

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

EXECUTION PETITION NO. 19/SB/2024

*(Arising out of judgment dated 29.11.2022,
passed in Claim petition No. 90/DB/2022)*

Laxmi Prasad Gairola, S/o Late Shri J.P.Gairola, presently working and posted on the post of Revenue Inspector, Tehsil Ghat, District Chamoli, Uttarakhand.

.....Petitioner/applicant

vs.

1. State of Uttarakhand through Secretary, Revenue, Government of Uttarakhand, Secretariat, Subhash Road, Dehradun..
2. Commissioner, Garhwal Mandal, Uttarakhand, District Pauri Garhwal.
3. District Magistrate and Collector, District Chamoli.
4. Tehsildar, Tehsil Karanprayag, District Chamoli.

..... Respondents

Present: Sri L.K.Maithani, Advocate, for the petitioner-applicant.
Sri V.P.Devrani, A.P.O., in assistance of the Tribunal.

JUDGMENT

DATED: JUNE 26, 2024

Justice U.C.Dhyani (Oral)

By means of present execution application, petitioner-applicant seeks to enforce order dated 29.11.2022, passed by this Tribunal in Claim Petition No. 90/DB/2022, Laxmi Prasad Gairola vs. State & others.

2. The execution application is supported by the affidavit of Sri Laxmi Prasad Gairola, petitioner. Relevant documents have been filed in support of the execution application

3. The decision rendered by this Tribunal on 29.11.2022, is reproduced herein below for convenience.

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

“ (i) *To issue an order or direction to the concerned respondent to sanction and grant the benefit of first and second ACP admissible to him after completion of 10 years and 16 years service on the post of Revenue Sub-Inspector on 27.01.2009 and 27.01.2015 respectively with interest on the amount of ACP calculating from the when it was given to the other and junior persons to the petitioner.*

(ii) To issue an order of direction to the respondent to pay the pay of promotional post of Revenue Inspector since the date of promotion to the petitioner.

(iii) To issue an order or direction to the respondents to search the service records of the petitioner immediately and update the same.

(iv) To issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

(v) To award the cost of the case.”

2. Facts, in brief, of the case are that the petitioner was appointed as Revenue Sub-Inspector on 27.01.1999. On completion of 10 years' and 16 years' service on 27.01.2009 and 27.01.2015, he was entitled for benefits of 1st A.C.P. and 2nd A.C.P., respectively, but no order has been passed by the respondents in this regard, despite the fact that his adverse entries have been expunged under the directions of this Tribunal. Hence, present petition.

3. It is the submission of Ld. Counsel for the petitioner that the adverse entry of the petitioner has been set aside by this Tribunal in (i) Claim Petition No. 30/DB/2016, Laxmi Prasad Gairola vs. State and others *vide* judgment and order dated 28.02.2018 and (ii) Claim Petition No.38/DB/2017, Laxmi Prasad Gairola vs. State and others *vide* judgment and order dated 30.04.2018.

4. Ld. Counsel for the petitioner further submitted that respondent department has set aside the adverse entry awarded to the petitioner *vide* order dated 17.07.2019 (Annexure Nos.: A-1 and A-2), in compliance of the orders of the Tribunal.

5. The petitioner has already filed representations on 24.02.2020 and 29.10.2021 (Annexure: A-6 *Colly*), for grant of ACP. Ld. Counsel for the petitioner submitted that a direction be, therefore, given to Respondent No.3 (Collector/ District Magistrate, Chamoli) to decide such representation of the petitioner in the light of Rule 5 of the Uttaranchal Government Servants (Disposal of Representation against adverse, fair/satisfactory, good, very good, excellent Annual Confidential Reports and Allied Matters) Rules,

2015. In reply, Ld. A.P.O. submitted that the representation of the petitioner may be directed to be decided by Respondent No.3, as per Rules.

6. Ld. Counsel for the parties submitted that C.A./W.S. is not required to be filed in the backdrop of above noted facts.

7. The claim petition is disposed of, at the admission stage, by directing Respondent No.3 to decide pending representation of the petitioner, as per Rules referred to above, without unreasonable delay on presentation of certified copy of this order along with copy of representation. No order as to costs.

Needless to say that the decision so taken shall be communicated to the petitioner soon thereafter.”

4. Ld. Counsel for the petitioner submitted that copy of the order passed by the Tribunal on 29.11.2022 was served upon respondents on 28.12.2022 along with copies of representations. Petitioner again made various representations to the respondent no.3, but the same are still pending and judgment of the Tribunal has not been complied with.

5. It is also the submission of Ld. Counsel for the petitioner/ applicant that casual approach on the part of opposite party(s)/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 can be given by the Single Bench of the Tribunal. Ld. A.P.O. agrees with such legal proposition.

7. **Considering the facts of the case, this Tribunal directs respondent no.3 to comply with the order dated 29.11.2022, passed by this Tribunal in Claim Petition No. 90/DB/2022, Laxmi Prasad Gairola 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 a copy of this order before the authority concerned, to remind that a duty is cast upon said authority to do something, which has not been done.

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

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JUNE 26, 2024.
DEHRADUN

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