

**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)

EXECUTION APPLICATION NO. 10 /DB/2022

*(Arising out of judgment dated 27.01.2022,
passed in Claim petition No. 08/DB/2022)*

Sri Rakesh Semwal.

.....Petitioner-executioner

vs.

State of Uttarakhand through Secretary and others.

.....Respondents.

Present: Dr. N.K.Pant, Advocate, for the petitioner-executioner.
Sri V.P.Devrani, A.P.O., for the respondent no.1.

JUDGMENT

DATED: SEPTEMBER 02, 2022

Justice U.C.Dhyani (Oral)

Present execution application has been filed by the petitioner to secure compliance of order dated 27.01.2022 passed by this Tribunal in Claim Petition No. 08/DB/2022, Rakesh Semwal vs. State of Uttarakhand and others.

2. It will be appropriate to reproduce the judgment dated 27.01.2022 herein below for convenience:

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

(i) Issue an order or direction for calling the records and to direct the respondents to issue a fresh reasoned and speaking order in compliance of the judgement passed in the claim petition no. 111/DB/2021 by the Hon’ble Public Services Tribunal.

(ii) Issue an order or direction calling for the record and to direct the respondent to pay all consequential benefit with interest.

(iii) Issue any suitable claim, order or direction which this Hon’ble Tribunal may deem fit and proper in the circumstances of the case.

(iv) Award the cost of claim petition in favour of the Petitioner.

2. This is second round of litigation between the parties. Earlier, claim petition of the petitioner was disposed of summarily, *vide* judgement dated 09.11.2021, which reads as under:

“RELIEFS PRAYED FOR

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

“(i). Issue an order or direction calling for the record and directing the respondents no. 2 & 3 to comply the direction passed by the respondent no.1 on dated 01.09.2021 and 04.10.2021.

(ii) Issue an order or direction calling for the record and to direct the respondent to pay all consequential benefits with interest.

(iii) Issue any suitable claim, order or direction which this Hon’ble Tribunal may deem fit and proper in the circumstances of the case.

(iv) Award the cost of the claim petition in favour of the petitioner.”

PETITIONER’S VERSION

2. Petitioner was appointed as a Manager in the Char Dham Vikas Parishad, Dharmaswa/ Cultural Department on 29.12.1997, in the pay scale of Rs.975-1650/-. The pay scale of the said post was upgraded from time to time. Petitioner was granted first ACP as grade pay of Rs.4600/- from 01.09.2008 and second ACP as grade pay Rs.4800/- from 01.01.2014, in the light of GO dated 08.03.2011 of the Finance Department. In 2nd para of the G.O. dated 06.11.2013 of Finance Department, there is a provision that, where a post of promotion is available, in such cases the grade pay of promotional post will be admissible to the employee. The petitioner was included in the publicity service cadre by the Temple Committee and the first post was OSD, Public Relations, available for promotion in the cadre. The 1st ACP of grade pay of Rs.4800/- was upgraded to Rs.5400/- but the petitioner has not been granted the benefit of upgraded grade pay.

PRAYER RESTRICTED

3. At the very outset, Ld. Counsel for the petitioner confined his prayer only to the extent that a direction be given to the respondent no.3 to decide the representation of the petitioner at an earliest possible, in accordance with law, to which Ld. A.P.O. has no objection.

ORDER

4. Without prejudice to rival contentions, the claim petition is disposed of at the admission stage by directing Respondent No.3 to decide the representation of the petitioner by a reasoned and speaking order, in accordance with law, at an earliest possible, and without unreasonable delay on presentation of the certified copy of this order, along with (fresh) representation.

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

6. It is made clear that the Tribunal has not expressed any opinion on the merits of the claim petition.”

3. It is the submission of learned Counsel for the petitioner that although the representation of the petitioner has been decided, but there are errors apparent on the face of it and therefore, a direction be given to the respondents to pass fresh, reasoned and speaking order in compliance of the judgement dated 09.11.2021 passed by this Tribunal in claim petition no. 111/DB/2021.

4. It is also the submission of learned Counsel for the petitioner that it is unusual to think that if someone is receiving 1st A.C.P. Grade Pay 5400/-, he will get 2nd A.C.P. Grade Pay Rs. 4800/-. According to learned Counsel for the petitioner, if someone is getting 1st A.C.P. Grade Pay Rs. 5400/- then he is entitled to 2nd A.C.P. Grade Pay Rs. 6600/- and not Grade Pay Rs. 4800/-. The petitioner moved such application on 13.11.2021, which has not been dealt with in order dated 14.12.2021 of C.E.O., Uttarakhand Char Dham Devasthanam Management Board (copy Annexure: A3).

5. Innocuous prayer of learned Counsel for the petitioner that fresh speaking order be passed on the representation of the petitioner, is worth accepting.

6. Claim petition is disposed of at the admission stage itself by directing respondent no. 2 to pass a fresh speaking order on the representation of the petitioner satisfying the anxiety of the petitioner as to how 2nd A.C.P. Grade Pay 4800/- will be admissible when the petitioner was getting 1st A.C.P. Grade Pay 5400/-.

[Emphasis supplied]

7. The same may be done without unreasonable delay on presentation of certified copy of this order.

8. The Tribunal reiterates that this order has been passed without prejudice to rival contentions of the parties and we have not expressed any opinion on the merits of the case.”

2. Today, compliance-report along with affidavit of Sri B.D. Singh, Chief Executive Officer, Badrinath-Kedarnath Temple Committee (for short,

BKTC) has been filed, under intimation to the petitioner/ Ld. Counsel for the petitioner. Various documents have been filed in support of the compliance affidavit. A Committee was constituted under the orders of Hon'ble Chairman, BKTC, which gave its report on 22.08.2022, [Annexure: CA-9 (1)]. According to the report, Rs.6600/-, as 2nd ACP, is not admissible to the petitioner. Various reasons have been assigned by the Committee in support of its conclusion.

3. Since the order dated 27.01.2022, passed by this Tribunal in Claim Petition No. 08/DB/2022, Rakesh Semwal vs. State of Uttarakhand and others, has been complied with, therefore, it will be of no use keeping the execution application pending. Execution application is, therefore, closed.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: SEPTEMBER 02, 2022
DEHRADUN

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