

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

EXECUTION PETITION NO. 02/DB/2026

*(Arising out of judgment dated 27.03.2025,
passed in Claim petition No. 60/SB/2024)*

Virendra Singh Negi, aged about 61 years, s/o Late Sri Hari Singh Negi, Retd. Compressor Operator, Public Works Department, Uttarakhand, r/o Village Soda Siroli, P.O. Khas, District Dehradun

.....**Petitioner**

vs.

1. State of Uttarakhand through Secretary, Public Works Department, Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Engineer-in-Chief and Head of the Department, Public Works Department, Uttarakhand, Yamuna Colony, Dehradun, Uttarakhand.
3. Executive Engineer, Temporary Division, Public Works Department, Sahiya, Dehradun.

.....**Respondents**

Present: Sri L.K.Maithani & Sri R.C.Raturi, Advocates,
for the Petitioner.

Sri V.P. Devrani, A.P.O. for the State Respondents.

JUDGMENT

DATED: JANUARY 15, 2026

Justice U.C.Dhyani (Oral)

By means of present execution petition, petitioner-applicant seeks to enforce order dated 27.03.2025, passed by this Tribunal in Claim Petition No. 60/SB/2024, Virendra Singh Negi vs. State of Uttarakhand & others.

2. The execution application is supported by the affidavit of the petitioner-applicant, along with copy of the judgment passed by the Tribunal on 27.03.2025.

3. Relevant paragraphs of the decision rendered by this Tribunal on 27.03.2025, are reproduced herein below for convenience:

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

- i. To quash the impugned office order dated 19.02.2024 (Annexure No. A-1) of respondent no.2 and impugned office order dated 30.01.2023 (Annexure No. A-2) and impugned order/Details of recovery order dated 30.01.2023 (Annexure No. A-3) of respondent no.3 with its effects and operation.
- ii. To issue an order or direction to the respondents to calculate the amount of gratuity of the petitioner on the basis of monthly emoluments Rs. 51750/- which was actually getting by the petitioner at the time of retirement and accordingly paid Rs.8,53,875/- as gratuity to the petitioner with interest as per GPF rate after adjusting the amount Rs. 99,569/-.
- iii. To issue an order and direction to the respondents to return and pay the recovered amount of Rs. 6,51,841/ to the petitioner with interest as per GPF rate.
- iv. To issue an order or direction to the respondents to pay the interest on delayed payment on the arrears of monthly pension and on the amount of gratuity Rs. 99,569 since the date of retirement up to the date of actual payment.
- v. To issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.
- vi. Cost of the petition will be awarded to the petitioner.”

2. Petitioner was initially engaged as Mixal Helper in October 1982 in muster roll. He continued to work as such up to 28.02.1986. He was taken into the Work Charged Establishment on 01.03.1986 and his services were regularized on the post of Compressor Operator in Work Charged Establishment *vide* order dated 16.07.2001. He joined at Temporary Division Sahiya on 18.07.2001.

2.1 As per judgment passed by Hon'ble Supreme Court on 02.09.2019 in SLP (Civil) No. 4371 of 2011, Prem Singh vs. State of Uttar Pradesh and others, the State of Government issued G.O. No. 372/111(1)20-04(54) dated 04.02.2020 and G.O. No. 1197/111 (1)19-09(3) dated 14.08.2020 for including the services of the employees rendered in Work Charged Establishment for the purpose of service benefits. In compliance of the G.Os. noted above, Respondent No.2 issued Office Order dated 17.03.2020 to refix the pay scale of the petitioner from the date of appointment in Work Charged Establishment i.e. from 01.03.1986.

2.2 Petitioner retired from service on 31.07.2022 from the office of Executive Engineer, Temporary Division, Sahiya. Respondent No. 3, *vide* office order dated 30.01.2023, refixed the pay of the petitioner and *vide* another order made recovery of Rs.6,51,841 from the petitioner. Thereafter, Respondent No.4 issued pension payment order dated 21.02.2023 and sanctioned the pension and gratuity to the petitioner after recovery of Rs.6,51,841/- from the gratuity of the petitioner.

2.3 Aggrieved with the same, petitioner sent a legal notice on 24.05.2023 to the Respondent No.2, but the same remained unanswered. Petitioner filed claim petition No. 187/SB/2023 before this Tribunal, which was disposed by the Tribunal by directing the respondents to decide the pending representations of the petitioner.

2.4 Since the representation of the petitioner has been rejected by Respondent No.2 *vide* order dated 19.02.2024, hence petitioner has filed present claim petition. According to the petition, the petitioner is entitled to the gratuity on the basis of pay which he actually received at the time of retirement. He is entitled to refund of Rs.6,51,841/-, which was recovered from his gratuity post-retirement.

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

(i) Whether the deduction from the post retiral dues of a Group 'C' employe like Compressor Operator, is permissible in law?

(ii) If the same is not permissible, whether the employee is entitled to interest during the period the recovered amount remained with the employer?

(iii) Whether refixation of the salary of an employee is permissible in law?

6. So far as the first issue is concerned, the Hon'ble Supreme Court as well as Hon'ble High Court of Uttarakhand, in catena of decisions, have held that such recovery is not permissible. The relief thus granted to such employees is based on equity and not as a matter of right.

7. So far as the second issue is concerned, since the employee was not entitled to keep such amount, therefore, he is not entitled to interest, while giving a direction to the respondent department to restore the recovered amount to the employee. It has been observed in several decisions that the relief is to be granted on the basis of equity and not as a matter of right. It is not his entitlement. When an employee is not entitled to keep the money, as of right, then he is not entitled to interest while directing the respondent department to make refund of the same to the retired employee. After all, it is public money/ tax payers' money. It was received by the recipient without any authority of law.

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14. 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:

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15. 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. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.”

16. 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 Compressor Operator' (a Group 'C' post) 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.

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18. There is, however, no embargo on the respondent department against correct fixation of pay even after retirement, as per the decision rendered by Hon'ble High Court of Judicature at Allahabad on 17.12.2018 in Writ -A No. 26639/2018, Smt. Hasina Begum vs. Purvanchal Vidyut Vitran Nigam Ltd, Prayagraj and 02 others [Citation- 2018:AHC:204373]. Relevant paragraphs of the judgment read as below:

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19. Hon'ble Supreme Court, in the decision rendered in Civil Appeal No.1985 of 2022, the State of Maharashtra and another vs. Madhukar Antu Patil and another, on 21.03.2022, has observed as below:

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20. Interference is called for in the impugned order dated 30.01.2023 on the basis of above discussion. The same is, accordingly, set aside/modified, to the extent as is deemed necessary.

21. Respondents are directed to refund a sum of Rs.6,51,841-00/- to the petitioner, which has been recovered from him post-retirement, without unreasonable delay.

4. Ld. Counsel for the petitioner/applicant submitted that copy of judgment dated 27.03.2025 was supplied by the petitioner to Respondent No.1, on 04.04.2025 followed by reminder dated 05.08.2025 (Annexure: A-2), but till date judgment dated 27.03.2025 has not been complied with by the authority concerned. The said judgment has not been challenged by the respondents in writ appeal, therefore, the same has attained finality. Ld. Counsel for the

petitioner/applicant further submitted that casual approach on the part of opposite party/respondent should not be tolerated and strict direction should be given to them to ensure compliance of such order.

5. The execution petition is disposed of, at the admission stage, with the consent of Ld. Counsel for the parties, by directing the authority concerned, to comply with the order of the Tribunal dated 27.03.2025, passed in Claim Petition No. 60/SB/2024, Virendra Singh Negi 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 may be liable to face appropriate action under the law governing the field.

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JANUARY 15, 2026.
DEHRADUN

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