

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIUBUNAL
BENCH AT NAINITAL**

Present: Hon'ble Mr. Rajendra Singh

.....Vice Chairman (J)

Hon'ble Mr. A.S. Rawat

.....Vice Chairman (A)

CLAIM PETITION NO. 124/NB/DB/2023

Smt. Asha Nautiyal, aged about 66 years, W/o Late Sri Santosh Kumar Nautiyal, R/o Village Kargi Dehradun.

..... **Petitioner**

Vs.

1. State of Uttarakhand through Secretary, Training and Technical Education Department, Dehradun.
2. Director, Skill Development & Employment Directorate, Uttarakhand, Haldwani, Nainital.
3. Additional Director, Skill Development & Employment Directorate, Uttarakhand Haldwani, Nainital.
4. Principal, Skill Development & Employment Directorate, Uttarakhand, Haldwani, Nainital.

..... Respondents

Present: Sri M.C. Pant, Advocate, for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

JUDGMENT

DATED: JUNE 17, 2025

Hon'ble Sri A.S. Rawat, Vice Chairman (A)

This claim petition has been filed by the petitioner for seeking the following reliefs:

“(i) Issue an order or direction directing the respondents to grant all consequential service benefits to the petitioner after the death of husband i.e., Late Sh. S.K. Nautiyal viz., a). Revised gratuity b) revised pay scale c) ACP d) amount due e) Benefit of seventh pay commission and payment of final pension arrear since 2011 f). Payment of Arrears of DA, from

01.01.2022 to 01.04.2022 as attached to the services, Payment of 3% DA and other admissible allowances/benefits after calling the entire record from the respondent or to mould the prayer appropriately keeping in view the facts highlighted in the body of the petition.

(ii) Issue order or directions directing the respondents to release the revised pay and final pension arrear of the petitioner's husband after implementing the revised 7th Pay Commission w.e.f. 2011, along with 3 % DA as per revised 7th CPC, forthwith 18% interest thereon on the delay payment, along with family pension or to mould the prayer appropriately keeping in view the facts highlighted in the body of the petition.

(iii) To award damages and compensation to the Petitioner in tune of such amount which the court deems fit and proper in the circumstances of the case and recover the same from the erring officers as well as persons who are instrumental for such type of illegal and arbitrary act for the malicious and tortuous act of the Respondents keeping in view the body of the facts highlighted in the claim petition.

(iv) Any other relief which the court deemed fit and proper in the circumstances of the case.

(v) Cost of the application."

2. Brief facts, giving rise to present claim petition, are as follows:

2.1 The petitioner's husband Late Shri Santosh Kumar Nautiyal was appointed as Instructor in the ITI in 1975 and thereafter promoted as Foreman in 2000 and was posted at Majra and subsequently in 2008 he was promoted as Principal, ITI, Doiwala. The services of Late Sh. S.K. Nautiyal during the length of his career were sincere and impeccable and he duly got retired from the service as Principal on 31.07.2011.

2.2 Vide order dated 26.07.2011, Late Sri Santosh Kumar Nautiyal was suspended from service on the eve of his retirement on 31.07.2011.

2.3 Thereafter, suspension order was challenged by Late Sri Santosh Kumar Nautiyal before Hon'ble High Court by filing WPSB No. 273 of 2011, for following reliefs:

I. Issue writ rule or direction in the nature of mandamus directing to the respondents to release the salary of the petitioner for the month of July 2011, amount of G.P.F., Leave encashment, Group Insurance and also sanction the provisional pension immediately to enable the petitioner to survive his livelihood.

II. Issue writ rule or direction in the nature of Certiorari to quash order dated 26-07-11 in league with alleged unsigned charge sheet and allegedly to be approved by the additional secretary is issued and declare the same non-est in the eyes of law after calling the entire records from the respondents.

III. Issue any other writ rule or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

IV. Award cost of the petition.

2.4 Hon'ble Court on 12.06.2019 pronounced its judgement and directed the Secretary, Skill Development and Employment Government of Uttarakhand to examine the entitlement of Sh. S.K Nautiyal for payment of provisional pension under the 2016 revised scale of pay, within two weeks and, if he is entitled thereto, then pay the said amount to him along with arrears within two weeks thereafter.

2.5 Sh. S.K Nautiyal thereafter gave several representations to the Director (Training) regarding payment of retiral dues, but neither he was allowed all the retiral dues he was entitled to during his lifetime nor he was served with the fruit of years long litigation. Sh. S.K Nautiyal died on 07.02.2023 and was survived by his wife, a son and two daughters.

2.6 On 17.09.2022, the petitioner's Husband made a representation before the respondent stating that he has received the leave encashment, Provisional pension and group insurance and medical allowances, but still he was not given the following service benefits:

a) Payment of Revised gratuity.

- b) Payment of Commutation amount.
- c) Payment of ACP since 2006.
- d) Payment of revised pay scale which was increased from pay scale Rs. 5400 to Rs. 6600 vide government order no. 872/XXVI (7) NP/2013 dated 08.03.2011 and 313/XXVII(IX)2011.
- e) Benefit of seventh pay commission and payment of final pension arrear since 2011.
- f) Payment of 3% DA since January, 2019 and benefits of increased DA for the months of July 2018 to October, 2018.
- g) Payment of Arrears of DA, from 01.01.2022 to 01.04.2022.

2.7 The petitioner vide letter dated 17.09.2022 requested the Director, Training, ITI to grant the commutation amount after his retirement.

2.8 Vide office order dated 23/07/2017, the Director, Skill Development & Employment Directorate, Uttarakhand Haldwani, Nainital (respondent no.1) granted provisional pension to Late Sri S.K. Nautiyal and now after his death, his wife is being deprived of her legal right of his retrial dues.

2.9 Late Sri S.K. Nautiyal requested the authorities to release his retiral dues but till date, the respondents have not released the pension and other retiral dues.

2.10 Late Sri S.K.Nautiyal, the husband of the petitioner was deprived of service benefits despite the order of the Hon'ble High Court, which amounts to contempt of court. Similarly, petitioner had also approached respondents seeking family pension after the death of her husband but of no avail. The Hon'ble Court directed the respondents to take action within a time frame but till date, the

respondents are inert on the matter. Even after a long delay, the respondents chose to remain silent on the matter.

2.11 The petitioner deprived of the pension and gratuity despite the constitutional provision that no one can be deprived of the legal right within the meaning of Article 300-A. Various case laws have been mentioned in the claim petition to submit that the pension is not a bounty but a property under Article 300-A of the Constitution of India and the department cannot deprive the petitioner's right to receive the family pension on the death of retired government servant.

3. C.A./W.S. has been filed on behalf of the respondents, in which, it has been stated that:

3.1 याची के पति स्व० श्री एस०के० नौटियाल को सेवानिवृत्त लाभ उपार्जित अवकाश, नकदीकरण, जी०आई०एस० एवं अनन्तिम पेंशन का भुगतान कर दिया गया है। याची के पति स्व० श्री एस०के० नौटियाल द्वारा अपने पद पर रहते हुये राजकीय औद्योगिक प्रशिक्षण संस्थान डोईवाला में वित्तीय अनियमितता की गयी, जिस कारण श्री एस० के० नौटियाल को दिनांक 26.07.2011 को निलम्बित किया गया तथा उनके विरुद्ध जांच अधिकारी द्वारा जांच प्रारम्भ की गयी तथा शासन के पत्र दिनांक 03.11.2022 में उल्लेख किया गया है याची श्री नौटियाल द्वारा की गयी वित्तीय अनियमितता पर निर्णय लेते हुये याची श्री नौटियाल से रू० 4505307 /—(रू० पैतालीस लाख पांच हजार तीन सौ सात मात्र) की वसूली सेवानिवृत्त लम्बित देयकों/पेंशन से किये जाने के निर्देश दिये गये, जिसपर कार्यवाही प्रक्रियाधीन है। यद्यपि श्री एस०के० नौटियाल के मृत्यु के उपरान्त याची की कार्यवाही करते हुये पत्र दिनांक 09 नवम्बर, 2023 द्वारा अपर निदेशक कोषागार, पेंशन एवं हकदारी शिविर कार्यालय हल्द्वानी को प्रेषित किया जा चुका है, जिस पर पेंशन निदेशालय द्वारा कार्यवाही की जानी है। शासन के पत्र दिनांक 03.11.2022 के क्रम में निर्धारित की गयी वसूली की धनराशि नियमानुसार श्री एस०के० नौटियाल के पेंशन के सेवानिवृत्त लाभों में से किया जाना है। याची मा० अधिकरण अधिकरण से कोई अनुतोष पाने का अधिकारी न होने के कारण याचीगणों की याचिका निरस्त किये जाने योग्य है।

4. R.A. has been filed on behalf of the petitioner denying the contentions made in the C.A./W.S. and has reiterated the averments made in the claim petition.

5. We have heard learned Counsels for the parties and perused the record.

6. Learned Counsel for the petitioner argued that Late Shri S.K. Nautiyal, husband of the petitioner retired from the service on 31.7.2011. The respondent authorities suspended him on 26/7/2011 five days before superannuation and initiated disciplinary proceedings against him on the charges of financial irregularities during his tenure as the Principal Government Polytechnic Doiwala. Late Shri S.K. Nautiyal the husband of the petitioner died on 07.02.2023. The process of the enquiry against him was completed but the punishment order could not be issued to him when he was alive. Late shri S.K.Nautiyal, the husband of the petitioner, the charged persons died while the departmental proceeding was pending, which will remain abated now. The petitioner is entitled to get the benefit of gratuity, family pension and other retiral dues, which were withheld due to pending departmental proceedings. Learned counsel for the petitioner has pleaded that the claim petition may be allowed.

7. Learned A.P.O. argued that the financial irregularities have been found to be committed during the tenure of the Late S.K. Nautiyal, the husband of the petitioner, as the Principal Government Polytechnic Doiwala, due to which, he was put under suspension five days before his retirement and departmental proceeding was initiated. The Disciplinary Authority ordered for recovery of Rs 45,05,307/- on 09.11.2022 from the retirement gratuity and other retiral dues of Late Shri S.K. Nautiyal, the husband of the petitioner. The order could not be communicated and in the meantime the husband of the petitioner died on 23.02.2023. The aforesaid amount has to be recovered from the gratuity and other retiral dues of Late Shri S.K. Nautiyal. The claim petition is liable to be dismissed.

8. Based on the arguments of the learned counsels of the parties and the documents placed, we find that Late Shri S.K.Nautiyal retired on 31.07.2011. He was put under suspension on 26.7.2011, five days before his retirement. Departmental proceeding was initiated against him. The respondent authorities ordered for recovery of Rs 45,05,307/- from the gratuity and other retiral dues of Late Shri S.K. Nautiyal on 09.11.2022. Late Shri S.K. Nautiyal died on 07.02.2023, but no order of recovery was given to Late Shri S.K. Nautiyal, although the department submits that the same has been sent to the treasury. The copy of the aforesaid order has not been filed by the respondent authority with their Counter Affidavit even in the later stage also, which shows that the enquiry against Late Shri S.K. Nautiyal remained inconclusive and Late Shri S.K. Nautiyal died in the meantime.

9. As Late Shri S.K. Nautiyal, the husband of the petitioner died, the departmental proceedings against him remains abated. The petitioner is entitled to receive the gratuity and other retiral dues which remained unpaid due to pending disciplinary enquiry against the husband of the petitioner and the claim petition is liable to be allowed.

ORDER

The claim petition is allowed. The respondent authorities are directed to release the gratuity and other retiral dues and also other dues, which have not been paid to the petitioner so far, within three months after receiving certified copy of the judgement. No order as to costs.

RAJENDRA SINGH
VICE CHAIRMAN (J)

A.S.RAWAT
VICE CHAIRMAN (A)

DATED: JUNE 17, 2025
DEHRADUN
KNP/RS