

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

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. Arun Singh Rawat

-----Vice Chairman (A)

CLAIM PETITION NO.145/DB/2024

Sri Govind Prakash Sharma, aged about 73 years, s/o Late Sri T.D. Sharma, r/o 317/269, Old Dalanwala, Dehradun, Uttarakhand.

.....**Petitioner**

vs.

1. State of Uttarakhand through Secretary, (Tourism), Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Managing Director, Garhwal Mandal Vikas Nigam (GMVN) Ltd. 74/1, Rajpur Road, Dehradun.
3. General Manager (Administration) Garhwal Mandal Vikas Nigam (GMVN) Ltd. 74/1Rajpur Road, Dehradun.
4. General Manager (Finance) Garhwal Mandal Vikas Nigam (GMVN) Ltd. 74/1Rajpur Road, Dehradun.

.....**Respondents**

Present: Sri L.K.Maithani, Advocate, for the Petitioner.
Sri V.P. Devrani, A.P.O. for the Respondent No.1.
Sri S.C.Virmanani (online) & Sri S.K.Jain, Advocates,
for Respondents No. 2, 3 & 4.

JUDGMENT

DATED: JULY 30, 2025.

Justice U.C. Dhyani (Oral)

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

- “i) To issue an order or direction to the concerned respondents to pay the amount of the arrear of Sixth Pay Commission Rs. 2,86,152/ with interest at the rate of 18% per annum to the petitioner since the date of his retirement up to the date of actual payment.*
- ii) To issue any other order or direction which this court may deem fit and proper in the circumstances of case in favour of the petitioner.*
- iii) To award the cost of petition.”*

2. Claim petition is supported by the affidavit of petitioner. Relevant documents have been filed along with the petition.

3. Counter Affidavit has been filed on behalf of Garhwal Mandal Vikas Nigam Ltd. (for short, GMVN) by Sri Yashveer Singh Bhandari, Office Superintendent, GMVN, Authorized Representative of Respondents No.2 & 3. Relevant documents have been filed in support of Counter Affidavit.

4. State is a formal party and it adopts the same C.A., which has been filed on behalf of Respondents No. 2 & 3.

5. Rejoinder Affidavit has been filed by the petitioner, reiterating the same facts which have been mentioned in the claim petition.

6. Petitioner has come up with present claim petition being aggrieved against communication dated 24.05.2024 (Annexure; A 1), addressed to him by the Accounts Officer, Headquarter, GMVN. It only says that the retired employees cannot be given arrears of 6th and 7th Pay Commission, considering the financial condition of the Respondent Corporation (GMVN). The same was decided by the Board of Directors (for short, BoD) of GMVN.

7. A proposal to comply with the orders dated 04.01.2023, passed by Hon'ble High Court of Uttarakhand at Nainital, to release the arrears of 6th and 7th Pay Commission and ACP was initiated before the

BoD of GMVN, on which the BoD took a decision that considering the financial hardship of GMVN on account of natural calamities which befell in Kedarnath Valley in 2013 and Pandemic Covid-19, tourism was badly affected. Auly Ropeway was closed, there was no earning of the Respondent Corporation, therefore, it is not possible to release the arrears to the retired employees. Such facts are explicit in communication dated 24.05.2024 (Annexure: A-1), which is in the teeth of present claim petition [*qua* petitioner only].

8. WPSB No. 664/2022, Kamal Nayan Nautiyal vs. State of Uttarakhand & others and connected writ petitions, on the same subject matter, were decided by the Hon'ble High Court *vide* order dated 12.03.2024. Relevant paragraphs of the decision read as under:

“3. Petitioner was an employee of a Government Company, namely Garhwal Mandal Vikas Nigam Limited (hereinafter referred to as 'GMVN'). He retired from the post of Assistant General Manager (Tourism) on 31.05.2021. According to petitioner, he has not been paid the amount of leave encashment, arrears of 6th & 7th Pay Commission and interest on delayed payment of gratuity therefore, he has sought a direction to the authorities to forthwith release the outstanding dues.

5. Relevant information regarding retiral dues, which have been paid and also the dues, which remain to be paid to some of the petitioners is given in tabular form in Annexure-1 to the aforesaid affidavit filed by Accounts Officer. Perusal of the said affidavit reveals that leave encashment and arrears of leave encashment is yet to be paid to Mr. Susheel Chandra (petitioner in WPSS No. 408 of 2023); arrear of ACP is yet to be paid to Mr. Jitendra Singh Negi (Petitioner in WPSB No. 454 of 2023); arrear of gratuity is sanctioned to Mr. Vikram Singh Panwar (petitioner in WPSS No. 1600 of 2023) and payment is under process and leave encashment is also yet to be paid to him. Similarly, Mr. Kuldeep Singh Rauthan (petitioner in WPSS No. 1602 of 2023) and Mr. Vijendra Pal Singh (petitioner in WPSS No. 1620 of 2023) have been sanctioned leave encashment and arrears of leave encashment and payment thereof is under process; Smt. Sushila Chauhan (petitioner in WPSS No. 1919 of 2023) is yet to be paid arrear of ACP; Ms. Saroj Kukreti (petitioner in WPSS No. 1920 of 2023) has been sanctioned leave encashment & arrears of leave encashment and payment thereof is under process, and the pending dues of all other petitioners have been cleared.

6. Petitioners have staked claim for arrears of salary, which accrued to them on account of 6th & 7th pay revision. According to them, benefit of 6th pay revision, with arrears, was given to State employees w.e.f. 01.01.2006, therefore, they are also entitled to same benefit w.e.f. 01.01.2006. Petitioners have also claimed benefit of 7th pay revision w.e.f. 01.01.2016 at par with State employees, which was given to them w.e.f. 01.01.2017.

7. It is contended on behalf of the petitioners that benefit of 6th pay revision was given to officers/employees of GMVN, only w.e.f. 01.08.2009, similarly, benefit of 7th pay revision was given to them w.e.f.

01.01.2017, which is arbitrary & unjust, therefore, a direction be issued to GMVN to give benefit of 6th & 7th pay revision to petitioners w.e.f. the date it was given to State employees i.e., 01.01.2006 and 01.01.2016. Thus, petitioners have claimed the differential amount of salary for the corresponding period, which allegedly accrued on account of pay revision.

8. Learned counsel for respondents, however has produced in Court the decision taken by Board of Directors of GMVN in its 130th meeting, held on 23.01.2023. In the said meeting, issue of payment of arrears of 6th & 7th Pay Commission and arrears of ACP was considered, and a decision was taken that keeping in view the precarious financial position of GMVN, it is not possible at present to pay arrears of 6th & 7th Pay Commission to its officers/employees. In the same meeting, General Manager (Finance) apprised the Board of Directors that arrears of ACP has been paid to all the officers/employees of GMVN.

10. In the present case, the Board of Directors has taken a decision not to grant arrears of 6th & 7th pay Commission to the employees of GMVN and the said decision has not been challenged by the petitioners.

[Note: In the instant petition, communication dated 24.05.2024 (Annexure: A-1) is under challenge].

11. Learned counsel for petitioners submit that pay scales of all State employees were revised w.e.f. 01.01.2006, even though recommendations made by 6th Pay Commission were accepted at a subsequent date, therefore, denial of benefit of pay revision to petitioners, who are employees of a Government Company from due date, i.e. 01.01.2006, is unjust and illegal. Similar contention was raised in respect of 7th pay revision, which was made effective by GMVN in respect of its employees, w.e.f. 01.01.2017; while, State employees were given the said benefit w.e.f. 01.01.2016.

12. Petitioners are employees of a Government Company, thus, their status is different from that of a State employee. The decision taken by State Government in respect of State employees is not ipso facto applicable to employees of Government Companies and Statutory Corporations. The Board of Directors of a Government Company is the highest decision making body, which decides the service conditions and pay scales payable to its employees. The Board of Directors has taken a decision not to grant arrears of 6th and 7th pay revision to the employees of GMVN. The decision taken by Board of Directors is not challenged in these writ petitions. So long as the decision taken by Board of Directors stands, no direction can be issued to GMVN to pay arrears of 6th & 7th Pay Commission to petitioners. The Board of Directors, however has taken said decision in view of present financial condition, therefore, the Board of Directors may revisit its decision, if financial condition of GMVN improves. Petitioners shall be at liberty to approach the Competent Authority for having a relook in the matter, as and when GMVN has surplus funds.

13. Learned Counsel for respondent nos. 2 & 3 submits that due to precarious financial condition of GMVN, difficulty is being faced in timely payment of dues of the employees, and it was decided that employees, who have retired earlier in point of time, will have preference in payment of retiral dues. He submits that petitioner in WPSB No. 408 of 2023 retired on 31.07.2022; while as many as 33 persons retired earlier to him, therefore, payment will be made to him, once dues of other employees who retired earlier are cleared. He, however, assures the

Court that outstanding dues of all the petitioners will be cleared, positively, within six months.

14. From the affidavit filed by the Accounts Officer, it is revealed that pending dues of majority of the petitioners have been cleared. Learned counsel appearing for GMVN has assured that pending dues of other petitioners would also be cleared within six months. We take the statement made by learned counsel for GMVN on record. In view of decision taken by Board of Directors, no direction can be issued to pay the arrears of 6th & 7th Pay Commission to petitioners. As regards the claim of petitioners for interest on delayed payment of gratuity, petitioners shall be at liberty to make separate representation and if such representation is made by them, Competent Authority shall take decision thereupon, within eight weeks from the date of receipt of such representation.

15. With the aforesaid observations, writ petitions stand disposed of. Pending Application(s), if any, also stand disposed of.”

[Emphasis supplied]

9. Petitioner served in the Uttar Pradesh Parvatiya Vikas Nigam Ltd., which was bifurcated into Garhwal Mandal Vikas Nigam Ltd. (GMVN) and Kumaun Mandal Vikas Nigam Ltd.(KMVN). Petitioner was allocated GMVN, wherefrom he retired as Executive Assistant, on 31.12.2010.

10. All the retiral dues were although paid to the petitioner, but arrears of 6th Pay Commission *w.e.f.* 01.01.2006 to 31.07.2009 have not been paid to him. Nothing requires to be paid to the petitioner except the arrears of 6th Pay Commission from 01.01.2006 to 31.07.2009.

11. In the C.A. filed on behalf of the Respondent Corporation, reliance has been placed upon the decision taken by the BoD of GMVN, a reference of which has been given by the Tribunal in one of the foregoing paragraph of this judgment. Sri S.K.Jain, Ld. Counsel for GMVN, submitted that the BoD has taken a conscious decision in view of the prevailing financial condition of the Corporation.

12. In reply, Sri L.K.Maithani, Ld. Counsel for the petitioner, drew attention of the Tribunal towards the statement/ chart of 6th Pay Commission arrears of the petitioner *w.e.f.* January, 2006 to July 2009, which was obtained under RTI (Copy: Annexure- R 3), to submit that the department had already made up its mind to release the arrears (Gross Rs.286152-00 *minus* EPF Rs. 61318-00 = Rs.224834/-) of 6th Pay Commission, but the same has not been released.

13. In a nutshell, the respondents have nowhere denied that the petitioner is not entitled to arrears of 6th Pay Commission from January, 2006 to July, 2009. The BoD of GMVN has simply expressed their inability to pay the arrears of 6th Pay Commission, in view of the prevailing financial condition of the Corporation.

14. The BoD of GMVN has simply decided that the arrears are not possible to be released at present. In the subsequent paragraph of communication dated 24.05.2024 (Annexure: A-1), the BoD has only said that considering the present circumstances, it is not possible to release the arrears of the Pay Commission to the employees.

15. Sri L.K.Maithani, Ld. Counsel for the petitioner has drawn attention of the Bench towards decision rendered by the Tribunal on 20.12.2022 in Writ Petition No. 71(S/B) of 2022, reclassified and renumbered as Claim Petition No. 76/NB/DB/2022, Mohan Chandra Pandey vs. State of Uttarakhand and others, to submit that the following observations were made by the Tribunal while deciding the aforesaid petition:

“11. Learned Counsel for the petitioner submitted that on the basis of the recommendation of the 6th Pay Commission, the Govt. of Uttarakhand issued a G.O. dated 30.12.2009 regarding revised pay scale of the employees of the KMVN & GMVN whereby the State Govt. provided that the employees of the said Nigams were also entitled to get revised pay scale of 6th Pay Commission from 01.08.2009. It has also been submitted on behalf of the petitioner that vide G.O. dated 30.12.2016 and 30.05.2019, the amount of Gratuity of the employees of the Corporations of Uttarakhand has been enhanced from 10 Lacs to Rs. 20 Lacs and as per this G.O., enhanced gratuity will be effective from 01.01.2018 i.e., the incumbents who were in service on 01.01.2018 will be entitled to get the enhanced gratuity of Rs. 20 Lacs. The petitioner has retired on 31.05.2019 and thus he is entitled to get remaining amount of Gratuity as per G.Os. dated 30.12.2016 and 30.05.2019. The recommendations of the VII Pay Commission has been made applicable to the respondent corporation w.e.f. 01.01.2016 vide G.O. dated 11.06.2019. The benefits of 6th Pay Commission has been granted to the petitioner w.e.f. 01.01.2018, whereas the same ought to have been granted to him w.e.f. 01.01.2016 in view of the G.O. dated 11.06.2019.

12. In a nutshell, the respondent corporation is obligated to pay retiral dues of the petitioner along with interest on delayed payment, notwithstanding the fact that it is suffering from severe financial crunch, as pleaded by learned Counsel for KMVN.

13. The Respondent Corporation is, therefore, directed to release the retiral dues along with admissible interest on delayed payment of such

retiral dues, as above, without unreasonable delay, on presentation of certified copy of this order. No order as to costs.”

16. Ld. Counsel for the petitioner also submitted that KMVN, in its office order dated 16.05.2023 (Annexure: A-9) has formulated a scheme for payment of arrears of 6th Pay commission to those, who have either died or have retired, in installments. Ld. Counsel for the petitioner submitted that similar scheme should be formulated by GMVN also, for mitigating the hardship of retired employees, like the petitioner, who is aged about 75 years.

17. The BoD of a Government Company, the highest decision making body, which decides service conditions, pay scales payable to the employees, has taken a decision not to grant arrears of 6th and 7th Pay Commission to the employees of GMVN, considering the prevailing circumstances. Such decision was taken by the BoD in furtherance of the decision dated 04.01.2023 rendered by the Hon’ble High Court of Uttarakhand at Nainital in WPSB No. 664/2022, Kamal Nayan Nautiyal vs. State of Uttarakhand & others and connected writ petitions. It does not say that payment of arrears of 6th Pay Commission shall not be made, it only says that considering the prevailing circumstances, it is not possible to release arrears of Pay Commission, as of now. The decision was taken considering the financial condition of the Corporation.

18. So long as the decision taken by the BoD stands, no direction can be given to the BoD of GMVN to pay arrears of 6th Pay Commission to the petitioner. The BoD, has taken a decision, which has been conveyed through communication dated 24.05.2024 (Annexure: A-1), in view of the then prevailing financial condition of the Corporation. At the best, the BoD (of GMVN) may be directed, by the Tribunal, to revisit its decision, for, after all, it has already taken a decision to pay arrears, but has not released such arrears only because of the then prevailing circumstances, which finds mention in Annexure: A-1. The BoD may revisit its decision to see whether the time is ripe for releasing the arrears or not. The Tribunal would reiterate that the arrears, in any case,

are to be paid to the employees, like the petitioner, who has retired long ago. The only question is- when such arrears would be paid?

19. A direction is, therefore, given to the BoD of GMVN to revisit its decision to see whether the time is ripe for releasing the arrears of the Pay Commission or not and if it is possible for the Respondent Corporation to pay the arrears of 6th Pay Commission to the petitioner, the same may be released, as early as possible, looking to the age of petitioner, who is 75 years old.

20. An employer is always in a dominating position to regulate the service conditions of its employees. Profit- and- loss statement is prepared by its Finance Officers. The Tribunal is not, and cannot be, in a position to comment upon the financial condition of any organization. But, one thing is certain, India is a social welfare State. No one can deny that the employer should look after the welfare of its employees, in all sincerity. The employees should also be loyal to the organization. GMVN should, therefore, come out with a scheme to wipe out tears from the eyes of people and sufferings calling on justice.

21. The claim petition stands disposed of with the aforesaid direction. A decision *qua* petitioner may be taken by the Respondent Corporation to mitigate his hardship.

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JULY 30, 2025
DEHRADUN

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