

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

CLAIM PETITION NO.135/SB/2025

Budhi Singh, s/o Sri Puran Singh, Junior Assistant (Retd.), aged about 63 years, r/o Village- Jogiara, P.O. Punarvas Kshetra, Koti Plot No. 80, Athorwala, Dehradun.

.....Petitioner

vs.

1. The Government of Uttarakhand through Secretary (Irrigation), Secretariat, Subhash Road, Dehradun.
2. The Chief Engineer (Level-I) Irrigation Department, Yamuna Bhawan, Yamuna Colony, Dehradun.
3. The Superintending Engineer, Irrigation, Uttarkashi.
4. The Executive Engineer, Irrigation Division, Purola, Uttarkashi.

.....Respondents

Present: Sri Uttam Singh, Advocate, for the petitioner.
Sri V.P.Devrani, A.P.O., for the Respondents.

JUDGMENT

DATED: OCTOBER 08, 2025

Justice U.C.Dhyani (Oral)

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

“I) To condone the delay in filing the appeal dated 22-09-2025 before the appellate authority against the order dated 24-11-2022 vide which the disciplinary authority has terminated the service of the petitioner/a retired government servant (retired on 31-7-2022) (Annexure No. A-1).

II) To direct the respondent/appellate authority to decide the appeal dated 22-09-2025 in accordance with the rule.

III) Any other relief the Hon'ble Tribunal may deem fit in the circumstances of the case.

IV) Award the cost of the petition to the petitioner.”

2. An affidavit has been filed by the petitioner in support of his claim petition. Relevant documents have also been filed along with the same.

3. Petitioner was appointed as Junior Assistant in the respondent department on 20.07.1983. He remained absent from duty from 09.06.2009 till 31.07.2022, the date of his superannuation.

Respondent No.3 issued memorandum of charges on 27.07.2022 and petitioner was directed to furnish his reply within 15 days. Petitioner filed his reply on 18.08.2022 denying the alleged charges. Petitioner was also put under suspension *w.e.f.* 09.06.2009. It is the submission of Ld. Counsel for the petitioner that neither the subsistence allowance was given to the petitioner during the period of suspension, nor provisional pension has been sanctioned to him after retirement.

Executive Engineer, Purola, was appointed inquiry officer, who submitted his report on 07.11.2022. Respondent No.3 *vide* order dated 24.11.2022, terminated the services of the petitioner *w.e.f.* 09.06.2009, after retirement of the petitioner.

Petitioner has filed departmental appeal on 22.09.2025 against the termination order dated 24.11.2022, to Respondent No.2.

4. Ld. A.P.O. objected to the maintainability of the claim petition, *inter alia*, on the ground that there is inordinate delay in filing the departmental appeal. In normal course, the departmental appeal should have been filed within 90 days from the date of communication of punishment order, in view of Rule 11 (4) of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 (as amended by Amendment Rules, 2010), which has not been done in the instant case. Petitioner preferred such appeal before the appellate authority, approximately four years after the impugned order was passed.

5. In reply, Ld. Counsel for the petitioner submitted that the termination order has been issued against the petitioner after his retirement. He retired on 31.07.2022, whereas the termination order was passed on 24.11.2022, terminating his services *w.e.f.* 09.06.2009. Petitioner made an innocuous prayer in the relief clause that the appellate authority may be directed to decide the departmental appeal of the petitioner dated 22.09.2025, after condoning the delay in filing the same, in accordance with law. Ld. A.P.O. has no objection if a direction is given by the Tribunal to the appellate authority to decide the departmental appeal of the petitioner, in accordance with law.

6. The disciplinary authority and appellate authority are quasi judicial authorities. Section 5 of the Limitation Act is applicable to the appeals (and applications, not the suits). If sufficient cause is shown, delay in filing the appeal may be condoned. In the instant case the termination order has been passed after retirement of the petitioner. According to the petitioner, he has recurring cause of action.

7. The claim petition is disposed of, at the admission stage, with the consent of Ld. Counsel for the parties, by directing the appellate authority to decide the departmental appeal of the petitioner, in accordance with law. Considering the peculiar facts of the case, delay in filing the departmental appeal is condoned, in the interest of justice.

8. Rival contentions are left open.

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: OCTOBER 08, 2025
DEHRADUN

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