

**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. 26/SB/2026

Sri Darshan Kumar Jasuja, aged about 82 years, s/o late Sri S.D. Jasuja, r/o 130 Engineers Enclave, Phase-1, GMS Road, Dehradun.

.....Petitioner

vs.

1. State of Uttarakhand through Secretary Energy, Government of Uttarakhand, State Secretariat, Subhash Road, Dehradun.
2. Managing Director, Uttarakhand Power Corporation Ltd., Gabbar Singh Urja Bhawan, Kanwali Road, Dehradun.
3. General Manager, Uttarakhand Power Corporation Ltd., VCV Gabbar Singh Urja Bhawan, Kanwali Road, Dehradun.
4. Accounts Officer, Uttarakhand Power Corporation Ltd., VCV Gabbar Singh Urja Bhawan, Kanwali Road, Dehradun.

.....Respondents

Present: Sri Abhishek Divakar Chamoli, Advocate, for the petitioner.

Sri V.P.Devrani, A.P.O., for State Respondent.

Sri Manish Kumar Singh, Advocate,
for Uttarakhand Power Corporation (online).

JUDGMENT

DATED: FEBRUARY 06, 2026.

Justice U.C. Dhyani (Oral)

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

"(a) Issue an order or direction quashing the impugned recovery order dated 09.12.2025, as well as the consequential order dated 23.01.2026 passed by respondent no. 3.

(b) Issue an order or direction restraining the respondents from initiating any arbitrary Fixation, effecting any recovery of the alleged excess amount of Rs.13,53,914/- from the pension or any other retiral dues of the petitioner.

(c) Issue an, order or direction directing the respondents to refund the amount already deducted from the pension of the petitioner, including the sum of Rs. 17,670/- per month deducted since October, 2025, along with all consequential arrears.

(d) Issue a writ, order or direction directing the respondents to restore the full pension of the petitioner forthwith and continue payment without any illegal deductions.

(e) Issue a writ, order or direction directing the respondents to pay interest on the illegally deducted and withheld pension amount at such rate as this Hon'ble Court may deem fit and proper.

(f) Pass any other or further order(s) or direction(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice and award the cost of the petition."

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

3. Ld. Counsel for the petitioner submitted that he has served a copy of the claim petition on the General Manager Finance, Uttarakhand Power Corporation Ltd. (UPCL).

4. Petitioner served Respondent Corporation for 25 years and retired as Deputy General Manager on 30.09.2002.

5. His pay was refixed w.e.f. 01.01.2016 consequent upon the recommendation of 7th Pay Commission. Vide letter dated 09.12.2025, he was directed to deposit a sum of Rs.13,53,914/-. The petitioner made a representation against the same, which (representation) was rejected vide letter dated 23.01.2026, which is also impugned in present claim petition.

6. Whereas Sri Manish Kumar Singh, Ld. Counsel for Uttarakhand Power Corporation Ltd.(UPCL), made an endeavour to defend the departmental action, Ld. A.P.O. submitted that the State is only a formal party, real contestant is UPCL, therefore, he endorses the view expressed by Sri Manish Kumar Singh, Ld. Counsel for UPCL.

7. Petitioner is 82 years old. In refixation of his salary, he had no negative role to play. In other words, if his pay was wrongly refixed, as alleged, consequent upon the recommendation of 7th Pay Commission, petitioner had no role to play. *Prima facie*, it appears, on the basis of the documents brought on record that petitioner played no fraud in such alleged wrong refixation. Whereas he retired on 30.09.2002, he is being asked to deposit money after 23 years of his retirement *vide* letter dated 09.12.2025. When petitioner made a representation, that was rejected only on the ground that he was wrongly extended the benefits of the recommendation of Pay Commission.

8. *Vide* impugned letter dated 09.12.2025 (Annexure: A-1) petitioner was directed to deposit a sum of Rs.13,53,914/- and *vide* another impugned letter dated 23.01.2026 (Annexure: A-1 *colly*) his pension-fixation was held to be correct.

9. The law is clear on the point. Hon'ble Apex Court, in Paragraphs 12 of the decision rendered in State of Punjab vs. Rafiq Masih, (2015) 4 SCC 334, has observed thus:

12. 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."

10. It is the submission of Ld. Counsel for the petitioner that the Respondent Corporation has stopped giving pension [which is given by the UPCL], to the petitioner since October 2025, which is causing great hardship to the petitioner. It has become very difficult for him and his family to survive.

11. Ld. Counsel for the petitioner relied upon 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, decision 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 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 and in Jogeshwar Sahoo and others vs. the District Judge, Cuttack & others, in civil appeal, arising out of SLP (C) No. 5918/2024 and judgment passed by the Hon'ble High Court of Uttarakhand in WPSS No. 1593/2021, Balam Singh Aswal vs. Managing Director and others and connected writ petitions on 14.06.2022, in this regard.

12. Sri Manish Kumar Singh, Ld. Counsel for UPCL, submitted that most of these decisions relate to Group 'C' and Group 'D' employees. Petitioner is a retired Group 'A' employee.

13. The Tribunal observes that *prima facie* the petitioner's case is covered by Situations No. (ii) & (iii) given in Rafiq Masih decision (supra).

14. So far as refixation is concerned, it is permissible in view of decision rendered by Hon'ble Supreme Court in Civil Appeal No.1985 of 2022, the State of Maharashtra and another vs. Madhukar Antu Patil and another and 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.

15. **The facts borne out from the record clearly suggest that recovery from the petitioner, post retirement, from his pensionary benefits would be iniquitous or harsh to such an extent that it would far outweigh the equitable balance of employer's right to recover.**

16. Ld. Counsel for the petitioner submitted that petitioner will make a representation, citing undisputed facts along with law on the subject and the claim petition may be disposed of by directing the Respondent Corporation to decide petitioner's representation with a reasoned and speaking order. Ld. Counsel for UPCL is not averse to the prayer of Ld. Counsel for the petitioner for deciding petitioner's representation as per law.

17. 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 decide fresh representation of the petitioner, in accordance with law, as expeditiously as possible on presentation of certified copy of this order along with the representation enclosing the documents in support thereof.

18. **Till such decision is taken, impugned letters dated 09.12.2025 and 23.01.2026 shall be kept in abeyance in the interest of justice and considering the peculiar facts of the case.**

19. It is made clear that the Tribunal has kept the recovery order in abeyance along with fixation order in present form and has not stayed refixation of petitioner's pension, as per the *ratio* laid down in the decision rendered by Hon'ble Supreme Court in Madhukar Antu Patil's case (*supra*) and Hasina Begum's case (*supra*).

20. It will, however, be open to the Respondent Corporation to file review against this order, if the facts mentioned in the claim petition and in this judgment are found to be otherwise

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: FEBRUARY 06, 2026
DEHRADUN

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