

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

CLAIM PETITION NO. 29/DB/2019

Sita Ram Sharma, aged about 61 years, s/o Late Sri Parmanand Sharma retired Excise Inspector, Department of State Excise, r/o Balasaur, Brahmpuri, Kotdwar, District Pauri Garhwal.

.....Petitioner

vs.

1. State of Uttarakhand through Secretary, Department of Excise, Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Excise Commissioner, Department of Excise, Uttarakhand, Tehsil Chowk, Dehradun.
3. Assistant Excise Commissioner, Uttarakhand, Collectorate Compound, Dehradun.
4. Director Pension, Treasury & Entitlement, Uttarakhand, Laxmi Road, Dehradun.
5. Accountant General, Uttarakhand, Garhi Cantt, Dehradun.

.....Respondents.

Present: Sri L.K.Maithani, Counsel, for the petitioner.

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

JUDGMENT

DATED: FEBRUARY 20, 2019

Justice U.C.Dhyani(Oral)

By means of present claim petition, petitioner seeks to direct the respondents to sanction pension to the petitioner with penal interest, till the date of actual payment. A further direction has also been sought to pay all the retiral dues, i.e., Gratuity, G.P.F., G.I.S. with penal interest along with arrears, from the date of retirement up to the date of actual payment.

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

Petitioner was initially appointed as Excise Constable on 18.04.1979. He was, thereafter promoted to the post of Head Constable in June, 1998, on the post of Sub-Inspector, Excise in June, 2006, and on the post of Excise Inspector in the year 2016. After serving the department, he attained the age of superannuation on 31.05.2018 (Copy of retirement order is Annexure A-1). It is averred in the claim petition that, till date, no retiral dues have been paid to the petitioner. Copy of Pension Rules, 2003 has been brought on record as Annexure A-2. 'No dues' certificates [Copies: Annexure A-3 (Colly)] have been brought on record with the claim petition. Since retiral dues have not been paid to the petitioner for the last eight months, therefore, petitioner has been compelled to file present claim petition.

3. Annexure: A-1 is the copy of order passed by Assistant Excise Commissioner, Dehradun, to show that the petitioner retired from service on 31.05.2018. Annexure: A-3 is copy of the order dated 02.08.2018, passed by Additional District Magistrate (F&R), Dehradun directing the department to pay pension to the petitioner. On submission of documents by D.D.O. to Treasury, the Treasury made certain queries on 06.10.2018. It appears that those queries have not been replied and, therefore, the matter relating to release of retiral dues of the petitioner is pending with the department, despite the fact that 'no dues' certificates have been issued by the D.D.O., copies of which, as noted above, have been brought on record.
4. When the facts appear to be undisputed, this Court does not think it necessary to direct the respondents to file C.A./W.S.
5. In Government Order No.979/XXVII(3)Pay/2004 dated 10.08.2004, it has been provided, among other things, that the interest will be payable, after three months of the date of retirement.
6. 'No dues' certificates indicate that no proceeding is pending against the petitioner and no Government dues are to be realized from him. Annexure: A-2 contains copy of the Uttarakhand Pension Case

(Submission, Disposal and Avoidance of Delay) Rules, 2003 to indicate that order relating to sanction/ payment of retiral dues of an employee must be issued on the eve of his retirement, which has not been done in the instant case. Whereas the petitioner retired on 31.05.2018, the documents forwarded by DDO were sent to the Treasury on 01.08.2018. As has been noticed above, certain objections have been raised by the Treasury, on such submission, on 06.10.2018, which, it appears, have not been removed.

7. In the backdrop of above noted facts, it may safely be inferred that retiral dues are to be paid to the petitioner, along with interest. The department owes a duty to remove the objections raised by the Treasury on 06.10.2018, at an earliest.
8. The next question, which arises for consideration of this Tribunal is, how much interest should be awarded to the petitioner on delayed payment of Gratuity, Leave Encashment, Pension and G.I.S.
9. 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 context.
10. 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, in so far as grant of interest on delayed payment of gratuity, pension and leave encashment is concerned.

11. Respondents are, therefore, directed to pay to the petitioner (i) interest on monthly pension from 01.09.2018 till the date of actual payment; (ii) interest on the amount of gratuity from 01.09.2018 till the date of actual payment; and (iii) interest on the amount of leave encashment from 01.09.2019 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. Respondents are also directed to release deposits under General Insurance Scheme (GIS) along with admissible interest, to the petitioner, as per Rules, from 01.09.2019 till the date of actual payment.
12. Respondents are, therefore, directed to issue office order and release all the retiral dues along with interest to the petitioner, after removing defects pointed out by the Treasury, within a period of 12 weeks from the date of presentation of certified copy of this order before them. .
13. The claim petition is, accordingly, disposed of. No order as to costs.
14. Liberty is granted to the respondents to move for recall/ review of this order, if the facts turn otherwise.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: FEBRUARY 20, 2019
DEHRADUN

VM