

**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. 123/DB/2022

Ram Asrey (Male), aged about 65 years, s/o Late Sri Purvideen, r/o A-93
South City Rae Bareli road, Lucknow, Uttar Pradesh.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Forest at Dehradun.
2. Principal Conservator of Forest, at Dehradun.
3. Additional Director of Pension and Treasury, Directorate Lekha
Evam Haqdari, 23, Laxmi Road, Dalanwala, Dehradun.

..... Respondents

Present: Sri Ganesh Kandpal, Advocate, for the Petitioner
Sri V.P. Devrani, A.P.O. for the Respondents

Judgement

Dated: 09th January, 2023

Justice U.C. Dhyani (Oral)

Hon'ble High Court of Uttarakhand has been pleased to pass
an order on 09.09.2022 in WPSB No. 206 of 2020, Ram Asrey vs. State of
Uttarakhand & others, which (order) reads as under:

“None appears for the petitioner when the matter is called out.

2. The substantive relief sought in the writ petition is as follows:-

"1- a writ, order or direction in the nature of mandamus directing the respondents to grant 12% interest per annum on the due amount of retirement benefits to the petitioner from 30 days of which the petitioner was retired i.e. 30-10-2014 to till the date of actual payment i.e. 26.9.2016 as per the order dated 10.08.2016 passed by this Hon'ble Court."

3. The petitioner is a public servant. The relief sought by the petitioner squarely falls within the jurisdiction of the Uttarakhand Public Services Tribunal.

4. Considering the fact that the petition has been pending since the year 2020, we direct the Registry to transmit the complete record of the present writ petition to the Tribunal forthwith. The same shall be registered as a Claim Petition and be dealt with by the Tribunal accordingly.

5. This writ petition stands disposed of.

6. In sequel thereto, all pending applications stand disposed of."

2. The original record of the writ petition has been transferred to this Tribunal *vide* Letter No. 13220/UHC/Service (S/B) 2022 dated 16.09.2022 of the Deputy Registrar (Judicial) of the Hon'ble High Court. The same has been registered as Claim Petition No. 123/DB/2022.

3. Present petition has been filed by the petitioner for a very limited purpose. Desired relief has already been granted to him by the Hon'ble High Court of Uttarakhand. Retiral dues have been released to him in compliance thereof. The limited object of present petition is to direct the respondents to grant 12% interest per annum on delayed payment of such retiral dues.

4. In this petition, the petitioner has sought a direction to the respondents to grant 12 % interest p.a. on the due amount of retiral benefits to the petitioner from 30 days of which the petitioner was retired *i.e.* 30.10.2014 till the date of actual payment *i.e.* 26.09.2016 as per the order dated 10.08.2016, passed by the Hon'ble Court.

5. A direction was given by the Hon'ble Court on 10.08.2016 in WPSB No. 09/2016 to pay the amount due to the petitioner by way of retiral benefits after deducting a sum of Rs. 1,67,827/- within a period of three weeks from the date of production of certified copy of the judgement before 2nd respondent. A direction was also given that in case the amount is not paid as directed within a period of 3 weeks from the date of production of certified copy of the judgement, the amount due will be paid with 12 % interest p.a. from 30 days of which the petitioner has retired.

6. It will be apposite to reproduce the order dated 10.08.2016, passed by the Hon'ble High Court in WPSB No. 09/2016, herein below for convenience:

“Petitioner seeks the following relief:-

“A writ, order or direction in the nature of mandamus directing the respondents to grant the pension as well as all the retirement benefit like gratuity, group Insurance amount, provident fund and etc to petitioner with 18% of interest.”

2. A counter affidavit has been filed on behalf of respondent no.2 wherein it is, inter alia, stated as follows:-

“F. It is submitted that when the said objections were removed, it has been revealed that due to incorrect fixation of pay, and undue payment of salary of October 2014, a sum of Rs.1,67,827/- was paid excess to the petitioner and, hence, the same is liable to be deducted and accordingly the communication date 20.08.2015 and 02.09.2015 have been issued to the petitioner, wherein, a request has been made that either the said sum may be deposited in the Government treasury through Challan or consent letter may be issued that such sum may be deducted from the post retiral dues of the petitioner, so that the matter be accordingly referred to the Additional Director, Pension and Treasury, Director Lekha and Hakdari, Dehradun. Copy of letter dated 02.09.2015 is being filed herewith and marked as Annexure no. C.A. 5 to this counter affidavit collectively.

G. It is submitted that the petitioner had not deposited such amount before the concerned authority, however, had submitted a letter of consent dated 10th September 2015, which was received in the office of Divisional Forest Officer, Uttarkashi on 18th September 2015 and the same was further forwarded on 21.09.2015 to the Additional Director, Pension and Treasury, Directorate Lekha and Hakdari, Dehradun. Copy o letter dated 21.09.2015 is being filed herewith and marked as Annexure no. C.A. 6 to this counter affidavit.”

3. We heard learned counsel for the petitioner and learned Brief Holder for the State.

4. Learned counsel for the petitioner would submit that he has no objection if the amount of Rs. 1,67,827/- be deducted and the balance amount may be directed to be paid.

5. Learned Brief Holder does not object to the same.

6. Accordingly, we dispose of the writ petition by directing the respondents to pay the amount due to the petitioner by way of retiral benefits after deducting the sum of Rs. 1,67,827/ within a period of three weeks from the date of production of certified copy of the judgment before 2nd respondent. We further direct that in case the amount is not paid, as directed within a period of three weeks from the date of production of certified copy of the judgment, the amount due, will be paid with 12 % interest per annum from 30 days, of which the petitioner has retired.

7. Let a certified copy of this order be issued today itself.”

7. It has been indicated in para 10 of the petition that as per the track consignment report, the order passed by the Hon'ble Court was received by the respondent on 24.08.2016, therefore, as per the order passed by the Hon'ble Court, the respondent had to pay the entire due amount within 3 weeks from 24.08.2016 *i.e.* 14.09.2016 but the respondent did not pay the entire amount till 14.09.2016. Instead the same was paid on 26.09.2016, therefore, petitioner is entitled to 12 % interest p.a. [Delay, as per the petition, is of 12 days, *i.e.* from 14.09.2016 to 26.09.2016]. Learned Counsel for the petitioner submitted that amount of G.P.F. Rs. 1,22,403/- has not been paid as yet, which fact has been negated by respondent no. 1 while deciding the representation of the petitioner *vide* order dated 19.09.2019 [para 3 of Annexure:A9 :Annexure: CA3]

8. Since the respondents did not pay all retiral dues to the petitioner as directed by the Hon'ble Court *vide* order dated 10.08.2016, therefore, the petitioner filed writ petition no. 203 (S/B) of 2019, which was disposed of on the self same date (23.05.2019) permitting the petitioner to make a representation to respondent no. 1 within 4 weeks from the date of receipt of certified copy of the order. Respondent No. 1 was directed to consider the representation of the petitioner, ascertain whether the facts stated in the said representation, and as noted herein

above are true and pass a reasoned order as to whether or not the petitioner is entitled to payment of interest in terms of the order dated 10.08.2016, passed by the Division Bench in WPSB No. 09/2016. If the petitioner is held entitled for payment of interest then the interest component at 12 % p.a. shall be computed and paid to the petitioner four weeks thereafter.

9. It is the submission of learned Counsel for the petitioner that in compliance of the order dated 23.05.2019, respondent no. 1 decided the representation dated 27.07.2019 of the petitioner on 19.09.2019. It has been admitted in the petition that while deciding the representation (on 19.09.2019), respondent no. 1 categorically directed respondent no. 2 to examine the averment made by the petitioner in the representation dated 27.07.2019 from the office of the Accountant General, Lekha evam Haqdari, Uttar Pradesh and Senior Treasury Officer, Lucknow.

10. It is the submission of learned Counsel of the petitioner that the respondents did not pay the retiral dues with 12 % interest in compliance of the order dated 10.08.2016 of the Hon'ble Court.

11. Paras 9 to 14 of the counter affidavit filed on behalf of respondent no.1 by Sri Satyaprakash Singh, Deputy Secretary, Forest Department, Govt. of Uttarakhand, are every important in the context of the statements made in the petition and are reproduced herein below for convenience:

"9. That the respondent no.2 (P.C.C.F. Uttarakhand) after determining the pension benefits payable to the petitioner submitted the pension matter of the petitioner to the office of respondent no.3 (Directorate, Lekha Evam Haqdari, Uttarakhand, Dehradun). Since, the petitioner for payment and drawing of pension has filed option for the State of U.P., the respondent no. 3 department vide letter dated 29-08-2016 forwarded the matter of petitioner to the Directorate, Lekha Evam Haqdari, Uttarpradesh, Lucknow.

10. **That on perusal of above paragraph it is apparent that after direction dated 10-08-2016 the petitioner submitted his representation received on 24-08- 2016 by the respondent no.1. From 24-08-2016 the period of 3 weeks (as directed by Hon'ble High**

Court) was to complete on 15-09-2016. The respondent no. 1 obeying the directions of the Hon'ble High Court forwarded the pension matter of the petitioner to the Forest Department. The Forest Department after analysing the pension matter of the petitioner sent the same to the office of respondent no.3 (Directorate, Lekha Evam Haqdari, Uttarakhand, Dehradun) which further forwarded the pension matter of petitioner vide its letter dated 29-08-2016 to the Directorate, Lekha Evam Haqdari, Uttarpradesh, Lucknow. In view of the above facts it is submitted that the pension matter of petitioner was sent to the concerned office in U.P. within time i.e. on 29-08-2016 before 15-09-2016. But the petitioner received his retirement dues on 26-09- 2016. The petitioner thus contend that he received his pension after the period of 03 weeks Le. 15-09- 2016 (after date of completion of 3 weeks) and therefore he is entitled for 12% interest on late payment of pension benefits (as was directed by the Hon'ble Court in its order dated 10-08-2016). Such contention of the petitioner analysed in view of the facts narrated in above paragraphs are wrong and mis-conceived. Since the pension matter of the petitioner was sent for necessary action on 26-09- 2016 by the respondent no.3 to the concerned office in U.P.. Thus there appears no deliberate delay on the part of respondent no.1 in sending the pension matter of petitioner to the State of U.P. nor the cause of delay was within the control of respondent no.1.

11. That in view of facts stated in above paragraphs it is apparent that respondent authority fully complied with the direction passed by the Hon'ble Court in WPSB 09/2016. The pension matter of the petitioner was sent to the Directorate, Lekha Evam Haqdari, Uttarpradesh, Lucknow on 29-08-2016 (which is within time). The delay that was caused was beyond the control respondents authorities and therefore they cannot be held liable to pay any interest to the petitioner for delayed payment.

12. That the petitioner not being satisfied by the delayed payment of pension, on 26-09-2016 (after due date ended on 15-09-2016) filed an another WPSB 203/2019 (Ram Asrey V/S State of Uttarakhand and others) before the Hon'ble High Court. The Hon'ble Court disposed of the said writ petition vide its order dated 23-05-2019. The relevant part of the said judgement is quoted below:-

"Para- 7 It would be wholly in appropriate for in proceeding under Article 226 of the us, Constitution of India, to undertake the exercise of determining whether or not the aforesaid facts stated by the petitioner are true, even before this matter is examined by the competent authority, Suffice it, therefore, to permit the petitioner to make a representation in this regard to the first respondent who shall, within four weeks from the date of receipt of certified copy of this order, consider the petitioner's representation, ascertain whether the facts stated in the said representation, and as noted hereinabove, are true, and pass a reasoned order as to whether or not the petitioner is entitled for payment of Interest in terms of the order passed by the Division Bench in Writ Petition (S/B) No. 9 of 2016 dated 10-08-2016. If the petitioner is held entitled for payment of interest, then the interest component at 12 per cent per

annum shall be computed and paid to the petitioner within four weeks thereafter, In either case, the first respondent shall communicate his decision to the petitioner herein within the period stipulated hereinabove".

"Para 8 the writ petition is, accordingly, disposed, No costs".

13. That in compliance of Hon'ble Court directions dated 23-05-2019 the petitioner moved his representation which was received in the office of respondent no. 1 on 30-07-2019. The respondent no.1 after perusal of the records of the petitioner passed its order dated 19-09-2019. The copy of the order dated 19-09-2019 is annexed and marked as Annexure no. 3 to this counter affidavit.

14. That in view of the above stated facts and circumstances the present writ petition filed by the petitioner is devoid of merits and liable to be dismissed with cost."

[emphasis supplied]

12. Counter affidavit has been filed on behalf of respondent no. 1. In such counter affidavit, it has been stated, among other things, that the respondent no. 2 (P.C.C.F., Uttarakhand), after determining the pension benefits payable to the petitioner submitted the pension papers of the petitioner to the office of respondent no. 3 (Directorate, *Lekha Evam Haqdari*, Uttarakhand, Dehradun). Since the petitioner, for payment of pension, has filed option for the State of U.P., therefore, respondent no. 3 forwarded the matter to the Directorate, *Lekha Evam Haqdari*, Uttar Pradesh, Lucknow. After direction dated 10.08.2016 (of the Hon'ble Court), the petitioner submitted his representation, which was received on 24.08.2016, to respondent no. 1. From 24.08.2016, the period of 3 weeks as directed by Hon'ble High Court was to complete on 15.09.2016, therefore, respondent no. 1 forwarded the pension paper of the petitioner to the Forest Department, who sent the same to office of respondent no. 3 (Directorate, *Lekha Evam Haqdari*, Uttarakhand, Dehradun), which further forwarded the pension papers *vide* letter dated 29.08.2016 to Directorate, *Lekha Evam Haqdari*, Uttar Pradesh, Lucknow. The pension papers were sent to U.P. within time i.e. on 29.08.2016, before 15.09.2016. Petitioner received his retiral dues on 26.09.2016. Thus, there appears to be no delay on the part of

respondent no. 1 in sending the pension papers of the petitioner to the State of U.P.

13. Petitioner moved his representation, which was received in the office of respondent no. 1 on 30.07.2019. Respondent No. 1 passed an order on 19.09.2019 (copy Annexure: CA3).

14. Petitioner was not satisfied with the delayed payment of pension. He filed another writ petition bearing WPSB No. 203/2019, Ram Asrey vs. State of Uttarakhand and others, before the Hon'ble High Court. The Hon'ble Court was pleased to dispose of the said writ petition *vide* order dated 23.05.2019, relevant paragraph (para 7) of which is excerpted herein below for convenience:

“7. It would be wholly inappropriate for us, in proceedings under Article 226 of the Constitution of India, to undertake the exercise of determining whether or not the aforesaid facts stated by the petitioner are true, even before this matter is examined by the competent authority. Suffice it, therefore, to permit the petitioner to make a representation in this regard to the first respondent who shall, within four weeks from the date of receipt of a certified copy of this order, consider the petitioner's representation, ascertain whether the facts stated in the said representation, and as noted hereinabove, are true, and pass a reasoned order as to whether or not the petitioner is entitled for payment of interest in terms of the order passed by the Division Bench in Writ Petition (S/B) No. 9 of 2016 dated 10.08.2016. If the petitioner is held entitled for payment of interest, then the interest component at 12 per cent per annum shall be computed and paid to the petitioner within four weeks thereafter. In either case, the first respondent shall communicate his decision to the petitioner herein within the period stipulated hereinabove.”

15. Having gone through the contents of the petition and the counter affidavit, it is clear that there is no delay on the part of respondent no. 1 in making payment of interest (of retiral dues).

16. The petitioner is only aggrieved with the fact that the retiral dues were paid to him on 26.09.2016, instead of 14.09.2016. In a nutshell, the petitioner is aggrieved with the fact that the amount which was to be paid to him till 14.09.2016 has been paid to him on 26.09.2016. Since the respondent no. 1 has acted promptly, in

compliance of the order of the Hon'ble Court, referred the matter to the Govt. of U.P., within the time allotted to it, therefore, respondent cannot be fastened with the liability of delayed payment, as has been prayed by the petitioner in this claim petition. No interference is called for in the impugned order dated 19.09.2019 (Annexure: A9). Claim petition thus fails and is dismissed. No order as to costs.

(RAJEEV GUPTA)
VICE CHAIRMAN (A)

DATE: 09th January, 2023

DEHRADUN

RS

(JUSTICE U.C.DHYANI)
CHAIRMAN