

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

Present: Hon'ble Mr. Rajendra Singh

.....Vice Chairman (J)

Hon'ble Mr. A.S.Rawat

.....Vice Chairman(A)

CLAIM PETITION NO. 59/NB/DB/2023

1. Devendra Pandey (Male) about 60 years S/o Sri Hariwant Prasad Pandey R/o Govind Vihar, Kishanpur, Kichha, District Udham Singh Nagar (Since Deceased).

1/1 Uma Pandey (Female) aged about 58 years W/o Late Devendra Pandey R/o Govind Vihar, Kishanpur, Kichha, District Udham Singh Nagar.

1/2 Shubham Pandey (Male) aged about 25 years S/o Late Devendra Pandey R/o Govind Vihar, Kishanpur, Kichha, District Udham Singh Nagar.

.....Petitioners

Vs.

1. State of Uttarakhand through its Secretary, Cane Development and Sugar Industry, Secretariat, Dehradun.

2. Commissioner, Cane and Sugar, Government of Uttarakhand, Kashipur, District Udham Singh Nagar.

.....Respondents

Present: Sri A.K.Joshi, Advocate for the petitioner

Sri Kishore Kumar, A.P.O. for the respondents

JUDGMENT

DATED: AUGUST 11, 2025

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

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

"i. To quash the impugned order dated 20-10-2022 passed by respondent no 2 and contained as Annexure No 8 to this claim petition.

ii. To quash the impugned order dated 14.6.2006 and 05.10.2009 passed by respondent no.2 to the extent of denial of pension, contained as Annexure No 9(Colly) to this claim petition

iii. To issue an order or direction commanding and directing the respondents to pay the pension to the petitioner from the date of superannuation as applicable to the Government employee of the State of Uttarakhand along with its arrear with interest in terms of order dated 12.11.1997.

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

V. Award the cost of the petition in favour of the petitioner."

2. The brief facts of the case are as under:

2.1 The petitioner was initially appointed as Junior Engineer vide order dated 24.4.1987, issued by Cane Commissioner, Uttar Pradesh under Antar Gramin Sadak Nirman Yojna (hereinafter referred to as 'Yojna') in the pay scale of Rs.515-15-590-18-626-Da.Sa.018-680-20-180-Da.Sa.-20-860 on temporary and ad hoc basis under probation of two years. This order further provides that the petitioner will be entitled for dearness allowance and other allowances as admissible to the Government employee.

2.2 The petitioner was promoted to the post of Asstt. Engineer vide order dated 16.05.2006 issued by Cane and Sugar Commission, Uttarakhand, on ad hoc and temporary basis in the pay scale of Rs.8000-13500.

2.3 The Cane Commissioner has taken a decision on 19.07.1995 that the Junior Engineer of Yojna, will get the same benefits as the Junior engineers of PWD, however the same benefit was not provided to the petitioner.

2.4 The Cane Commissioner passed an order dated 12.11.1997 that all the employees and officers of Yojna shall be governed by the Service rules, Government orders, Rules and regulations of equivalent post of Cane Development Department and from that date the

petitioner is governed by the rules as applicable to the employee of Cane Development Department.

2.5 On creation of State of Uttarakhand, the options were invited and the petitioner was allocated to the State of Uttarakhand. The age of superannuation of the employees increased in the year 2001 from 58 years to 60 years and the petitioner was superannuated from the post of Assistant Engineer on 31.07.2022. During pendency of the claim petition, the petitioner died on 23.09.2024. Thereafter, the wife and son of the petitioner, substituted as legal heirs of the petitioner.

2.6 The respondent no.2 vide its order dated 16.03.2021 rejected the representation dated 03.02.2021 of the petitioner for regularization of service on the ground that the Yojna is a temporary scheme and there is no provision for regularization of services and has rejected

2.7 The decision taken by the respondent no.2 is patently illegal and erroneous for the simple reason that vide order dated 12.11.1997 all the rules and regulations applicable to the Cane Development Department has been made applicable to the employee of the Yojna therefore the benefit of regularization rules of State Government should have been granted to the petitioner.

2.8 The petitioner after superannuation on 31.7.2022 has been allowed leave encashment vide order dated 31.8.2022 and general provident fund vide order dated 06.09.2022 and was allowed amount of gratuity also.

2.9 The petitioner has not been allowed the pension as available to the Government employees in pursuant to the order dated 12.11.1997, by which all the rules of Government employee have been made applicable to the petitioner, therefore, on 28.09.2022, the petitioner moved a representation before respondent no.2.

2.10 The respondent no.2 vide order dated 20.10.2022 rejected the claim of the petitioner for payment of the pension on the ground that since the scheme in which the petitioner has served is non-

Government and further in pursuance to the order dated 14.6.2006 and 05.10.2009 the pension is not admissible.

2.11 The order dated 14.6.2006 issued by respondent no.2 is prospective in nature and by the said order it has been provided that in future no Government order will be implemented without permission of the Head of Department and the employee shall not get any benefit as Government employee. The order dated 5.10.2009 issued by respondent no.2 provides that the employee of the Antar Gramin Sadak Nirman Yojna shall be entitled to all benefit as available to the Government employee except pension.

2.12 As per order dated 12.11.1997, all the rules, Government orders, Regulations as applicable to the Government employee have been made available to the employees serving under Yojna. The employees of the Antar Gramin Sadak Nirman Yojna are entitled to pension as available to the Government employees as per order dated 12.11.1997. The order dated 14.6.2006 and 05.10.2009 issued by the respondent no.2 are in contravention to the provisions of Section 74 of U.P. Reorganization Act, 2000 as the condition of service applicable immediately before the appointed day in the case of any person allocated to the State of Uttarakhand shall not be varied to his disadvantage except with the previous approval of the Central Government.

2.13 In the matter of Vinod Kumar Goyal who was also a Junior Engineer of Yojna, the Hon'ble Apex Court in the Civil Appeal No.2511 of 2004 held, since rules applicable to the Government employees have been adopted for the Cane Development Department, therefore Vinod Kumar Goyal is entitled to continue till the age of 60 years. After retirement from services when the pension was not granted to Vinod Kumar Goyal, he approached this Hon'ble High Court of Uttarakhand by filing a Writ Petition No.348/2005 (S/B) and the claim for pension was rejected by this Hon'ble Court vide judgment and order dated 9.11.2011. The said judgment was challenged before the Hon'ble Apex

Court and the Hon'ble Apex Court vide judgment and order dated 10.01.2014 passed in Civil Appeal No.227 of 2014 has allowed the claim of the pension, taking a note of fact that the rules applicable to the Government employees have been adopted from the Cane Department. After passing of the judgment the State vide order dated 24.7.2014 has allowed the pension to Sri Vinod Kumar Goyal.

2.14 The contention of the respondents that the employee of Yojna are not the Government employees has been rejected by the Hon'ble Apex Court on the basis of order dated 12.11.1997 passed by Cane Commissioner, therefore the same and similar contention to reject the claim of the pension is patently illegal.

3. C.A./W.S. has been filed on behalf of the respondent no. 2, mainly stating therein that:-

3.1 गन्ना एवं चीनी आयुक्त के अधीन संचालित अंतरग्रामीण सड़क निर्माण योजना पूर्णतः एक अस्थायी एवं गैर राजकीय योजना हैं, इस योजना के समस्त कार्मिक गैर राजकीय हैं। पूर्ववर्ती राज्य उत्तर प्रदेश तथा उत्तराखण्ड राज्य के अभ्युदय के उपरान्त अंतरग्रामीण सड़क निर्माण योजना के कार्मिकों हेतु कोई सेवा नियमावली प्रख्यापित नहीं की गई है। जिन पदों का सृजन राज्य सरकार द्वारा किया जाता है उन पदों के सापेक्ष नियुक्त कार्मिकों को ही नियमित, स्थाईकरण, पेंशन की सुविधा अनुमन्य की जाती है। इस अस्थाई एवं गैर राजकीय योजना के कार्मिकों को सेवा सम्बन्धी शर्तों का निर्धारण करने का सम्पूर्ण अधिकार गन्ना एवं चीनी आयुक्त के पास निहित है। गन्ना एवं चीनी आयुक्त द्वारा गठित नियमों के अनुसार ही इस योजना के गैर राजकीय कार्मिकों को सेवा सम्बन्धी लाभ अनुमन्य किये जाते हैं। अंतरग्रामीण सड़क निर्माण योजना का गठन राज्य सरकार द्वारा नहीं किया गया है अपितु गन्ना आयुक्त, उत्तर प्रदेश ने पत्र संख्या 216/सी दिनांक 26 सितम्बर 1972 के द्वारा समस्त जिला गन्ना अधिकारी से 02 अक्टूबर 1972 को गन्ना विकास समिति/परिषद से तत्वाधान में अर्न्तगत अर्न्तग्रामीण सड़क निर्माण योजना शुभारम्भ होने के सम्बन्ध में वार्ता की गयी आर जिन सड़कों का शुभारम्भ होना है उसका भी निर्णय लिया गया।

3.2 इस योजना के कार्मिकों हेतु राज्य सरकार द्वारा सेवा सम्बन्धी मामलों में शासनादेश जारी नहीं किये जाते हैं। इस योजना में कार्यरत तकनीकी कार्मिकों द्वारा किये गये निर्माण कार्यों से प्राप्त होने वाले सेटेंज से वेतन आदि का भुगतान किया जाता रहा है। इस योजना में पूर्व से ही सेवा नियमावली प्रख्यापित न होने के कारण गन्ना आयुक्त, उत्तर प्रदेश ने आदेश पत्रांक 211/सी दिनांक 16.08.1974 में इस योजना के कार्मिकों के वेतन इत्यादि मामलों में असमानता दूर करने के लिए राजकीय कर्मचारियों की भांति समय

समय पर बढ़े हुए मंहगाई भत्ते एवं हाऊस अलाउन्स दिये जाने हेतु निर्गत किये गये। वर्तमान में अंतरग्रामीण सड़क निर्माण योजना के अन्तर्गत सेंटेज मद में पर्याप्त मात्रा में धनराशि संचित न होने के कारण कार्मिकों का वेतन आदि एवं सेवानिवृत्तिक देयक यथा ग्रेच्युटी, अवकाश नकदीकरण का भुगतान किये जाने हेतु कार्यालय के अनुरोध पर अस्थाई रूप से राज्य सरकार द्वारा राज सहायता के रूप में धनराशि उपलब्ध करायी जा रही है।

3.3 पूर्ववर्ती राज्य उत्तर प्रदेश की भाँति अंतरग्रामीण सड़क निर्माण योजना की स्कीम उत्तराखण्ड राज्य में चलाये जाने हेतु गन्ना एवं चीनी आयुक्त, उत्तराखण्ड द्वारा राज्य सरकार से विभिन्न पत्रों के माध्यम से अनुरोध किया गया। गन्ना आयुक्त, उत्तर प्रदेश द्वारा अपने पत्र संख्या 6378-79 दिनांक 29.01.2002 के द्वारा अंतरग्रामीण सड़क निर्माण योजना में कार्यरत 12 विकल्पधारी गैर राजकीय कर्मचारियों को गन्ना एवं चीनी आयुक्त, उत्तराखण्ड को आवंटित किये गये हैं, जिसमें स्पष्ट उल्लेख है कि गन्ना आयुक्त, उत्तरांचल सभी प्रशासनिक व अन्य मामलों में निर्णय लेने के लिये सक्षम होंगे। गन्ना आयुक्त, उत्तर प्रदेश के अनुक्रम में संयुक्त गन्ना एवं चीनी आयुक्त, उत्तरांचल ने पत्र संख्या 40/सी दिनांक 2002 द्वारा इस योजना के 12 कार्मिकों का विकल्प उनकी नियुक्ति की प्रस्थिति के अनुसार स्वीकार किया गया है। याची पूर्ववर्ती राज्य उत्तर प्रदेश से कभी भी राजकीय भविष्य निधि से आच्छादित नहीं रहा है अपितु स्थानीय स्तर पर प्रदत्त व्यवस्था के अन्तर्गत अंशदायी भविष्य निधि से आच्छादित रहा है। याची इस योजना से सेवानिवृत्ति होने से पूर्व भी अंशदायी भविष्य निधि से ही आच्छादित रहा है।

3.4 गन्ना आयुक्त, उत्तर प्रदेश द्वारा आदेश पत्रांक 7884/सी दिनांक 12.11.1997 के सम्बन्ध में क्लेरीफिकेशन जारी करते हुए अपने आदेश पत्रांक 2536/सी दिनांक 13.11.2002 द्वारा स्पष्ट किया गया है कि इस योजना के अन्तर्गत कार्मिकों को स्थाईकरण, विनियमितीकरण, पेंशन की सुविधा अनुमन्य नहीं होगी। गन्ना आयुक्त, उ० प्र० के आदेश दिनांक 13.11.2002 को माननीय उच्च न्यायालय, इलाहाबाद लखनऊ बैंच द्वारा दिनांक 18.05.2016 में quash करते हुए गन्ना आयुक्त, उ० प्र० को निर्देशित किया गया है कि राजकीय कर्मचारियों पर लागू सभी सेवा लाभ अधिवर्षता के उपरान्त गणना करते हुए प्रदान किये जायें। माननीय उच्च न्यायालय, इलाहाबाद लखनऊ बैंच के आदेश दिनांक 18.05.2016 को उत्तर प्रदेश राज्य में गन्ना आयुक्त, उ० प्र०, प्रमुख सचिव गन्ना विकास एवं चीनी उद्योग लखनऊ, उ० प्र० द्वारा माननीय सर्वोच्च न्यायालय, नई दिल्ली द्वारा अपने आदेश दिनांक 2.12.2016 से माननीय उच्च न्यायालय, इलाहाबाद, लखनऊ बैंच द्वारा जारी आदेश दिनांक 18.05.2016 पर कार्यवाही हेतु स्थगन दिया चुका है। उ० प्र० के सेवानिवृत्त कार्मिकों से सम्बन्धित उत्तर प्रदेश में विभाग की ओर से दायर अपील संख्या 1080/2017 माननीय सर्वोच्च न्यायालय, नई दिल्ली में विचाराधीन है। आयुक्त, गन्ना एवं चीनी, उत्तर प्रदेश ने आदेश पत्रांक पत्र संख्या 16/सी/12-निर्माण/स्था०/वाद-18 दिनांक 17/04/2023 के द्वारा गन्ना विकास विभाग अन्तर्गत संचालित अन्तरग्रामीण सड़क निर्माण योजना में अतिशय अल्प कार्मिक कार्यरत रहने, योजना का कोई निर्धारित आय का श्रोत न होने, कार्मिकों को वेतन, भत्ते आदि के भुगतानित धनराशि आय से अधिक होने, उक्त योजना

उत्तर प्रदेश सरकार में कार्यदायी संस्था नामित न होने आदि के दृष्टिगत अंतरग्रामीण सड़क निर्माण योजना को मृत संवर्ग (Dead Cadre) घोषित किया गया है।

3.5 सुस्पष्ट नियम गठित नहीं होने के कारण गन्ना एवं चीनी आयुक्त, उत्तराखण्ड द्वारा आदेश दिनांक 12.11.1997 का अतिक्रमण कर अंतरग्रामीण सड़क निर्माण योजना के कार्मिकों की सेवा को सुचारु रूप से सम्पादित किये जाने हेतु आदेश पत्रांक 832/सी/क-स्था० दिनांक 14.06.2006, आदेश पत्रांक 148/सी दिनांक 05.10.2009 जारी किया गया है। आदेश 832/सी/क-स्था० दिनांक 14.06.2006 में स्पष्ट उल्लेख किया गया है कि "गन्ना आयुक्त, उत्तर प्रदेश, लखनऊ के उपर्युक्त आदेशों का गलत आशय लगाकर योजना के अन्तर्गत कार्यरत कर्मचारियों एवं अधिकारियों द्वारा अपने को राजकीय कर्मचारियों के समरूप होने का दावा प्रस्तुत किया जा रहा है, जब कि उक्त आदेश का उद्देश्य अन्तर्ग्रामीण सड़क निर्माण योजना के अन्तर्गत कार्यरत कर्मचारियों एवं अधिकारियों के स्थापना सम्बन्धी मामलों पर निर्णय लेने की सुविधा को दृष्टिगत रखना था। इस योजना के कार्मिकों के हितों को दृष्टिगत रखते हुए गन्ना एवं चीनी आयुक्त, उत्तराखण्ड ने आदेश 148/सी दिनांक 5.10.2009 के द्वारा अंतरग्रामीण सड़क निर्माण योजना के कार्मिकों को राजकीय कर्मचारियों के समान वेतन के साथ समय-समय पर मिलने वाले भत्ते एवं अन्य लाभ (पेंशन छोड़कर) तथा वाहन भत्ता, वर्दी, वेतन वृद्धि आदि संयुक्त गन्ना एवं चीनी आयुक्त की प्रशासनिक स्वीकृति पर देय होगा, लागू किया गया है। इससे स्वतः स्पष्ट है कि इस योजना के गैर राजकीय कार्मिकों हेतु राज्य सरकार द्वारा आदेश जारी नहीं किये गये हैं। गन्ना एवं चीनी आयुक्त द्वारा सौंपे गये निर्माण कार्यों को संचालन किये जाने हेतु इन कार्मिकों की नियुक्ति तदर्थ/अस्थायी रूप से की गयी है। इस योजना के कार्मिक कभी भी राजकीय कर्मचारी नहीं रहे हैं। याची द्वारा दिनांक 12.04.2016 में अंतरग्रामीण सड़क निर्माण योजना से राजकीय विभाग में समायोजन किये जाने हेतु गन्ना एवं चीनी आयुक्त, उत्तराखण्ड को अनापत्ति प्रमाण प्रस्तुत किया गया है जिसमें उल्लेख किया गया है कि "मैं देवेन्द्र पाण्डेय पद सहायक अभियंता प्रमाणित करता हूँ कि यदि मेरा समायोजन अन्तर्ग्रामीण सड़क निर्माण योजना से उत्तराखण्ड राज्य के अन्य राजकीय विभागों में किया जाता है तो मुझे समायोजन उपरान्त समायोजित किये गये राजकीय विभाग में अपने सहायक अभियंता संवर्ग में कनिष्ठ होने में कोई आपत्ति नहीं है। मैं समायोजन के समय समायोजित राजकीय विभाग में अपने सहायक अभियंता संवर्ग में कनिष्ठतम रहूँगा।" इससे स्वतः स्पष्ट है कि याची अंतरग्रामीण सड़क निर्माण योजना में गैर राजकीय कार्मिक रहा है। इस योजना में याची की नियुक्ति काम चलाऊ व्यवस्था के अन्तर्गत अवर अभियंता के पद पर तदर्थ एवं अस्थायी तथा पदोन्नति सहायक अभियंता के पद पर तदर्थ एवं अस्थायी रूप से की गयी। याची के नियुक्ति पत्र में स्पष्ट उल्लेख है कि यह पद राजकीय नहीं है। याची को अंतरग्रामीण सड़क निर्माण योजना से 60 वर्ष की अधिवर्षता दिनांक 31.07.2022 को करने के उपरान्त के याची के प्रार्थना पत्र/दिनांक 01.08.2022 के अनुक्रम में आदेश पत्रांक 832/सी/क-स्था० दिनांक 14.06.2006 तथा आदेश पत्रांक 148/सी/निर्माण दिनांक 05.10.2009 में वर्णित व्यवस्था के अनुसार याची को अंतरग्रामीण सड़क निर्माण योजना से अंशदायी भविष्य निधि (कार्मिक

अंश व संस्था अंश सम्मिलित) तथा सेवानिवृत्तिक देयक यथा ग्रेच्युटी, अवकाश नकदीकरण का भुगतान हेतु आदेश पारित किये जा चुके हैं।

4. Heard learned Counsel for the petitioner, learned A.P.O. and perused the record.

5. Learned counsel for the petitioner argued that the petitioner was appointed on adhoc basis in Yojna under Sugar Cane Commission on 24.04.1987. He was promoted on the post of Asstt. Engineer, given pay and the increments as in case of the regular government employees. After bifurcation of State of Uttar Pradesh, the petitioner was allocated the Uttarakhand cadre. Government of Uttarakhand has paid the benefit of ACP to the petitioner as in case of the employees of the Yojna vide order dated 01/8/2015. There were no rules to govern the services of the employees appointed under the Yojna as the scheme was non-government and temporary. The Sugarcane Commissioner in the erstwhile State of UP issued a letter dated 12.11.1997, that the all the rules related to the service of the employees at different levels of the Sugar and Sugar Cane department will be applicable to the employees working in the Yojna. The age of retirement of the employees of the Antar Gramin Sarak Nirman Yojna has been increased by the Sugarcane Commissioner from 58 to 60 years vide order dated 31.01.2006 in compliance of the order of the Hon'ble Apex Court in the matter of *Vinod Kumar Goyal Vs State of Uttarakhand*. Further, Hon'ble Apex Court in the matter of *Vinod Kumar Goyal vs. State of Uttarakhand and others in Civil Appeal no 227 of 2014 ordered the payment of the pension*. Hon'ble Apex Court in the above judgements held that *'Rules applicable to the Government employees have been adopted for the Cane Department and held the Rules of the State is applicable to the appellant for the purpose of superannuation and other consequential benefits'*.

5.1 The Government of Uttarakhand has issued the orders dated 14.06.2006 and 05/10/2009 in contravention of Section 74 of the Uttar Pradesh Reorganization Act, 2000. Section 74 of the Act says that the

government cannot change the conditions of the service existing prior to the bifurcation of the State to the disadvantage of the employees.

5.2 Learned counsel for the petitioner has relied on the judgment of the Hon'ble Supreme Court in the matter of Government of Madhya Pradesh & Ors vs Shardul Singh and Ors, in which the '*conditions of service*' is mentioned as *all those conditions which regulate the holding of a post by a person right from the time of his appointment till his retirement and even beyond it in matters like pension etc.* ----- . The respondent authorities changed the conditions of the service as decided vide letter dated 12.11.1997 by the aforesaid orders. Learned Counsel for the petitioner further argued that the Hon'ble Apex Court in the matter of T.R. Kapur Vs State of Haryana & Ors quashed the provision of the Punjab Service Engineers Class I, Public Works Department Rules, 1964 amended vide notification dated 22 June 1984, which changed the service conditions existing before Punjab Reorganization Act, 1966 in respect of some persons. This has affirmed the provision 82(6) of the Punjab Reorganization Act 1966 that the service conditions of any persons cannot be changed to his disadvantage after reorganisation.

5.3 Learned Counsel for the petitioner further argued that Government of U.P. also issued an order dated 13.11.2002 explaining that the letter dated 12.11.1997 which says that the employees of the Cane Commission will get all the benefit of the Government employees except the regularization, confirmation and the pension, which has been quashed by the Hon'ble Apex Court in *Civil Appeal No.(S). 1080 of 2017, State of Uttar Pradesh & ors vs. Dinesh Kumar Sharma & ors*, in which, the Hon'ble Apex Court reiterated the order passed in the matter of Vinod Kumar Goyal vs. State of Uttarakhand & others, and also ordered that the Contributory Fund amount paid to the petitioner be adjusted against the arrear amount of pension and the rest of amount if any will be paid by the petitioner. Hence, the impugned orders are liable to be quashed and the claim petition is liable to be allowed.

6. Learned A.P.O. argued that the order dated 12.11.1997 is being misinterpreted as the order was to streamline the establishment related matters of the employees of the Yojna. The order has now been replaced by the order dated 05.10.2009 issued by the Uttarakhand Government, which states that the employees of the Antar Gramin Sadak Nirman Yojana are entitled to the pay, allowances and other benefits except pension as admissible to the employees of the State Government. The Sugarcane Commissioner in view of poor financial condition of the yojana requested the State government to adjust the employees in the other departments. The petitioner has even submitted NOC in this respect also. The Antar Gramin Sadak Nirman Yojna is a non-government and a non-pensionable organization, the employees are governed under Contributory Provident Fund Scheme. In view of the above the Claim petition is liable to be dismissed.

7. Based on the arguments of the Learned Counsel for the parties and the documents presented, we find that the petitioner was appointed as JE, promoted to the post of AE, but he was never regularized in the service. The Cane Commissioner U.P., to facilitate decision making related to the establishment matters in respect of the employees of Yojana issued a letter dated 12.11.1997 vide which, it is stated that all the rules applicable to the employees of the Sugarcane department will be applicable to the employees of the Yojna. The petitioner has been given increments regularly and he was even granted the benefits the A.C.P. also.

7.1 Based on the aforesaid letter dated 12/11/1997, the Hon'ble Apex Court in Civil Appeal No. 2511 of 2004 in the matter of *Vinod Kumar Goyal and Ors vs. State of Uttarakhand and others* ordered for enhancing the age of superannuation from 58 years to 60 years. The Hon'ble Apex Court in *Civil Appeal no 227 of 2014 in the matter of State of Uttarakhand and others vs. Vinod Kumar Goyal and others* ordered for granting pension. The relevant portion of the judgement of the Hon'ble Apex court is as below:

“Respondents in the earlier case, between the same parties, this Court has not accepted the stand taken by the respondent-state that the appellant is not a Government employee. This Court noticed that the Rules applicable to the Government employees have been adopted for the Cane Department and held the Rules of the State is applicable to the appellant for the purpose of superannuation and other consequential benefits. The decision aforesaid being binding on both the parties, the respondents cannot deny the retiral benefits including pension to the appellant.”

7.2 The Uttarakhand Government issued letters dated 14.6.2006 and 05.10.2009 to supersede the letter 12.11.1997 vide which it is clarified that the employees of the Yojna are entitled to get all the service benefits of the Government employees except the pension. The Government U.P. has also issued the letter dated 13/11/2002 to clarify the letter dated 12/11/1997, which has been quashed by the Hon’ble Apex Court in Civil Appeal No. 1080 of 2017, State of Uttar Pradesh & others vs. Dinesh Kumar Sharma & others, by citing the earlier judgements in the matter of Vinod Kumar Goyal Vs State of Uttarakhand. The relevant paras no. 15 and 20 of the above judgment as under:

“15. This Court vide its earlier judgment in the case of Vinod Kumar Goel (supra) has dealt with this aspect and has categorically held that the employees appointed under the scheme would be governed by the Rules as applicable to the government employees as per the conscious decision of the government. The employees were also entitled to continue till 60 years of age, further entitling them to consequential benefits, which is apparent from the subsequent order dated 10.07.2014 passed by this Court in the second round when Vinod Kumar Goel was not granted the benefit of pension by the Government.

.....

.....

20. In light of the above, the appeal stands dismissed except for holding the respondents entitled to arrears of pension for a period of three years prior to the date of the filing of their Writ Petition or the date of attaining the age 60 years whichever is earlier for the relief as granted by the High Court. As regards the benefits which have been disbursed to the respondents under the Contributory Pension Scheme, the appellants would be entitled to deduct the said amount from the arrears of pension payable to the respondents. This exercise shall be carried out within a period of one month. In case there is still some amount due to be paid by the respondents, the said amount shall be conveyed to the respondents within a period of two weeks after the expiry of the initial one month as granted,

which shall thereafter be deposited by the respondents within a period of two weeks. On doing so, the arrears and/or pension as per entitlement would be paid within thirty days.

7.3 The argument of the Learned A.P.O. that the petitioner was part of Contributory Provident Fund Scheme, does not make any difference as the amount of CPF paid to the petitioner can be recovered.

7.4 The arguments of the learned Counsel for the petitioner that the service conditions of the petitioner cannot be changed without approval of the Central Government has been affirmed by the Hon'ble Apex Court in case of *T.R.Kapur vs. State of Haryana*, (1986) 4 SUPREME 330 held that: *The proviso to s.82(6) of the Punjab Reorganisation Act is in the nature of a fetter on the power of the Gover nor under the proviso to Art. 309 of the Constitution not to alter the conditions of service applicable to members of civil services affected by the reorganisation of the State to their disadvantage without the previous approval of the Central Government.* It is further held that- *In the result, the petitions must succeed and are al- lowed with costs. The impugned notification dated June 22, 1984 issued by the State Government of Haryana purporting to amend r.6(b) of the Punjab Service of Engineers, Class I, Public Works Department (Irrigation Branch) Rules, 1964 with retrospective effect from July 10, 1964 is declared to be ultra vires the State Government.*

7.5 In view of the above, the letters dated 14.06.2006 and 05.10.2009 are in contravention of the aforesaid judgments of the Hon'ble Apex Court and Section 74 of the U.P Reorganization Act, 2000.

7.6 The contention of the respondents that the petitioner was an adhoc employee and he was never regularized, which makes him ineligible for the pension. This contention of the respondents is not tenable in view of the judgement of the Hon'ble Apex Court in the Special Leave to Appeal (C) N:1109/2022, 2022, LiveLaw (SC)187, the State of Gujarat & Ors. vs. Talsibhai Dhanjibhai Patel, the relevant para is as under:

"It is unfortunate that the State continued to take the services of the respondent as an ad-hoc 30 years and thereafter now to. contend that as the services rendered by the respondent are ad-hoc, he is not entitled to pension/pensionary benefit. The State cannot be permitted to take the benefit of its own wrong. To take the Services continuously to 30 years and thereafter to contend that an employee who has rendered 30 years Continuous service shall not be eligible for pension is nothing but unreasonable excuse of welfare State the State as such ought to have taken such a stand in the present case, the High Court has not committed any error in directing the State to pay pensionary benefits to the respondent who has retired after rendering more than 30 years service. Hence, the Special Leave Petition stands dismissed."

8. In view of the aforesaid judgements of Hon'ble Apex Court and the facts of the case, the impugned orders dated 20.10.2022, 14.06.2006 and 05.10.2009 are liable to be quashed and the claim petition liable to be allowed.

ORDER

The claim petition is hereby allowed. The impugned orders dated 20.10.2022, 14.06.2006 and 05.10.2009 are hereby quashed. The respondents are directed to pay the pension to the petitioner (legal heirs) along with the arrears of the pension from date of retirement. The amount of contribution of the Government in the Contributory Fund amount paid to the petitioner is to be deducted from the arrears of pension. In case after adjustment, some amount of the Contributory Fund is still left to be recovered, that may be informed to the petitioner, which they will refund to the Government. This exercise shall be carried out within two months of presentation of certified copy of the judgment and the pension amount be paid to the petitioner (legal heirs) within a month thereafter. No order as to costs.

RAJENDRA SINGH
VICE CHAIRMAN (J)

A.S.RAWAT
VICE CHAIRMAN (A)

DATED: AUGUST 11, 2025
DEHRADUN
KNP