

**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. 148/SB/2025

Smt. Neelima Sharma, w/o Sri Ved Prakash Sharma, Address- 253, Sarathi Vihar, Haridwar Road, Dehradun.

.....Petitioner

vs.

1. Managing Director/Commissioner, Uttarakhand Road Transport Corporation, 2nd Floor, Parivahan Bhawan Kulhan, Shastradhara Road, Dehradun (U.K)- 248001.
2. Financial Controller, Uttarkhand Road Transport Corporation, 2nd Floor, Parivahan Bhawan, Kulhan, Shastradhara Road, Dehradun - 248001.
3. General Manager (Admin & Karmik), Uttarkhand Road Transport Corporation, 2nd Floor, Parivahan Bhawan, Kulhan, Shastradhara Road, Dehradun 248001.
4. Deputy-General Manager (Legal), Uttarkhand Road Transport Corporation, 2nd Floor, Parivahan Bhawan, Kulhan, Shastradhara Road, Dehradun - 248001.

.....Respondents

Present: Sri Rohit Srivastav (online) & Sri S.C.Joshi, Advocates,
for the petitioner.
Sri Vaibhav Jain (online) & Sri Ramdev Sharma, Advocates,
for Respondents/ Uttarakhand Transport Corporation.

JUDGMENT

DATED: JANUARY 06, 2026.

Justice U.C. Dhyani (Oral)

Petitioner sought a direction to the Respondent Corporation to award interest on delayed payment of gratuity in claim petition No. 48/SB/2025, for which the Tribunal has already granted time to the Respondent Corporation to pay interest on such delayed payment.

2. Now, by way of present claim petition, the petitioner seeks interest on delayed payment of leave encashment. Whereas the petitioner argues that leave encashment is a retiral benefit, the Respondent Corporation denies the same arguing that the 'leave encashment' is not covered within the definition of retiral dues.

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

4. Claim petition has been contested on behalf of respondents. C.A. has been filed by Sri Suresh Singh Chauhan, Divisional Manager (operation), Uttarakhand Transport Corporation, Dehradun on behalf of Respondent Corporation.

5. Sri Vaibhav Jain, Ld. Counsel for Respondent Corporation, submitted, on the strength of C.A. thus filed, that the petitioner is seeking interest on leave encashment, claiming it to be a retiral benefit, which is wrong and denied. It is further submitted on behalf of the respondents that as per the provisions, leave encashment does not amount to retiral dues.

6. It has been held by Hon'ble High Court of Bombay, in *Writ Petition No. 12161 of 2019, Dattaram Atmaram Sawant and another vs. Vidharbha konkan Gramin Bank, through its Chairman*, that leave encashment is like a salary, which is protected as 'property' under Article 300 A of the Constitution of India.

7. Hon'ble Bombay High Court, in para 14 and 15 of the decision rendered in Dattaram Atmaram Sawant case (*supra*) has observed as under:

“14. From the review of the decisions cited by the Petitioners, the following position of law emerges. Regulation 61 stipulates that an employee earns one day of privilege leave for every 11 days of duty, with the entitlement being the accumulated days earned minus those already utilized. Additionally, Regulation 61 specifies that an employee on privilege leave shall receive full emoluments for the duration of the leave. Consequently, the right to leave is a statutory entitlement granted to employees as per the provisions of the law. This privilege leave, as defined in Regulation 61, is available to employees upon fulfilling the prescribed duty period. Regulations states that during this period, employees are entitled to full emoluments as if they were on duty.

15. Leave encashment is akin to a salary, which is ‘property’. Depriving a person of his property without any valid statutory provision would violate Article 300 A of the Constitution of India. Leave encashment paid on account of unutilised leave is not a bounty. If an employee has earned it and the employee has chosen to accumulate his earned leave to his credit, then encashment becomes his right. The Hon’ble Supreme Court, in the case of the State of Jharkhand and Others vs. Jitendra Kumar Srivastava, (2013) 12 SCC 210, held that a person could not be deprived of his right to pension without the authority of law, which is the constitutional mandate enshrined in Article 300 A of the Constitution of India. The Supreme Court, in the case of D.S. Nakara and Others v. Union of India, (1983) 1 SCC 305, has established the legal position that pension is a statutory right, not subject to the whims of the authorities, but is governed by statutory rules. In the case of Jitendra Kumar Srivastava (*supra*), the Apex Court emphasised that the right to property cannot be infringed upon without due process of law. Thus any attempt to deprive an employee of pension, gratuity, or leave encashment without a statutory provision, is untenable.”

[Emphasis supplied]

8. It is admitted to the parties that leave encashment has been paid to the petitioner. Only question is, whether petitioner is entitled to interest on delayed payment of leave encashment or not?

9. In Dattaram Atmaram Sawant’s case (*supra*), two former employees Dattaram Atmaram Sawant and Seema Dattaram Sawant resigned after serving over three decades and when they were denied leave encashment, Hon’ble Court directed, as under:

“22. As a result of the discussion, the Petitioners are entitled to succeed. Their accrued right of encashment of privilege leave could not have been rejected by the Respondent -Bank. In the cases arising out of similar Regulations, the position of law has been recognized in favour of the Petitioners. The refusal by the Respondent -Bank to extend the benefit of encashment of privilege leave is arbitrary and cannot be sustained.

23. Thus, it is declared that the Petitioners are entitled to leave encashment as prayed for. The Respondent – Bank is directed to calculate the amounts payable towards encashment to the Petitioners along with interest at the rate of Rs.6% per annum and pay the same to the Petitioners within six weeks from today. Rule is made absolute in above terms.

[Emphasis supplied]

10. Even the G.O. No. Sa-4-438/Das-2000-203-86, Lucknow, dated 03 July, 2000, issued by Finance (General) Section-4 of the Govt. of U.P. provides that a maximum of 300 days leave-encashment is admissible on the retirement of an employee. Copy of the G.O. has been enclosed by the petitioner along with the claim petition.

11. Leave encashment is in the nature of retiral dues. Hon'ble Bombay High Court has awarded interest on delayed payment of leave encashment in the decision of Dattaram Atmaram Sawant (*supra*). It is, therefore, inferred that the petitioner is entitled to interest on delayed payment of leave encashment.

12. The next question is, what should be the rate of interest on delayed payment of leave encashment?

13. We can seek guidance from a G.O. dated 10.08.2004, issued by the Govt. of Uttarakhand, even if it does not speak about the 'leave-encashment' specifically.

14. The Government of Uttarakhand itself has issued a Govt. Order on 10.08.2004 that the amount of interest on delayed payment of pension and gratuity/ retiral dues, shall be the prevalent rate of interest of GPF. It is not in dispute that the Uttarakhand Transport Corporation has not adopted such G.O. The Tribunal is of the view that the rate of interest, as prescribed in such G.O., should be awarded to the petitioner.

15. The claim petition is disposed of, at the admission stage, with the consent of Ld. Counsel for the parties, by directing the Respondent Corporation to pay interest to the petitioner on delayed payment of leave encashment from the date of retirement till the date of actual payment. The rate of interest shall be the prevalent rate of interest of GPF as per G.O. dated 10.08.2024. The same should be paid without unreasonable delay.

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JANUARY 06, 2026
DEHRADUN

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