2018 (Annexure: A-2) is, therefore, in the teeth of present claim petition. Submission of Ld. Counsel for the petitioner is that the upgraded pay scale should be admissible to the petitioners *w.e.f.* 01.01.2009 to 01.03.2013 notionally and thereafter actually, as has been given to the Junior Engineers working in other departments of State of Uttarakhand.

4. Earlier a representation was given by the petitioners with the prayer to give them upgraded pay scale *w.e.f.* 01.01.2006, which was denied by the respondents department. Now the submission of Ld. Counsel for the petitioners is that the petitioners want to give another representation with the prayer to give them upgraded pay scale *w.e.f.* 01.01.2009 to 01.03.2013 notionally and thereafter, actually.
5. In reply, Ld. A.P.Os. submitted that if the petitioners give such a representation, the same shall be decided by the respondents, in accordance with law.
6. Ld. Counsel for the petitioners, therefore, confined their prayer only to the extent that fresh representation of the petitioners, may kindly be directed to be decided by Respondent No. 2, by a reasoned and speaking order, in accordance with law, which prayer is not opposed by Ld. A.P.Os.
7. The claim petition is, accordingly, disposed of at the admission stage, by directing petitioners to move a fresh representation, as above, to respondent no.2, within a period of one week from today. If such a representation is moved by the petitioners before respondent no.2, it is directed that the same shall be decided by a reasoned and speaking order, in accordance with law, at an earliest possible, but not later than ten weeks of presentation of certified copy of this order along with a copy of the representation, by the authority concerned,.

(A.S.NAYAL)
MEMBER (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: FEBRUARY 06, 2019
DEHRADUN

VM