

**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. 87/SB/2024

1. Jaibhagwan Sharma s/o Late Sri Asharam Sharma, r/o G-104, Aditiya Doonshire, GMS Road, Sailok, Phase-II, District Dehradun.
2. Jinendra Kumar Jain s/o Sri jai Kumar Jain, r/o Block-I, House No. 76, Nehru Colony, District-Dehradun.

.....Petitioners

Versus

1. The Government of Uttarakhand Through Secretary Peyjal, Civil Secretariat, Subhash Road, Dehradun.
2. Principal Secretary, Finance, Govt. of Uttarakhand, Civil Secretariat, Subhash Road, Dehradun.
3. Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam through its Managing Director, 11 Mohini Road, Dehradun.
4. Chief Engineer (HQ), Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam, 11 Mohini Road, Dehradun.
5. Finance Director, Chief Engineer (HQ), Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam, 11 Mohini Road, Dehradun.

.....Respondents

Present: Sri M.C.Pant & Sri Abhishek Pant, Advocates,
for the petitioners.(online)
Sri V.P.Devrani, A.P.O., for Respondents No.1 & 2.
Dr. N.K.Pant, Advocate for Respondents No. 3 to 5

JUDGMENT

DATED: JANUARY 15, 2026.

Justice U.C. Dhyani (Oral)

By means of present claim petition, the petitioners seek the following reliefs:

"I) 1. To issue an order or direction by quashing the order dated 31.07.2024 (Annexure No. 1) of the respondents and further to direct the respondents to refix the pay of the petitioners in light of the order of the Tribunal dated 08.02.2024 along with 18 percent interest.

II. To issue an order or direction to the respondents which the Hon'ble deems fit and proper in the circumstances of the present matter or to mold the relief appropriately keeping in view the facts highlighted in the body of the petition otherwise the petitioners shall suffer irreparable loss and injury.

III. To issue costs of the petition."

2. Claim petition is supported by the affidavit of Sri Jaibhagwan Sharma, petitioner no. 1. Relevant documents have been filed along with the same.
3. Claim petition has been contested on behalf of Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam. Sri Sanjay Singh, Chief Engineer (HQ) Uttarakhand Peyjal Nigam, Dehradun, Uttarakhand, has filed C.A. on behalf of Respondents No. 3,4 & 5.
4. Ld. A.P.O. submitted that he has adopted the C.A. filed on behalf of Respondents No. 3, 4 & 5 for State Respondents, as real contestant is the Peyjal Nigam and State is a formal party. Relevant documents have been filed in support of the Counter Affidavit.
5. This is the 2nd round of litigation between the parties. It will be worthwhile to reproduce the relevant paragraphs of the decision dated 08.02.2024, passed by the Tribunal in Claim Petition No. 146/SB/2022, for avoiding repetition of facts and discussion, herein below for convenience:

"Hon'ble High Court of Uttarakhand has been pleased to pass an order on 24.09.2022 in WPSB no. 121 of 2016, Jai Bhagwan Sharma and another vs. State of Uttarakhand and others, which reads as under.

"Mr. M.C. Pant, learned counsel for the petitioners.

Mr. J.C. Pandey, learned Standing Counsel for the State.

Mr. D.S. Patni, learned senior counsel assisted by Mr. B.S. Bisht, learned counsel for respondent nos.3, 4 & 5.

The petitioners have preferred the present writ-petition for the following relief:-

"(i) To issue writ rule or direction in the nature of certiorari quashing the order dated 05.12.2014 in league with the decision taken by the Board of Directors in the 15th Board meeting held on 14.10.2014 and the minutes of the dated 22. 10. 2014 so far as the proposal for allowing the benefit of ACP to the retired employees prior to 31.10.2013 was denied and further declare the artificial classification of cut off date for allowing the benefit of ACP even from notionally to those retired employees who were retired prior to 31.10.2013 on the basis of the impugned orders and Govt orders as unconstitutional, unreasonable and arbitrary and to strike down the same after calling the entire record.

(ii) To issue writ rule or direction in the nature of mandamus commanding and directing to the respondents no. 2,3 and 4 to allow the benefit of Assured Career Progression Scheme to the petitioners to the allow subsequent benefit thereof to the petitioners by including their names in the list attached to the order dated 04.09.2012 by ignoring the artificial classification amongst the petitioners and other persons who are in service. Had it been the impugned orders were never in existence.

(ii) To award damage to the petitioners in tune of Rs. 5 Lacs to each petitioner for the tortuous act of the Govt. Officers and the board of Directors as well as corporation offices who instrumental for such type of malicious act and recover the same from these officers.

The petitioners were public servants. The Uttarakhand Public Service Tribunal has the jurisdiction to deal with the issue raised in this writ petition.

Considering the fact that the petition is pending since 2016 and pleadings have been completed, we direct the Registry to transfer the complete records of the case to the Tribunal, which shall be registered as a claim petition and be dealt with by the Tribunal, in accordance with law.

We request the Tribunal to endeavor to dispose of the petition at an early date, considering that the writ-petition is pending since 2016.

The petition stands disposed of accordingly."

[Emphasis supplied]

The original record of the writ petition has been transferred to this Tribunal vide Letter No. 14778/UHC/Service (S/B) 2022 dated 17.10.2022 of the Deputy Registrar (Judicial) of the Hon'ble High Court. The same has been registered as Claim Petition No. 146/DB/2022.

3. The order dated 05.12.2014 read with the decision taken by the Board of Directors of the Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam in the 15th Board Meeting held on 14.10.2014 and the minutes recorded on 22.10.2014 are in the teeth of present petition (Copies Annexures-1 & 2). The proposal for allowing the benefit of ACP to the retired employees prior to 31.10.2013 was denied, while it is the prayer in the petition that respondents no. 2, 3 & 4 be directed to allow the benefit of Assured Career Progression Scheme (ACP) to the petitioners and their names be included in the list attached to the order dated 04.09.2012 by ignoring the artificial classification amongst the petitioners and other persons who are in service.

4. C.A. has been filed on behalf of the Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam (for short "Nigam"). Dr. N.K.Pant, learned Counsel for the Nigam drew attention of the Bench towards paragraphs 5,7,10,12 and 17 of the C.A. in support of his contention that the impugned orders are not interferable. The aforesaid paragraphs are reproduced herein below, for convenience:

"5- That the contents of paragraph No. 2 of the writ petition are not admitted as stated hence denied. It is submitted that the Government Order dated 30-11-2011, whereby the State Government granted benefit of ACP to its employees has been

adopted in the Board meeting of the Uttarakhand Pey Jal Nigam on 13-01-2012 to the extent as mentioned in Resolution passed in Board meeting dated 13-01-2012, wherein vide Resolution No. 12:11, it has been resolved that the benefit of ACP will be granted w.e.f. 01-01-2012 & notional benefits thereon will be granted. In this regard an order was passed adopting the Government Order dated 30-11-2011 in terms of Board Resolution No. 12:11 dated 13-01-2012. The petitioner was superannuated before the implementation of Scheme, hence ACP cannot be granted to the petitioner. Uttarakhand Peyjal Nigam is creature of Statute, it is created under section 3 of the Sewerage Act, 1976. It is autonomous body & is guided by resolution passed in its Board meeting. Therefore the Uttarakhand Peyjal Nigam cannot be fastened with financial liability, which is in fact is against the resolution passed in its Board meeting. So far as ignoring the artificial classification is concerned, there is no ignorance of artificial classification. Hon'ble Apex Court in the case of "Motor General Traders v. State of A. P. reported in (1984) 1 SCC 222 has said that The equally clause mentioned in Article 14 requires that all persons subjected to any legislation should be treated alike under like circumstances and conditions.

Equals have to be treated equally and unequals ought not be treated equally. While that article forbids class legislation, it does not forbid classification for purposes of implementing the right of equality guaranteed by it. In order, however, to pass the test of permissible classification two conditions must be fulfilled, namely, (1) that the classification must be found on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and, (ii) that differentia must have a rational relation to the object sought to be achieved by the statute in question. While the classification may be founded on different bases what is necessary is that there must be a nexus between the basis of classification and the object of the act under consideration', therefore contention of petitioner with regard to the ignorance of artificial classification is incorrect misleading hence vehemently denied. Copies of minutes of meeting dated 13-01-2012 and Office Memorandum dated 4-01-2012 are being marked and annexed as Annexure No. CA-1 to this affidavit.

7- That the contents of paragraph No. 5, 6, 7, 8, 9 & 10 of writ petition calls for no reply. The Government order dated 08-03-2011 with regard to grant of benefit of Assured Career Progression to State Government employees hence cannot in any manner be applicable to the employees of Uttarakhand Peyjal Nigam unless adopted in whole by the Board. It is submitted that the Government Order dated 30-11-2011, whereby the State Government granted benefit of ACP to its employees has been adopted in the Boards meeting of the Uttarakhand Pey Jal Nigam on 13-01-2012 to the extent as mentioned in Resolution passed in Board meeting dated 13-01-2012, wherein vide Resolution No. 12:11, it has been resolved that the benefit of ACP will be granted w.e.f. 01-01-2012 & notional benefits thereon will be granted. In this regard an order was passed adopting the Government Order dated 30-11-2011 in terms of Board Resolution No. 12:11 dated 13-01-2012. The petitioner was superannuated before the implementation of Scheme, hence ACP cannot be granted to the petitioner Uttarakhand Peyjal Nigam is creature of Statute, it is created under section 3 of the Sewerage Act, 1976 and it is autonomous body & is guided by resolution passed in its Board meeting. Clause 5 of the Government order dated 30-11-2011 specifically mentions that ACP is applicable to Nigam with a condition that financial liability would be borne by the Nigam and no financial help would be given by State Government. Therefore a conscious decision was taken vide resolution dated 13-01-2012, looking at the financial condition of the Nigam, to implement the ACP w.e.f. 01-01-2012.

10- That the contents of paragraph No. 15 of the writ petition are not admitted as stated hence denied. It is stated here that contention of the petitioners are only based on assumption and they are not legally entitled as per the 12th board meeting dated 13-1-2012, whereby the benefit of ACP were granted from 1-1-2012, at that time petitioners were retired from service, therefore the benefit of ACP cannot be granted to the petitioners.

12. That the contents of paragraph No. 17 & 18 of the writ petition are not admitted as stated hence denied. It is stated that the benefit of grant of ACP have been given to Pay Jal Nigam employee w.e.f. 01-01-2012. It is empathically denied that

Juniors to the petitioners have not been given actual benefit of ACP w.e.f. 01-09-2008 but in fact ACP has been given from 01-01-2012. Uttarakhand Peyjal Nigam is creature of Statute; it is created under section 3 of the Sewerage Act, 1976. It is autonomous body & is guided by resolution passed in its Board meeting. Therefore the Uttarakhand Peyjal Nigam cannot be fastened with financial liability, which is in fact is against the resolution passed in its Board meeting.

17- That the contents of paragraph No. 25, 26, 27, 28, 29 & 30 of the writ petition are incorrect & misleading hence denied. It is stated that vide Office Memorandum dated 27-02-2013 & 04-10-2013 benefit of Assured Carrier Progression Scheme has been granted from 01-01-2012 given notional benefit from 01-09-2008, hence the above mentioned Office Memorandum are of no help to the petitioner. The petitioners retired prior to 01-01-2012 and the Government order dated 30-11-2011 has been adopted by the Uttarakhand Peyjal Nigam in its Board meeting to the extent, of its application w.e.f. 01-01-2012 giving benefit notionally therein hence petitioners cannot be granted the benefit of Assured Carrier Progression Scheme. The grounds taken in the writ petition are not tenable in the eyes of law. The petitioners are not entitled to get any relief and the writ petition of the petitioners devoid of merit and liable to be dismissed."

(Emphasis supplied)

5. *Prima facie*, it appears that the impugned decision is contrary to the orders issued by the Govt., from time to time, in this behalf. Otherwise also, no reason has been assigned by the Board while taking decision on item no. 15.17. The same reads as below:

15.17	Modification in Assured Career Progression for State employees regularly selected and getting Rs. 4800 grade pay or less.	Proposal was not the accepted by the Board of Directors.
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6. A perusal of the decision taken in Item No. 15.17 of the 15th Meeting of the Board of Directors would indicate that the Board has not approved the proposal. The reasons have not been assigned. Why was the same not approved, nobody knows. It is a bald decision. It is a decision sans reasons. Reasons must have been assigned while taking a conscious decision. Reasons are vehicle of thoughts and medium of expression. Unreasoned order might trench into the realm of arbitrariness. Any authority who is sitting in judicial review may not be in a position to properly appreciate the decision under review, unless it knows the reason(s), why impugned decision was so taken. This is precisely the reason why interference is called for in the decision taken by the Board on Item No. 15.17 of the meeting, as reflected in the office order dated 05.12.2014. It should be remitted to the Board for taking decision afresh.

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8. Moreover, it is trite law that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise an order bad in the beginning may, by the time it comes to Court on account of a challenge, get validated by additional grounds later brought out, as has been observed by Hon'ble Apex Court in Mohinder Singh Gill vs. Chief Election Commissioner, New Delhi and others, (1978) 1 SCC 404.

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10. The impugned decision taken by the respondent Board on Item No. 15.17 of the meeting, as reflected in office order dated 05.12.2014, is set aside. The matter is remitted to the Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam with a direction to place the proposal in the next meeting of the Board for considering the matter afresh and taking an appropriate decision. The proposal shall be considered, well informed by reason, in the next Board meeting, which shall be convened at the earliest, without unreasonable delay, preferably within 12 weeks

of presentation of certified copy of this order alongwith proposal enclosing the documents in support thereof.”

6. In compliance of the aforesaid order, the Board of the Respondent Corporation took up the matter in the 23rd meeting of the Board as Item No. 03 and rejected the representation of the petitioner *vide* office order dated 31.07.2024 (Annexure: A-1), which is impugned in present claim petition. The reason assigned in Board meeting was that since petitioners Sri Jaibhagwan Sharma, Retired Assistant Engineer and Sri Jinendra Kumar Jain, Retired Executive Engineer, retired before 01.01.2012, therefore, they are not entitled to the relief claimed.

7. Dr. N.K.Pant, Ld. Counsel for Respondent Corporation, pointed out that the representation of the petitioners has been rejected after giving cogent reasons, hence the order impugned is not interferable.

8. In reply, Sri Abhishek Pant, Ld. Counsel for the petitioners submitted that two cut-of-dates have been given in the G.O. dated 08.03.2011: one is 01.01.2006 and another is 01.09.2008. The respondent department has chosen 01.09.2008 out of these. Some of the engineers, whose case was covered by the aforesaid G.O., choosing 01.09.2008 as cut-of-date, were given benefit of 3rd ACP. On 01.09.2008, both the petitioners were working in the respondent department, they had not retired till then. Whereas some of the engineers were given benefit of such G.O., the petitioners have been denied the same. The contention of the petitioners is that when some of the engineers were given benefit of 3rd ACP as per G.O. dated 08.03.2011, on the basis of cut-of-date 01.09.2008, why have they been denied such benefit.

9. Considering the above noted facts, the Tribunal observes that if some of the engineers have been given benefit of 3rd ACP on the basis of cut-of-date 01.09.2008, as given in G.O. dated 08.03.2011, the

petitioners, who were serving the respondent department on that date, were denied such benefit. This is discrimination.

10. The case of the petitioners requires to be examined on the aforesaid touchstone. If the others have been legitimately given any benefit, the petitioners also ought to be given such benefit. The matter requires reconsideration.

11. The claim petition is disposed of, with the direction to Managing Director, Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam, Respondent No.3, to put up the matter again in the Board's next meeting, whenever feasible, and reconsider the case of the petitioners, as noted above. If other engineers have been given benefit of 3rd ACP on the basis of G.O. dated 08.03.2011 considering 01.09.2008 as cut-off-date, the petitioners, who were serving in the Respondent Corporation on the said date, be also considered for such benefit on the basis of parity. No order as to costs.

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JANUARY 15, 2026
DEHRADUN

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