

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

EXECUTION PETITION NO. 14/SB/2024

(*Arising out of judgment dated 28.11.2023,
passed in Claim petition No. 193/SB/2023*)

Smt. Pushpa Singh Alias Pushpa Bisht, w/o Late Sri Surendra Singh Bisht, r/o Bisht Bhawan, Dang, Near Amarkunj, Srinagar, Pauri Garhwal.

.....Petitioner-executioner

vs.

1. Medical Officer Incharge, Primary Health Centre, Bhatwari, Uttarkashi, Uttarakhand.
2. The Chief Medical Officer, District Hospital, Uttarkashi, Uttarakhand.
3. The Director, Department of Medical Health and Family Welfare, Garhwal Mandal, Pauri, Uttarakhand.
4. The Director General of Medical, Health & Family Welfare, Directorate of Health Services, Dehradun.
5. The Secretary, Department of Medical Health and Family Welfare, Dehradun.
6. The Additional Chief Secretary, Medical Health and Family Welfare, 4th Floor, Navchetna Kendra, 10 Ashok Marg, Hazratganj, Lucknow, Uttar Pradesh.
7. The Director General of Family Welfare, Directorate Family Welfare, Jagat Narayan Road, Lucknow, Uttar Pradesh.

.....Respondents.

Present: Sri Pulkit Bahuguna. Advocate,
for the Petitioner-executioner (*online*)
Sri V.P.Devrani, A.P.O., for the Respondents No. 1 to 5.

JUDGMENT

DATED: MAY 02, 2024

Justice U.C.Dhyani (Oral)

By means of present execution application, petitioner-applicant seeks to enforce order dated 28.11.2023, passed by this Tribunal in Claim Petition No. 193/sb/2023, Smt. Pushpa Singh Alias Pushpa Bisht vs. State & others.

2. The execution application is supported by the affidavit of Smt. Pushpa Singh Alias Pushpa Bisht, petitioner.

3. The decision rendered by this Tribunal on 28.11.2023, is reproduced herein below for convenience.

“Petitioner is widow of Late Sri Surendra Singh Bisht, who was posted as Health Education Officer when he died in harness on 08.02.1999. Under the orders of Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Sri Surendra Singh Bisht was given notional promotion *w.e.f.* 05.05.1973, *vide* office order dated 17.10.2019 of Director, Medical, Health and Family Welfare, Garhwal Region, Pauri. It was also stated in the said order that Sri Surendra Singh Bisht will not be entitled to arrears of pay before 08.02.1999, the date of his death. He was given notional promotion *w.e.f.* 05.05.1973. It has specifically been mentioned in the order dated 17.10.2019 by the Director, Medical, Health and Family Welfare, Garhwal Region, Pauri, that the said orders have been passed in compliance of directions dated 17.09.2010 of Director General, Medical, Health and Family Welfare, Uttarakhand, Dehradun.

2. The direction dated 19.07.2007, which has been quoted in the Office Order dated 17.10.2019 (Annexure: 1), reads as below:
“....so far as payment of arrears of salary is concerned the same shall be given from the date of actual promotion. However, the salary on promoted post of the concerned employees shall be fixed notionally from the due date of promotion for all other purposes and in case where the employees have retired the benefits may be taken into account for the purposes of retiral benefits and retiral benefits shall be paid to such employees from the date of retirement.”

3. The widow of Late Sri Surendra Singh Bisht prays for revision of pension in accordance with the notional promotion to her husband to the post of Health Education Officer, *w.e.f.* 05.05.1973.

4. It is the submission of Sri Pulkit Bahuguna, Ld. Counsel for the petitioner that the petitioner shall make a representation to the

Chief Medical Officer, Uttarkashi, with a copy to the Director General, Medical, Health and Family Welfare, Uttarakhand, who should be directed to decide the representation of the petitioner in the light of order dated 17.10.2019 (Copy: Annexure-1). It is also submitted by Ld. Counsel for the petitioner that it has specifically been mentioned in Annexure: 1 that the payment of retiral dues of the deceased shall be ensured to his dependents.

5. Ld. A.P.O. has no objection, if a direction is given to the above noted authorities to decide the representation of the petitioner, in accordance with law.

6. Ld. counsel for the parties submitted that Single Bench of the Tribunal can pass such an order.

7. Since the facts are not in dispute, the claim petition is disposed of, at the admission stage, with the consent of Ld. Counsel for the parties, by directing Respondent No.2, to decide the representation of the petitioner, in the light of order dated 17.10.2019 (Annexure: 1), by a reasoned and speaking order, without unreasonable delay, preferably within 12 weeks of presentation of certified copy of this order along with representation, enclosing the documents in support thereof. No order as to costs.

8. Rival Contentions are left open.”

4. Ld. Counsel for the petitioner submitted that copy of the order passed by the Tribunal on 28.11.2023 was served upon respondent no.1 on 11.12.2023, copies of which were also sent to respondents no. 3 & 4, but the same has not been complied with so far.

5. It is also the submission of Ld. Counsel for the petitioner/applicant that casual approach on the part of opposite party(ies)/respondent(s) should not be tolerated and strict direction should be given to them to ensure compliance of such order.

6. Ld. counsel for the petitioner/applicant submitted that such direction may be given by Single Bench of the Tribunal. Ld. A.P.O. agrees with such legal proposition.

7. Considering the facts of the case, respondent authorities are requested to comply with the order dated 28.11.2023, passed by this Tribunal in Claim Petition No. 193/SB/2023, Smt. Pushpa Singh Alias Pushpa Bisht vs. State & others, if the same has not been complied with so far, without further loss of time, failing which the

concerned authority may be liable to face appropriate action under the relevant law governing the field.

8. Petitioner/ applicant is directed to place copies of this order before the authorities concerned, within a week, to remind that a duty is cast upon said authorities to do something, which has not been done.

9. Execution application is, accordingly, disposed of, at the admission stage, with the consent of Ld. Counsel for the parties.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: MAY 02, 2024.
DEHRADUN

KNP