

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

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

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

**CLAIM PETITION NO. 26/DB/2020**

Shri Chandra Singh Rawat, S/o Late Shri Pratap Singh Rawat, R/o Maruti Vihar,  
Balawala, Dehradun.

.....petitioner

versus

1. State of Uttarakhand through Secretary (Energy), Civil Secretariat, Dehradun.
2. Managing Director, PTCUL, Vidut Bhawan, Near ISBT Crossing, Saharanpur Road, Majra, Dehradun-248002.
3. Director (Finance.) PTCUL, Vidut Bhawan, Near ISBT Crossing, Saharanpur Road, Majra, Dehradun-248002.
4. Director (H.R.) PTCUL, Vidut Bhawan, Near ISBT Crossing, Saharanpur Road, Majra, Dehradun-248002.
5. General Manager (Finance.) PTCUL, Vidut Bhawan, Near ISBT Crossing, Saharanpur Road, Majra, Dehradun-248002.

.....Respondents.

Present: Sri Rohit Dhyani, Advocate, for the petitioner.

Sri V.P.Devrani, A.P.O., for Respondent No.1.

Sri Prashant Chamoli, Advocate for Respondents No. 2 to 5.

**JUDGMENT**

**DATED: AUGUST 07, 2020**

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

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

- i) To issue order or direction commanding the respondents to forthwith release the outstanding retiral benefits to the petitioner, details whereof are given herein below:

Head	Amount	Total Month till now	Total Amount without interest	Total Amount with interest @ 12% p.a
Pension after commutation	25,740 8	8 Months till 30th May	2,03,760/-	16,301/-
Dearness Allowance on Pension	17 % of 42,450/-	8 months till 30th May	57,736/-	4619/-
Commutation	16,69,609	One time	16,69,609	1,33,569/-
Gratuity	16,38,995/-	One time	16,38,995/-	1,31,120/-
Total			35,70,100/-	2,85,609/-

- ii) To issue any other suitable, order or direction directing the respondents to give interest @ 12% p.a. on the total amount accrued under all the heads till the date of payment.
- iii) To issue any other suitable, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.
- iv) To award the cost of the claim petition in favour of the petitioner.

2. Petitioner retired from the Power Transmission Corporation of Uttarakhand Ltd.( PTCUL) on 30.09.2019 as Assistant Engineer, 220 KV O&M Division, Jhajhra, Dehradun. Petitioner's pension and other retiral benefits, as stated, have not been sanctioned and released till the filing of present claim petition. It has been stated in the synopsis of the claim petition that the petitioner is about 61 years of age and is suffering from Cancer and Paralysis. Inaction of the department in releasing the pension and other retiral benefits of the petitioner is causing great agony and hardship to him and his family. He has, therefore, been compelled to file the present claim petition.

3. Facts, in brief, are that the petitioner retired from service on 30.09.2019. His retiral dues have not been released despite repeated requests. He is unable to discharge his family obligations. Petitioner was initially appointed in erstwhile U.P. State Electricity Board (UPSEB). He retired on 30.09.2019 from the post of Assistant Engineer from the office of Executive Engineer, 220 KV, O&M Division, Jhajhra, Dehradun.

*Vide* letter dated 14.01.2020, Senior Accounts Officer of the respondent department raised certain queries. *Vide* letters dated 14.01.2020 and 05.02.2020, Senior Accounts Officer of the respondent department sought clarification from the Chief Engineer, O&M, Garhwal Zone (copy: Annexure- A 1). Petitioner submitted an indemnity bond in the department, but in spite of the same, stating, *inter alia*, that if any claim or dues are found against the petitioner by the department, then the department will be at liberty to recover the same from the pension and retiral benefits of the petitioner (copy: Annexure- A 2). Respondents no. 2 and 5 have not yet released the pension and other retiral dues of the petitioner. He made several representations, but to no avail.

4. The last representation was submitted on 22.05.2020 to the Senior Accounts Officer for releasing the pension and retiral dues (copy of representation: Annexure- A 3 colly). The petitioner is suffering from various ailments (illustration: Annexure- A 4). The department itself made a policy for releasing pension and retiral benefits *vide* circular dated 12.06.2014 (Annexure- A 5). In the said circular, the time frame within which the process for finalizing and releasing the retiral benefits will be started and finalized before the person/ staff retires from service, has been prescribed. Although considerably a long time has elapsed since then, but no steps have been taken for doing the needful. As per settled legal position, retiral benefits are not bounty, but are the statutory rights of an employee. The same cannot be based on whims and fancies of State and its instrumentalities. Such delay cannot be justified in a welfare State.

5. The details of petitioner's retiral benefits have been given in Para 13 of the claim petition. A huge amount of Rs.38,55,709-00/- is still outstanding against the respondent department. The same should be released and the petitioner should also be compensated for delayed payment of the pension and retiral benefits. A prayer has been sought to direct the respondents to forthwith release the outstanding retiral dues, the details of which have been given in Clause (i) and a prayer has

also been sought to direct respondents to give interest @ 12% per annum on the total amount accrued, under all the heads, till the date of actual payment. The claim petition is supported by the affidavit of the petitioner. He has also filed documents in support of his claim petition.

6. Respondent No.5 has contested the claim petition by filing written statement. C.A. of Sri S.K. Tomar, General Manager, Finance, Power Transmission Corporation of Uttarakhand Ltd.(PTCUL), has been filed along with certain documents. Reference of those documents shall be given in the course of discussion, as and when required.
7. In the C.A., it has been stated (in para 3) that respondent no.5 has wrongly been impleaded in the petition.
8. Respondent No.5 is General Manager, Finance, PTCUL, Vidyut Bhawan, Dehradun. The other respondents are- M.D., PTCUL (respondent no.2), Director, Finance, PTCUL (respondent no.3) and Director (HR), PTCUL (respondent no.4). The C.A. has been filed only on behalf of respondent no.5. In the C.A., it has been stated that the representation could have been made by the petitioner to respondent no.5. In para 4, it has been averred that the petitioner was paid an amount of Rs.8,27,266/-, as final leave encashment on 30.09.2019 on the date of retirement itself. A sum of Rs.7,01,943/- was also paid as final payment of GPF on 31.10.19. It is admitted, in para 5 of the C.A. that the petitioner retired as Assistant Engineer from PTCUL. It has also been stated that retiral dues payable by the respondent department were paid to the petitioner on time. In para 7 of the C.A. it has been stated that as per office order dated 23.4.2016, Corporate Establishment and Pension Wing is responsible for scrutinizing all the pension cases received from units and submission to Treasury for finalization of pension. Corporate Establishment and Pension Wing is headed by Sri Girdhari Lal, Senior Accounts Officer, PTCUL and is working under respondent no.3. Respondent-PTCUL has prescribed time and procedure to finalize the pension case *vide* office memorandum dated 12.06.2014. On receiving the pension case of the

petitioner from Controlling Officer on 15.01.2020, detailed scrutiny was done in accordance with the office memorandum. After that, the queries were sent to the Controlling Officer through Chief Engineer, O&M, Garhwal Zone, Roorkee, on 05.02.2020 (Annexure: CA- 3 & 4). Submission of indemnity bond with the pension papers is a routine procedure. Pension documents itself provide that every pensioner shall submit an indemnity bond. Therefore, submission of indemnity bond does not create any right or special advantage to the petitioner. He was bound to follow the departmental procedure. The pension sanctioning and releasing authority is Directorate Treasury, Pension and Entitlement, Dehradun and not the respondents. The answering respondents are not the releasing and approving authority. The pension papers marked as Annexure: CA-5 to the affidavit, were addressed to Deputy Director, Government of Uttarakhand, for release of pension. No representation was ever made to respondent no.5, till he was made a party to the petition. The representation was made to the Senior Accounts Officer and he was not made party to the claim petition.

9. Even otherwise, the petitioner ought to have moved representation to an authorized person. Petitioner himself is responsible for late submission of pension case, as per the policy circular dated 12.06.2014. It is, however, admitted in para 10 of the C.A. that the petitioner is not keeping good health. An amount of Rs.2,58,251/- was already sanctioned by the PTCUL for medical treatment of the petitioner. Arrangement was done with MAX Super Specialty Hospital, for providing medical facility to its employees, both working and retired, on cashless basis. Medical expenditures of the petitioner were paid by PTCUL directly to the hospital. It is admitted in para 11 of the C.A. that the petitioner was admitted in MAX Super Specialty Hospital for his treatment and was discharged on 23.04.2020.
10. As per procedure, petitioner's pension case has already been forwarded on 01.06.2020 to the Directorate Treasury, Pension and Entitlement, Dehradun, for releasing the pension of the petitioner. The

claim petition, according to respondent no.5, is not maintainable and should be dismissed with special costs. Supplementary affidavit has also been filed by respondent no.5 on 13.07.2020.

11. Ld. Counsel for the petitioner submitted that the petitioner, in his claim petition, has relied upon the departmental policy dated 12.06.2014, which was framed by the respondents, wherein a duty has been cast upon the departmental officers to complete formalities with regard completion of the paper work of the person retiring from service (Annexure: A 5). In the departmental policy dated 12.06.2014, it has clearly been laid down, as follows:

“i. In Clause 2- Service book to be checked and if any deficiency found should be rectified before 8 months of the retirement of the concerned employee.

ii. In Clause 4(Ka)- Providing pension papers to the employee retiring from service( Pension papers to be provided by way of official communication) before 8 months of retirement of the employee.

iii. In Clause 4(Kha)- Pension papers to be filled before 6 months of retirement by the employee.

iv. In Clause 4(Ga)- If pension papers filled by the employee not received within the determined time, then give him a reminder letter within 15 days.”

According to Ld. Counsel for the petitioner, it is clear from above clause of the policy circular that a duty was cast upon the respondents to complete all the formalities with regard to the retiral benefits of the retiring employee in a time bound manner. The petitioner retired from the service on 30.09.2019. Respondent department, knowing that the petitioner is retiring on 30.09.2019, should have given him the pension papers by way of official communication, eight months before his retirement. It was necessary for respondent no.5 to show that the department, as per Clause 4(ka) of the departmental policy dated 12.06.2014, had provided the pension papers to the petitioner eight months before his retirement by way of official communication. The proof of compliance of 4(ka) has nowhere been shown by respondent

no.5 in his C.A. dated 20.06.2020 or in his supplementary affidavit dated 13.07.2020.

12. Ld. Counsel for the petitioner further argued that even if it is believed that the petitioner did not submit his pension papers on time, for the sake of arguments, still, as per Clause 4(ga) of the departmental policy dated 12.06.2014, the department should have given reminder to the petitioner within 15 days to instruct him to file the pension papers in the department. Proof of compliance of Clause 4(ga) has nowhere been shown by respondent no.5 in his C.A. and supplementary affidavit.
13. It was further argued that if there was any deficiency in the service book of the petitioner, the department was obligated to rectify it eight months before his retirement, as per departmental policy dated 12.06.2014 (Annexure: A-5). Respondent No.5 has admitted in his C.A. that this exercise was carried out on 15.01.2020, which is 15 days after petitioner's retirement. The department, therefore, delayed the matter by almost 9 months and 15 from the date on which it was actually supposed to carry out the exercise as per departmental policy dated 12.06.2014. It has further been argued that the respondents have failed to discharge their burden of proof, which was laid upon respondents to show that they have adhered to time line, as prescribed in the official policy. Time line provided in the departmental policy dated 12.06.2014 has not been adhered to by the respondents. Till today, respondents no. 2 and 3 have not yet released the pension and other retiral dues of the petitioner. No effort has been made by the respondents for releasing of such retiral dues, which, as per settled legal proposition, is statutory right of an individual and is not a bounty.
14. In the case of *State of Madhya Pradesh vs Ranajirao Shinde and Another (1968)3 SCR489* the Hon'ble Supreme Court of India considered the question whether a "cash grant" is "property" within the meaning of that expression in Article 19(1)(f) of the Constitution, and held in the affirmative, observing "it is obvious that a right to sum of money is property". Hon'ble Supreme Court of India in *State of Jharkhand and*

*Ors. vs Jitendra Kumar Shrivastava & Ors. (2013) 12 SCC 210* reiterated this view.

15. In the case of *S.K. Dua vs State of Haryana & Ors (2008) 3 SCC 44*, the Hon'ble Supreme Court laid down the Ratio Decedendi that " An employee can claim interest on delayed payment of retiral benefits"
16. In the case of *D.D. Tewari vs Uttar Haryana Bijli Vitran Nigam Ltd., (2014) 8 SCC 894* the Hon'ble Supreme Court *inter-alia* observed that "..... there is a miscarriage of justice in denying the interest to be paid or payable by the employer from the date of the entitlement of the deceased employee till the date of payment as per the aforesaid legal principle laid down by this Court in the judgment referred to *supra*. We have to award interest at the rate of 9% per annum both on the amount of pension due and the gratuity amount which are to be paid by the Respondent". This decision has been followed by this Tribunal in claim petition No. 30/DB/2013 *Dwarika Prasad Bhatt vs. State and others vide* judgment dated 22.09.2016
17. It is submitted by the petitioner that as per the settled principle of law, the "pension" granted to a public servant is property attracting Article 31(1) and Article 19(1)(f) of the constitution of India and hence his fundamental right. The respondents are liable for delay in the completion of formalities as required to be done by them under policy circular no 842/HR & Admn/PTCUL/EE-22 dated 12.06.2014 and hence the respondents are liable to pay interest on the claimed amount as per Prayer I & II of the claim petition , compensate the claimant for mental harassment and also legal costs for the present petition.
18. Ld. A.P.O. submitted that the W.S./C.A. filed on behalf of respondent no. 5 is being adopted by respondent no.1. The W.S./C.A. filed on behalf of respondent no. 5 is, accordingly, permitted to be adopted by respondent no.1. Respondents no. 2, 3 & 4 have not filed any W.S./C.A.. It is the submission of Ld. Counsel for the petitioner that the said respondents, i.e., respondents no. 2 to 4 were served with

notices through Email. He also submitted that PTCUL officers have knowledge about filing of present claim petition. A perusal of the written statement filed by respondent no.5 would reveal that it is only on behalf of respondent no.5 and the C.A. does not claim to have been filed on behalf of other respondents.

19. Ld. Counsel for respondent no.5 submitted that the delay, if any, on the part of the respondents in releasing the pension is attributable, basically, to the petitioner. The petitioner has filed the petition on 03.06.2020 and the pension case had already been submitted to the pension approving authority, *i.e.*, Directorate Treasury, Pension and Entitlement, Dehradun on 01.06.2020. Ld. Counsel for respondent no. 5 has also given the details as to when and where the pension papers were received in different wings of PTCUL and how these papers were processed.

It may be noted here that the petitioner retired on 30.09.2019, whereas his pension papers were submitted to the Directorate Treasury (non-respondent) only on 01.06.2020.

20. It may further be noted here that PTCUL is the employer of the petitioner and it is the responsibility of PTCUL to have paid the pension and retiral benefits to the petitioner. Pension, of course will be released by Directorate Treasury, Pension and Entitlement, Dehradun, but for that the employer has to submit papers to them. For other retiral dues, the responsibility squarely lies with PTCUL. It hardly matters when the papers were submitted to the Executive Engineer, O&M Division, Jhajhra or respondent no.5 or a particular Division of the respondent organization. Overall, it is the responsibility of PTCUL to have released retiral benefits of its employees. Whether it was the responsibility of respondent no.5 or Executive Engineer, O&M Division, Jhajhra or somebody else, is the internal matter of the department. The Tribunal or the Court, for that matter, will hold responsibility of the respondent department, *i.e.*, PTCUL, if there is delay in releasing the retiral benefits of the petitioner. Pension, of course, will be released by the Directorate Treasury, Pension and Entitlement, Dehradun, which

has not been arrayed as party respondent by the petitioner. Pension may be released by Directorate Treasury, Pension and Entitlement, Dehradun, only when pension papers are duly submitted by the respondent department on time.

21. Ld. Counsel for respondent no.5 submitted that the claim petition is defective for non-joinder of Directorate Treasury, Pension and Entitlement, Dehradun, as necessary party. The Tribunal does not subscribe to the view of Ld. Counsel for respondents, for the reason that although it would have been proper on the part of the petitioner to have arrayed Directorate Treasury, Pension and Entitlement, Dehradun as party respondent, but the role of such Directorate starts only when pension papers are submitted to such Directorate by the respondents-employer, on time. If, ultimately the petitioner succeeds in his claim petition and the Directorate Treasury, Pension and Entitlement, is unable to release the pension of the petitioner, then only such Directorate will be the necessary party in execution proceedings. Before that, it would have been proper on the part of the petitioner to have arrayed Directorate Treasury, Pension and Entitlement, Dehradun, as party respondent, but the claim petition does not become bad on account of the fact that such Directorate has not been arrayed as party-respondent.
22. Two facts are, therefore, clear and admitted to the contesting respondent no. 5. Such facts are that the petitioner retired on 30.09.2019 and his pension papers were submitted to the Directorate Treasury, Pension and Entitlement, Dehradun only on 01.06.2020, i.e., after a period of approx 9 months. It has been stated on behalf of respondent no. 5 that the leave encashment of Rs.8,27,266/- has been paid to the petitioner on 30.09.2019. GPF contribution of Rs.7,01,943/- has also been paid to the petitioner on 31.10.2019. MAX Super Specialty Hospital, Dehradun, has been paid the medical bills of the petitioner directly as per the arrangement between the respondent company and MAX Hospital, Dehradun.

23. It is, therefore, clear that the following retiral benefits of the petitioner are still outstanding against the respondent-department:

Head	Amount (in Rupees)	Total Amount without interest
Pension after commutation	25,740	2,03,760/- [25,740x8 (months)= Rs.2,03,760]
Dearness Allowance on Pension	17 % 42,450/- [17% is DA on Basic Pay, which is Rs.42,450]	57,736/-
Commutation	16,69,609	16,69,609
Gratuity	16,38,995/-	16,38,995/-
Total		35,70,100/-

Total amount without Interest = Rs 35,70,100/-.

24. The amount displayed on the above board have not been disputed on behalf of the respondents. It is admitted to both the parties that the retiral benefits of the petitioner, other than the above, have been released in favour of the petitioner. We therefore, deem it that the above table is correct. As has been stated above, no separate W.S. has been filed on behalf of respondents no. 1 to 4. The only W.S./C.A., which has been brought on record, is of respondent no.5. Considering the narration of facts given in the only W.S., there is no question of fastening personal responsibility on Sri S.K.Tomar. The responsibility of non-payment of remaining retiral dues lies only with the respondent-department, and none else. Delay in payment of retiral dues is although not excusable, but is common in most of the Government departments, who must realize that it is the bearer only (who) knows where the shoe pinches. In a nutshell, this fact is under no dispute that the amount mentioned in the aforesaid table is outstanding against the respondent-department and is payable to the petitioner, with interest, which has been quantified by Hon'ble Apex court and Hon'ble High Courts in a catena of decisions.
25. In the backdrop of the above noted facts, limited question, which arises for consideration of this Tribunal is— how much interest should be awarded to the petitioner for delayed payment of gratuity and pension?

26. 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.
27. 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*. The direction given in claim petition No. 30/DB/2013 has also been carried out. The facts of 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 and pension is concerned.
28. It has been held by Hon'ble Apex Court in *State of Kerala vs. Padmanabham Nair, (1985)1 SCC 429*, that pension and gratuity are no longer any bounty to be distributed by the Government to its employees on the retirement but are valuable rights in their hands and any culpable delay in disbursement thereof must be visited with the penalty. In the said decision, Hon'ble Court approved 6% interest p.a. on delayed payment of pension.
29. In Section 7(3-A) of the Payment of Gratuity Act, 1972, it is provided that if the amount of gratuity payable is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long term deposits, as that Government may by notification specify.
30. In *Y.K. Singla vs. Punjab National Bank, (2013) 3SCC 472*, the Hon'ble Apex Court directed the payment of interest @ 8% p.a. to be paid on delayed payment of gratuity.

31. In *State of U.P. vs. Dhirendra Pal Singh, (2017) 1 SCC 49*, the Hon'ble Apex Court quoted with approval *Padmanabham's* decision and *Y.K. Singla's* decision, as follows:

"9. In *State of Kerala and others v. M. Padmanabhan Nair* this Court has held that pension and gratuity are no longer any bounty to be distributed by the Government to its employees on the retirement but are valuable rights in their hands, and any culpable delay in disbursement thereof must be visited with the penalty of payment of interest. In said case the Court approved 6% per annum interest on the amount of pension decreed by the trial court and affirmed by the High Court. As to the rate of interest on amount of gratuity Section 7(3-A) of Payment of Gratuity Act, 1972, it is provided that if the amount of gratuity payable is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long term deposits, as that Government may by notification specify. It further provides that no such interest shall be payable if the delay in payment is due to the fault of the employee, and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground. In the present case, there is no plea before us that the appellants had sought any permission in writing from the controlling authority. As to the delay on the part of employee, it has come on the record that he made representations, whereafter he filed a suit in respect of withheld amount of gratuity and pension. In *Y.K. Singla v. Punjab National Bank and others*[2], this Court, after discussing the issue relating to interest payable on the amount of gratuity not paid within time, directed that interest at the rate of 8% per annum shall be paid on the amount of gratuity.

10. In the light of law laid down by this Court, as above, and further considering the facts and circumstances of the case, we modify the impugned order passed by the High Court in respect of interest directed to be paid on the amount of withheld gratuity and pension. We direct that the appellants shall pay interest at the rate of 6% per annum on the unpaid amount of pension from the date it had fallen due and interest at the rate of 8% per annum on the unpaid amount of gratuity from the date of retirement of the employee."

32. In para 7 of the decision rendered by Hon'ble Supreme Court in *State of Jharkhand and others vs. Jitendra Kumar Srivastava and another, 2013 0 AIR (SC) 3383*, the following was observed:

"7. It is an accepted position that gratuity and pension are not the bounties. An employee earns these benefits by dint of his long, continuous, faithful and un-blemished service. Conceptually it is so lucidly described in *D.S. Nakara and Ors. Vs. Union of India; (1983) 1 SCC 305* by Justice D.A. Desai, who spoke for the Bench, in his inimitable style, in the following words:

“The approach of the respondents raises a vital and none too easy of answer, question as to why pension is paid. And why was it required to be liberalised? Is the employer, which expression will include even the State, bound to pay pension? Is there any obligation on the employer to provide for the erstwhile employee even after the contract of employment has come to an end and the employee has ceased to render service?

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What is a pension? What are the goals of pension? What public interest or purpose, if any, it seeks to serve? If it does seek to serve some public purpose, is it thwarted by such artificial division of retirement pre and post a certain date? We need seek answer to these and incidental questions so as to render just justice between parties to this petition.

The antiquated notion of pension being a bounty a gratuitous payment depending upon the sweet will or grace of the employer not claimable as a right and, therefore, no right to pension can be enforced through Court has been swept under the carpet by the decision of the Constitution Bench in Deoki Nandan Prasad v. State of Bihar and Ors.[1971] Su. S.C.R. 634 wherein this Court authoritatively ruled that pension is a right and the payment of it does not depend upon the discretion of the Government but is governed by the rules and a Government servant coming within those rules is entitled to claim pension. It was further held that the grant of pension does not depend upon any one’s discretion. It is only for the purpose of quantifying the amount having regard to service and other allied matters that it may be necessary for the authority to pass an order to that effect but the right to receive pension flows to the officer not because of any such order but by virtue of the rules. This view was reaffirmed in State of Punjab and Anr. V. Iqbal Singh (1976) ILLJ 377SC”.

8. It is thus hard earned benefit which accrues to an employee and is in the nature of “property”. This right to property cannot be taken away without the due process of law as per the provisions of Article 300 A of the Constitution of India.”

33. Respondents are, therefore, directed to pay to the petitioner (i) Rs. 2,03,760 + Rs.57,736 + Rs. 16,69,609/- along with simple rate of interest payable on GPF during the relevant period ,*i.e.*, when the same fell due, till the date of actual payment (ii) amount of gratuity Rs.16,38,995 + 8% interest on the same, from the date of superannuation, till the date of actual payment.

34. The claim petition is, accordingly, allowed. Respondents No. 2 to 5 are directed to pay the aforesaid amount to the petitioner within a period of 8 weeks from the date of presentation of certified copy of this order before Respondent No. 2. The petitioner shall also send

copies of this judgment to all the respondents by registered post acknowledged due, within a week from today.

In the circumstances, no order as to costs.

**(RAJEEV GUPTA)**  
VICE CHAIRMAN (A)

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

*DATE: AUGUST 07, 2020*  
*DEHRADUN*

*VM*