

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

Present: Hon'ble Mr. Justice U.C. Dhyani
----- Chairman

Hon'ble Mr. A.S.Rawat
-----Vice Chairman (A)

CLAIM PETITION NO. 129/DB/2022

Birendra Singh Rawat, aged about 61 years, s/o Sri Chandra Singh Rawat, Retired Principal, Government Inter College, Badma, District Rudraprayag.

.....**Petitioner**

versus

1. State of Uttarakhand through Secretary, School Education, Uttarakhand, Dehradun.
2. Director, Madhyamik Shiksha, Uttarakhand, Nanurkhera, Dehradun.
3. Additional Director, Madhyamik Shiksha, Garhwal Mandal, Pauri.
4. District Education Officer, District Rudraprayag.
5. Chief Education Officer, District Rudraprayag.

..... **Respondents**

Present: Sri D.S.Mehta, Advocate, for the petitioner.(*virtually*)
Sri V.P. Devrani, A.P.O. for Respondents.

JUDGMENT

DATED: APRIL 30, 2025

Justice U.C.Dhyani (Oral)

Hon'ble High Court of Uttarakhand has been pleased to pass an order on 30.08.2022 in WPSB no. 187 of 2020, Birendra Singh Rawat vs. State of Uttarakhand & others, which (order) reads as under:

“The petitioner has preferred this Writ Petition for release of gratuity to him, as he has superannuated. The petitioner was serving the State as Principal of the Government Inter College, Badma, District Rudraprayag at the time of his superannuation.

2. The relief sought in the Writ Petition squarely falls for consideration of the Uttarakhand Public Services Tribunal. Since the Writ Petition has been pending since 2020, all the pleadings have been completed.

3. Accordingly, we transfer the present Writ Petition to the Uttarakhand Public Services Tribunal for consideration. The records be transmitted by this Court.

4. The Tribunal is requested to dispose of the matter as early as possible, and preferably within the next six months.

5. In sequel thereto, all pending applications stand disposed of.”

2. The original record of the writ petition has been transferred to this Tribunal vide Letter No. 12757/UHC/Service (S/B) 2022 dated 09.09.2022 of the Deputy Registrar (Judicial) of the Hon'ble High Court. The same has been registered as Claim Petition No. 129/DB/2022.

3. A part of G.O. No. 926/XXIV-B-1/ 19-05(08)/ 2018 (Annexure: A25) dated 19.12.2019, whereby amount of gratuity of the petitioner was directed to be withheld, is in the teeth of present petition. A direction was given by the Secretary, Govt. of Uttarakhand, to the Director, Secondary Education, to release pension etc. to the petitioner which shall be subject to final decision of Special Appeal No. 290/2018, State of Uttarakhand vs. Trilok Singh Kathait and others. A direction has also been given in the impugned G.O. dated 19.12.2019 for withholding the gratuity of the petitioner, with which the petitioner is aggrieved and has filed present petition.

4. Complete text of such G.O. (Annexure: A25), as translated by the petitioner is reproduced herein below for convenience:

No. 926/XXIV-B-1/19-05(08)/2018

From,
R. Meenakshi Sundaram,
Secretary,
Uttarakhand Government.

To,
Director,
Secondary Education,
Uttarakhand, Dehradun.

Secondary Education Section-1 Dehradun: Dated 19 December, 2019

Subject:- Regarding Writ Petition No.242/S.B./2019 "Virendra Singh Rawat vs. State of Uttarakhand and others" filed in Hon'ble High Court, Nainital.

Sir,

Please take the reference of above noted matter his letter services-1/22703/2(1)/2019-20 dated 18.11.2019 by which further action has been taken in compliance of order dated 01.07.2019 passed by Hon'ble High Court in above noted writ petition.

In this matter, the Government has taken the action and directed to me that till the final decision of Special Appeal No. 290/2018 "State of Uttarakhand vs. Trilok Singh Kathait and others" filed before the Hon'ble High Court of Uttarakhand Nainital, the amount of gratuity has withheld, in compliance order dated 01.07.2019 passed in Writ Petition No.242/S.B./2019 "Virendra Singh Rawat vs. State of Uttarakhand and others" passed by this Hon'ble Court pension etc. has been paid to Mr. Rawat with the condition the paid pension will be subject matter of final decision of the Special Appeal No.290/2018. therefore, the further action may be taken in the matter according to above.

Sincerely
Sd/-
R. Meenakshi Sundaram
Secretary

5. Chronology of events leading to the filing of present petition has been given in letter dated 29.08.2022, written by Director, Secondary Education, to the Secretary to the Govt. in the self same department. The Tribunal does not think it necessary to reproduce the entire facts, for the same are already part of record.

6. Counter affidavit has been filed on behalf of respondent no. 2 by Sri R.K. Kunwar, Director, Secondary Education, Govt. of Uttarakhand. In such C.A., it has been stated, among other things, that regular pension has been granted to the petitioner in compliance of order dated 01.07.2019 of the Hon'ble High Court in WPSB No. 242 of 2019 subject to final decision in Special Appeal No. 290/2018, State of Uttarakhand vs. Trilok Singh Kathait and others. It has also been stated in the C.A. that Directorate, Secondary Education, *vide* order dated 08.05.2020, has sanctioned leave encashment of 131 days to the petitioner.

7. According to the C.A. (which has been filed on behalf of Respondent No.2), the petitioner has been charge-sheeted. After detailed enquiry, report has been submitted, which is under consideration of the Govt. It appears that the gratuity of the petitioner has been withheld because the matter is under consideration of the State Govt. The charge against the petitioner is that he appointed some of the teaching staff in Govt. Inter College, who lacked requisite qualifications. Rejoinder affidavit thereto has also been filed mentioning therein, among other things, that the petitioner had no role in appointment/ absorption of the services of the teachers working in the college.

8. Learned Counsel for the petitioner submitted that withholding the amount of gratuity after retirement is illegal and perverse. He also submitted that post retirement punishment can only be given as per Article 351 A Civil Service Regulations, which cannot be applied in the instant case. Petitioner has retired from service on 30.09.2014.

9. The final pension has been released in favour of the petitioner with the intervention of the Hon'ble High Court. Gratuity has, admittedly, not been paid. It cannot be withheld for such a long time. There is specific averment in the counter affidavit (para 18, last) that amount of leave encashment has been paid to the

petitioner. It is admitted to the respondents that the gratuity of the petitioner has been withheld.

10. Petition may be disposed of by directing the respondent-department to release the gratuity to the petitioner, without unreasonable delay in view of the documents filed with the Supplementary Affidavit of the petitioner. Such release should be subject to final decision of WPSB No. 66/2024, which is pending adjudication before the Hon'ble Court. Interest, if any, on gratuity, shall also abide by such decision.

SUMMARY & CONCLUSION

11. In this petition, the petitioner has sought quashing of order dated 19.12.2019, issued by Respondent No.1 (Copy: Annexure- 25), in so far as it relates to withholding of gratuity of the petitioner; directing the respondents to forthwith pay the amount of gratuity; and commanding the respondents to forthwith pay the amount of leave encashment to the petitioner.

12. Thus the relief remains two fold, *i.e.*, (i) to set aside the order whereby the gratuity of the petitioner was withheld and (ii) pay the amount of gratuity.

13. In the Counter Affidavit, the respondents have cited the reasons in support of the impugned order, as to why retiral dues should not be released to the petitioner. Ld. A.P.O. has made an endeavour to defend the departmental action by reading the relevant paragraphs of the C.A., in support of department's contention.

14. In the impugned order dated 19.12.2019 (Annexure: 25), it was directed that the petitioner Sri Birendra Singh Rawat, shall be released pension etc. in view of order dated 01.07.2019 passed by the Hon'ble High Court of Uttarakhand in WPSB No. 242/2019, Birendra Singh Rawat vs. State of Uttarakhand and others, which shall be subject to final decision in Special Appeal No. 290/2018 State of Uttarakhand vs. Trilok Singh Kathait and others.

15. On 27.03.2025 supplementary affidavit has been filed by the petitioner along with documents. The same has been taken on record.

16. In WPSB No. 242/19, Birendra Singh Rawat vs. State of Uttarakhand and others (Copy: Annexure- SA-1), Hon'ble High Court of Uttarakhand disposed of the writ petition on 01.07.2019, by directing the respondents to complete the disciplinary enquiry initiated against the petitioner and to pass final order in accordance with law, with utmost expedition and, in any event, within three months from the date of production of certified copy of the order. Liberty was granted to the petitioner to avail his judicial remedies seeking payment of regular pension, if the enquiry is not completed within the aforesaid period.

17. An order was passed by Single Bench of Hon'ble High Court of Uttarakhand on 26.04.2018 in WPSS No. 60/.2018 (Copy: Annexure- SA-2), which was set aside by the Division Bench of the Hon'ble Court *vide* order dated 12.11.2018 passed in SPA No. 390/2018, Paresh Tripathi vs. Mahesh Chandra Sharma and others, by allowing the Special Appeal (Copy: Annexure- SA-3 *colly*).

18. An Office Memorandum was issued by the Secondary Education Department, Govt. of Uttarakhand, on 08.02.2024 (Copy: Annexure- SA-4), in which a direction was given to recover a sum of Rs.62,53,944/- from the retiral dues of the petitioner, including recovery from gratuity, up to the permissible limit, and recovery of the remaining amount from the pension of the petitioner, in installments. Such an order has been stayed by the Hon'ble High Court *vide* order dated 23.02.2024, passed in WPSB No. 66/2024, Birendra Singh Rawat vs. State of Uttarakhand and others (Copy: Annexure- SA-4 *colly*). Hon'ble Court has directed, as an interim measure, that no recovery shall be made from the petitioner pursuant to the impugned order. Thus, the effect and operation of the impugned order has been stayed by the Hon'ble High Court.

19. The petition may, thus, safely be disposed of by directing the respondents to release gratuity of the petitioner, as expeditiously as possible and without unreasonable delay, which shall be subject to final decision of WPSB No. 66/2024, which is pending adjudication before the Hon'ble Court. Interest, if any, on gratuity, shall also abide by such decision.

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)
(virtual)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: APRIL 30, 2025.

DEHRADUN

VM/RS