BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
AT DEHRADUN

EXECUTION PETITION NO. 19/SB/2025
(*Arising out of judgment dated 14.05.2025,*
passed in Claim petition No. 192/SB/2024)

Birendra Singh Rana, s/o Late Sri Kishan Singh Rana, aged 61 years, Treasury Officer (Retired), r/p Rana Bhawan, Ward No.3, Tin Shed Colony, Gyanshu, Uttarkashi, Uttarakhand.

……Petitioner /applicant

vs.

1. The Secretary , (Finance) Uttarakhand Secretariat, Subhash Road, Dehradun.
2. The District Magistrate, District- Uttarkashi, Uttarakhand.
3. The Director of Pension & Entitlement, 23 Laxmi Road, Uttarakhand, Dehradun.
4. The Senior Treasury Officer, District Uttarkashi, Uttarakhand.

…….. Respondents

Present: Sri Uttam Singh, Advocate, for the petitioner-applicant.(online)
Sri V.P.Devrani, A.P.O., for the respondents.

JUDGMENT

DATED: SEPTEMBER 19, 2025

Justice U.C.Dhyani (Oral)

By means of present execution petition, petitioner-applicant seeks to enforce order dated 14.05.2025, passed by this Tribunal in Claim Petition No. 192/SB/2024, Sri Birendra Singh Rana vs. State of Uttarakhand & others.

2. The execution application is supported by the affidavit of Sri Birendra Singh Rana, petitioner-applicant along with copy of the judgment passed by the Tribunal on 14.05.2025.

3. Relevant paragraphs of the decision rendered by this Tribunal on 14.05.2025, read as under :

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

"(i) To set aside the order/Letter No 3396/UK/13/31012023/66094 dated 19-11-2024 to the extent wherein the respondent has with held a sum of Rs 3,91,443/-from illegally. (Annexure No A-1) the Gratuity.

(ii)To direct the respondent to release the with held amount of gratuity of Rs 3,91,443/- along with interest @ 12% pa.

(iii) To direct the respondent to pay the interest on the inordinate delay of payment of pension, gratuity, leave encashment, GIS etc @ 12% pa.

(iv)To pass any other suitable order, which the Hon'ble Tribunal may deem fit and proper on the basis of facts and circumstances of the case.

(v)Award the cost of the petition & compensation to the petitioner due to mental harassment."

4. According to Ld. Counsel for the petitioner, petitioner retired as Treasury Officer in the respondent department on 31.01.2023. Respondents, on 19.11.2024, issued pension payment order (PPO), but in that PPO, the gratuity of worth Rs. 3,91,443/- was withheld. Hence, the petition has been filed for –

(i) interest on delayed payment of retiral dues and
(ii) refund of withheld amount of gratuity with interest.

5. Ld. A.P.O. submitted that confusion arose because of applicability of 18:20 ratio in Account Cadre of Treasury Department. Reference of WPSB No. 48/2023, Uttarakhand Treasury Staff Association vs. State of Uttarakhand has been given in this regard. *[Author's Note: Hon'ble Courts' observations are in favour of the petitioner.]*

6. Ld. A.P.O. also submitted that recovery is permissible under Para 81(3) of Financial Hand Book Part 5. *[Author's Note: Hon'ble Supreme Court has observed that it is not as a matter of right, but in equity.]*

7. The questions which arise for consideration of the Tribunal, are:

(i) Whether the petitioner is entitled to interest on delayed payment of retiral dues?

(ii) Whether the petitioner is entitled to release of gratuity, especially when he had no role to play in alleged wrong fixation of pay?

8. Regard may be had to the decision of Hon'ble Apex Court in *S.K.Dua vs. State of Haryana and Another, (2008) 1 Supreme Court Cases (L&S) 563*, wherein the Hon'ble Supreme Court has held that even in the absence of specific Rule or order for providing interest, an employee can claim interest on the basis of Articles 14,19 and 21 of the Constitution of India, as retirement benefits are not a bounty. Pension and gratuity are property rights within Article 300 A of the Constitution of India. In the decision of *D.D.Tiwari (D) Thr. Lrs. vs. Uttar Haryana Bijli Vitran Nigam Ltd. and Others, 2014 (5) SLR 721 (SC),*

also, it was held by Hon'ble Supreme Court that retiral benefit is a valuable right of employee and culpable delay in settlement/ disbursement must be dealt with penalty of payment of interest..

9. The State of Uttarakhand has itself issued Rules known as the Uttarakhand Pension Cases (Submission, Disposal and Avoidance of Delay) Rules, 2003, in which a time frame has been given for release of retiral dues. Moreover, the State Govt. has itself issued a G.O. dated 10.08.2004 that the interest should be given on delayed payment of retiral dues and rate of such interest should be as per the prevalent GPF rate.

10. Perusal of Pension Payment Order (Annexure: A-1) would reveal that such PPO was issued on 19.11.2024, whereas he retired from service on 31.01.2023. There is delay in releasing the retiral dues.

11. Hence, the Tribunal observes that the petitioner is entitled to interest on delayed payment of admissible retiral dues. If any of the retiral dues were paid to the petitioner within time, respondents need not give interest to the petitioner on those retiral dues. The rate of interest on delayed payment of retiral dues shall be simple rate of interest, payable on GPF, till the date of actual payment.

Question No.(i) is answered accordingly

12. As per claim the petition, petitioner retired as Treasury Officer on attaining the age of superannuation on 31.01.2023. A writ petition being WPSB No. 48/2023, Uttarakhand Treasury Staff Association through its President (Himanshu Sharma) vs. State of Uttarakhand, was filed, in which the Hon'ble High Court of Uttarakhand *vide* order dated 31.01.2023 observed that in extending the monetary benefits (given) to the Members of the Petitioners' Union with regard to 2nd and 3rd ACP benefits, the decision was taken by the respondents themselves and the Members of Petitioners' union were not instrumental in obtaining the said benefit by playing any fraud, hence, no recovery as such is required to be made from the members of the petitioners' union, for the amount already paid during the pendency of the present writ petition.

13. The Tribunal has been informed that the interim order passed by the Hon'ble High Court on 31.01.2023 was made absolute. The said judgment attained finality from the Hon'ble Supreme Court. Gratuity which has been withheld from the retiral dues of the petitioner, requires to be refunded to the petitioner.

14. Hon'ble Apex Court has dealt with these issues in the decision rendered in State of Punjab vs. Rafiq Masih, (2015) 4 SCC 334 and in Civil Appeal No.1985 of 2022, the State of Maharashtra and another vs. Madhukar Antu Patil and another. Hon'ble High Court of Allahabad has dealt with the issue of refixation in Writ -A No. 26639/2018, Smt. Hasina Begum vs. Purvanchal Vidyut Vitran Nigam Ltd, Prayagraj and 02 others. Hon'ble High Court of Uttarakhand at Nainital has dealt with the above noted issues in catena of decisions.

15 The petitioner, in his petition, has cited various decisions rendered by this Tribunal to submit that recovery from a retired Government servant from his retiral dues is not permissible, if he had no role to play in alleged wrong fixation of pay. It is not the case of the respondents that the petitioner was in hand-in-glove with the Accounts Section of the respondent department in the wrong fixation of his pay.

16. In the context noted above, Hon'ble Apex Court in Paragraphs 6, 7 & 8 of the decision rendered in State of Punjab vs. Rafiq Masih, (2015) 4 SCC 334, has observed thus:…….

17. Based on the decision, rendered by Hon'ble Apex Court in Syed Abdul Qadir vs. State of Bihar, (2009) 3 SCC 475 and hosts of other decisions, which were cited therein including B.J. Akkara vs. Union of India, (2006) 11 SCC 709, the Hon'ble Apex Court concluded thus:

…….

18. The parties are not in conflict on facts. Petitioner's case is squarely covered by the aforesaid decision of Hon'ble Supreme Court. Petitioner is a retired employee with observations of the Hon'ble Courts in his favour and recovery made from him would be iniquitous or harsh to such an extent that it would far outweigh the equitable balance of employer's right to recover.

19. Reference may also be had to the decisions rendered by the Hon'ble Apex Court on 02.05.2022 in Civil Appeal No. 7115 of 2010, Thomas Daniel vs. State of Kerala & others, & in Civil Appeal No. 13407/ 2014 with Civil Appeal No. 13409 of 2015, B.Radhakrishnan vs. State of Tamil Nadu on 17.11.2015, decisions rendered by Hon'ble Uttarakhand High Court on 12.04.2018 in WPSS No. 1346 of 2016, Smt. Sara Vincent vs. State of Uttarakhand and others, in WPSS No. 1593 of 2021, Balam Singh Aswal vs. Managing Director and others and connected writ petitions on 14.06.2022 & in WPSS No. 363 of 2022 and connected petitions on 05.01.2024 and decision rendered by Hon'ble Madras High Court on 019.06.2019 in WP(MD) No. 23541/ 2015 and M.P. (MD) No. 1 of 2015, M. Janki vs. The District Treasury Officer and another, in this regard.

20. The Tribunal, thus comes to the conclusion that there should not be any recovery from the petitioner, much less the gratuity, who retired as Treasury Officer, who is armed with the observation of Hon'ble High Court in WPSB No. 48/2023, Uttarakhand Treasury Staff Association through its President (Himanshu Sharma) vs. State of Uttarakhand, and had no role to play in alleged wrong fixation of pay.

Question No.(ii) is answered accordingly.

21. Respondent Department is directed to pay the interest to the petitioner on delayed payment of admissible retiral dues. If any of the retiral dues were paid to the petitioner within time, respondents need not give interest to the petitioner on those retiral dues. The rate of interest on delayed payment of retiral dues shall be simple rate of interest, payable on GPF, till the date of actual payment.

Respondent Department is also directed to release the amount of gratuity Rs.3,91,443/- to the petitioner which has been withheld by the respondent department, along with interest as per the prevalent GPF rate, till the date of actual payment, in the peculiar facts of the case, as expeditiously as possible and without unreasonable delay, preferably within 12 weeks of presentation of certified copy of this order.

22. The claim petition thus stands disposed of. No order as to costs."

4. Ld. Counsel for the petitioner submitted that the petitioner supplied copy of the order dated 14.05.2025 to the respondent(s) on 26.05.2025 (Annexure: E- 2), but till date order dated 14.05.2025 has

not been complied with by the authority concerned. He further submitted that the judgment of the Tribunal has attained finality as the same has not been challenged by the respondent department anywhere. It is also the submission of Ld. Counsel for the petitioner that casual approach on the part of opposite party(ies)/respondent(s) should not be tolerated and strict direction should be given to them to ensure compliance of such order.

5. The execution application is disposed of, at the admission stage, by directing the authority(ies) concerned, to comply with the order of the Tribunal dated 14.05.2025, passed in Claim Petition No. 192/SB/2024, Sri Birendra Singh Rana vs. State of Uttarakhand and others, if the same has not been complied with so far, as expeditiously as possible and without unreasonable delay on presentation of certified copy of this order, failing which the concerned authority(ies) may be liable to face appropriate action under the law governing the field.

6. The execution petition thus stands disposed of, at the admission stage, with the consent of Ld. Counsel for the parties, with the directions as above.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: SEPTEMBER 19, 2025.
DEHRADUN

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