

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
BENCH AT NAINITAL**

Present: Hon'ble Mr. Rajendra Singh

.....Acting Chairman

Hon'ble Mr. A.S. Rawat

.....Vice Chairman (A)

**CLAIM PETITION NO. 75/NB/DB/2025**

Naveen Chandra Kothari aged about 58 years S/o Shri B.D. Kothari,  
Senior Clerk, Uttarakhand Transport Corporation, Pithoragarh.

.....**Petitioner**

Vs.

1. State of Uttarakhand through Secretary, Transport, Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Managing Director, Uttarakhand Transport Corporation, Office of the Transport Commissioner, Kulhan, Sahastradhara Road, Dehradun.
3. General Manager (Administration), Nigam HQ, Uttarakhand Transport Corporation Office Transport Commissioner, Kulhan, Shastradhara Road, Dehradun.
4. Divisional Manager (Operation) Uttarakhand Transport Corporation, Kathgodam.
5. Assistant General Manager, Uttarakhand Transport Corporation, Pithoragarh Deopt.
6. Assistant General Manager, Uttarakhand Transport Corporation, Nainital Division, Haldwani Deopt.

.....**Respondents**

Present: Sri L.K.Maithani & Sri R.C.Raturi, Advocates for the petitioner  
Sri Kishore Kumar, A.P.O. for the respondent no.1  
Sri Shobhit Joshi, Advocate for the respondents no. 2 to 6

**JUDGMENT**

**DATED: APRIL 23, 2026**

**PER: HON'BLE SRI A.S.RAWAT, VICE CHAIRMAN(A)**

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

*“i) To quash the impugned office order dated 25.08.2025 (Annexure No. A-1) of respondent No. 4, impugned office order dated 20.07.2021 (Annexure No. A-2), office order dated 26.12.2020 (Annexure No. A-8) and office order dated 31.12.2020 (Annexure No. A-9) of respondent No. 5 and office order dated 09.03.2022 (Annexure No. A-3) of respondent No. 3 with its effect and operation and.*

*ii) To issue an order or direction to the respondents not to implead the effect of the punishment order dated 30.09.1989 of daily wager service in the present service of the petitioner and restore the pay of the petitioner which he got prior to the impugned office order and accordingly grant all the service benefits of service to the petitioner.*

*iii) To issue an order or direction to the respondents to made no recovery from the petitioner on the basis of said refixation and amount of pay.*

*iv) To issue any other order or direction which this court may deem fit and proper in the circumstances of case in favour of the petitioner.*

*v) To award the cost of petition.”*

2. Brief facts of the case are as under:

2.1 The petitioner's father was in the service of the respondent's department, who expired during the service. The petitioner was appointed on the post of conductor for a period from 10.07.1986 to 15.07.1986 on daily wages under the dying in harness. His appointment was extended from time to time on daily wages till 18.06.1989. The petitioner was appointed on the post of Conductor on 19.06.1986 under dying in harness and was further promoted to

the posts of Junior Clerk and Senior Clerk vide orders dated 11.06.2016 and 07.07.2020 respectively.

2.2 The department did not count the services rendered by the petitioner as daily wager in the regular service for the service benefits. The petitioner was charge sheeted on 24.11.1987 on the charges of without tickets of passengers, for which, he was punished by withholding four increments with cumulative effect vide order dated 30.09.1989.

2.3 After appointment in regular service, the benefit of 10 years and 20 years pay scales were given to the petitioner vide orders dated 19.06.1999 and 19.06.2009 counting the service from 19.06.1989. Thereafter, the scheme of ACP came into force in the Government Service which was adopted by the department and under the scheme of ACP, Grade Pay of Rs. 2800/- was given to the petitioner as second ACP since 01.09.2008 and thereafter third ACP grade pay of Rs. 4200/- given to the petitioner since 19.06.2015. After more than 30 years' service, the respondent No. 5 taking cognizance of the punishment dated 30.09.1989 against the petitioner cancelled the benefit of third ACP grade pay of Rs. 4200/- of the petitioner.

2.4 The petitioner made representation against the office order dated 15.09.2020 to the respondent No. 2, but the same was not considered. The respondent No. 4 vide impugned order dated 26.12.2020 cancelled the previous benefits of 2<sup>nd</sup> ACP (grade pay of Rs. 2800/-) and 3<sup>rd</sup> ACP (grade pay of Rs. 4200/-) and awarded the benefit of 2<sup>nd</sup> ACP (grade pay 2800/-) after making a delay of 8 years (double of the punishment of withholding of 4 increments) in the qualifying service of the petitioner.

2.5 Vide another order dated 31.12.2020 due to the said punishment also cancelled the voluntary family welfare allowances awarded to the petitioner on dated 26.12.2008. Thereafter on the

basis of audit report, the respondent No. 4 vide impugned office order dated 20.07.2021 refixed the pay of the petitioner and changed the date of benefit of 10 years, pay scale from 19.06.1999 to 19.06.2003; changed the benefit of 2<sup>nd</sup> ACP (grade pay 2800) into 1<sup>st</sup> ACP (grade pay of Rs. 2400) and taken away the benefit of 20 years pay scale and third ACP grade pay 4200/- showing the same as wrong.

2.6 The petitioner made representation against the impugned office order dated 20.07.2021 to the respondent No. 4 and 3 respectively on 03.08.2021 and 12.08.2021, but the respondent No. 4 vide his impugned order dated 09.03.2022 rejected the representation of the petitioner. Thereafter, petitioner made a representation to the respondent No. 2 against the modification of pay after taking away the benefits of pay scale & ACP, but respondent did not pay any heed to the representation of the petitioner.

2.7 Earlier, the petitioner had filed claim petition No. 49/NB/DB/2024 before the Tribunal. The claim petition was disposed of by directing the Divisional Manager (Operation). UTC, Kathgodam to decide the representation of the petitioner by a reasoned and speaking order. In compliance of the judgment of the Tribunal, the respondent No. 4 vide impugned order 25.08.2025 rejected the representation of the petitioner, which has been challenged by the petitioner before this Tribunal. Hence, this petition.

3. C.A./W.S. has been filed on behalf of the contesting respondents no. 2 to 6 mainly stating therein that-

3.1 The petitioner while discharging his duties as a conductor on 22/11/1987, on the Dharchula Gualdam Route, the bus was subjected to inspection by the Inspection Team, it was found that there are 42 and ½ passengers, travelling in the bus out of which 13

passengers were found to be travelling without ticket from whom the petitioner has already taken the amount of fare but has not issued them the ticket. In pursuance to the said incident, then Regional Manager, U.P.S.R.T.C. Tanakpur vide letter no. 3059 dated 24/10/1988 issued the show cause notice to the petitioner for the charges of ferrying passengers without ticket, causing financial loss to the Corporation, charging fare from the passengers but not issuing them the ticket, not following the departmental directions and not discharging the responsibilities of the post of conductor.

3.2 The Assistant General Manager, Pithoragarh was appointed as enquiry officer. The petitioner replied to the show cause notice and the enquiry officer after going through the reply submitted by the petitioner and all the documents on the record, submitted detailed enquiry report to the disciplinary authority. In the enquiry report, the petitioner has accepted the fact that 13 passengers were found to be travelling without tickets.

3.3 The Disciplinary Authority issued the second show cause notice vide letter no. 3355 dated 02/03/1989 to the petitioner along with copy of the enquiry report as to why he may not be removed from service, to which, the petitioner submitted his reply before the Disciplinary Authority. The Discipline Authority after going through entire record of the disciplinary proceedings, was of the view that the petitioner was appointed on compassionate basis, so keeping in view of the above, despite being found guilty, the punishment for stoppage of 4 annual increment with cumulative effect was given vide order dated 30/09/1989.

3.4 Despite passing of the above mentioned order dated 30/09/1989, the petitioner did not challenge it before any departmental authority or any court of law till date and as such, the order dated 30/09/1989 attained finality. In the present claim petition

also, the order dated 30/09/1989 has not been challenged by the petitioner.

3.5 The petitioner preferred Claim Petition before the Tribunal, which was decided vide order dated 19/05/2025 directing the respondent corporation to decide the representation of the petitioner. In compliance to the order dated 19/05/2025 passed by the Tribunal, the petitioner made the representation dated 31/05/2025 which was considered by the respondent corporation and rejected the same by passing a detailed and reasoned order dated 25/08/2025 and there is no illegality or infirmity in the order.

3.6 For the misconduct committed by the petitioner by carrying 13 passengers without ticket, punishment order dated 30/09/1989 was passed by the Regional Manager. The incident had occurred on 22/11/1987, while the petitioner was discharging his duties as conductor on daily wages and due to the sad demise of his father, he was regularly appointed as conductor on 19/06/1989 in the grade pay of Rs.1900/-. The petitioner was given the punishment of stoppage of 4 annual increments with cumulative effect instead of punishment of removal from service which was proposed in the show cause notice on sympathetic ground as he was appointed on compassionate ground. Therefore, it cannot be said that the punishment of his earlier service as conductor on daily wages has been imposed upon him after his regular appointment.

3.7 The matter of wrong fixation of ACP due to which the amount of the salary of the employees of the same footing are differing and one Shri Narendra Pal, Senior Clerk posted at ISBT Delhi has given the application to DGM (Operation) that his date of appointment and the date of appointment of Sri Bhupendra Kumar Kohli is the same but he is getting less salary to Sri Bhupendra Kumar Kohli. On his letter the Deputy General Manager, ISBT Delhi written a letter dated 20-08-2019 to the Headquarter stating therein

that on perusal of service book of both the employees reveal that there may be irregularity in the determination of pay of other employees posted at ISBT, Delhi so it will be better to scrutinize/inquire the service book of each of the employee posted at ISBT Delhi. On the above mentioned application, the Finance Controller vide letter dated 22-08-2019 constituted a committee consisting of Sri Mukesh Singh DGM (Technical), Sri Netram DGM (Operation) and Sri Rajeev Kumar, Assistant Account Officer to conduct an inquiry and give the report after scrutiny of the service books of all the employees at ISBT Delhi as per the Government order and Rules. In the inquiry report dated 12-09-2019, it was found that out of 33 employees, there is difference in pay of 12 employees who have been granted the benefit of ACP despite the effective period of punishment was going on.

3.8 The matter was placed before the Managing Director and the Managing Director vide its letter dated 18-09-2019 requested the Govt. to constitute a special audit team of the government officials to scrutinize the benefit of ACP and determination of Salary of 3395 employee of the corporation. On the said request, the Deputy Director (Accounts/ Audit) constituted the audit team of three persons vide letter dated 03-12-2019. The audit team has indicated the shortcoming while granting the ACP and thereafter the Finance Controller of the corporation vide letter dated 11-11-2020 has directed each region to conduct the proper inquiry/audit of all the above mentioned employees in their region.

3.9 For the grant of benefit of ACP, the Govt. of Uttarakhand has issued Government Order No. 872 dated 08/03/2021, amended Government Order No. 313 dated 30/10/2012, Government Order No. 589 dated 01/07/2013, wherein it has been specifically provided that the grant of benefit of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> ACP will be applicable on completion of continuous and satisfactory service of 10 years, 16 years and 26 years respectively. It is stated here that as per the

Letter No. 164 dated 11/11/2020 issued by the Headquarters of the Uttarakhand Transport Corporation in para no. 7, it has been specifically provided that during the period of eligibility for grant of benefit of ACP if it is found that the annual increment of any employee is stopped with cumulative effect for one or more year then the period of entitlement of benefit of ACP will be deferred for twice the number of the years for which the above mentioned punishment is given. The petitioner has been punished with stoppage of 4 annual increments with cumulative effect and in pursuance to the above, a period of eight years of service of the petitioner was found to be unsatisfactory.

3.10 The Assistant General Manager, Pithoragarh vide its order no. 457 dated 20/07/2021 has refixed the salary and granted the benefit of ACP to the petitioner, and as the service record of the petitioner is not satisfactory and the punishment has been given to him due to which the benefit of 2nd ACP i.e. grade pay Rs.2800/- which was given to petitioner on 01/09/2008 has been revised and he has been given the 1st ACP i.e. grade pay Rs.2400/-, 2nd ACP i.e. grade pay Rs.2800/- has been given on 19/06/2013 and the 3rd ACP i.e. grade pay Rs. 4200/- given on 19/06/2015 has been withdrawn/revoked.

3.11 On the basis of the Government Order, the special audit was conducted as mentioned in the preceding para and the pay scale of the petitioner has been revised vide order dated 20/07/2021 and the wrongful fixation of 3<sup>rd</sup> ACP, Grade Pay of Rs. 4200/- has been amended to Grade pay of Rs.2800/-. The petitioner has been given the opportunity of hearing and the petitioner has given his representation dated 12/08/2021 and after considering the representation of the petitioner, the final order has been passed on 09/03/2022 by the General Manager (Administration) by which the earlier pay fixation order has been amended and the petitioner has been given the benefit of 1<sup>st</sup> ACP, Grade Pay of Rs. 2400/- from

01/09/2008 and benefit of 2<sup>nd</sup> ACP, Grade Pay of Rs. 2800/- from 19/06/2013.

3.12 There is no illegality and infirmity in the order dated 25/08/2025 by which the representation of the petitioner has been rejected, salary fixation order dated 20/07/2021, order dated 26/12/2020, recovery order dated 31/12/2020 and the order dated 09/03/2022 passed by the General Manager (Administration). Hence, the claim petition is liable to be dismissed.

4 The petitioner has also filed Rejoinder Affidavit to the C.A/W.S. filed on behalf of the respondents reiterating the averments, as have been mentioned in the claim petition.

5 Heard learned Counsel for the parties and perused the record carefully.

6 Learned counsel for the petitioner argued that the petitioner was engaged as the conductor on daily wages on 10/07/1986 and he worked as a daily waged conductor till 18/06/1989. He was permanently appointed as conductor on compassionate ground on 19/06/1989. He was charge sheeted for allowing 13 persons travelling without ticket on 24/11/1987 and awarded punishment of withholding 4 increments with cumulative effect on 30/09/1989 after he was appointed as conductor permanently. He was given benefit of 10 years and 20 years of regular service after counting his service w.e.f. 19/06/1999. Further he was given benefit of 2<sup>nd</sup> ACP w.e.f. 01/9/2008 and 3<sup>rd</sup> ACP w.e.f. 19/6/2015. But the respondent authorities took cognizance of the punishment dated 30/9/1989 and cancelled the benefit of the 3<sup>rd</sup> ACP, Grade Pay of Rs 4200/- and shifted the date of the 2<sup>nd</sup> ACP in Grade Pay of Rs 2800/- from 1/8/2008 to 19/06/2009 after 30 years of his appointment.

7 The respondent authorities cancelled his voluntary family allowances awarded to him on 26/12/2008. On the basis of the audit report, the respondent authorities changed the date of benefits of 10 years of the scale to 19/6/2003 and changed benefit of 2<sup>nd</sup> ACP of Rs 2800/- to 1<sup>st</sup> ACP of Rs 2400/- and took away the benefit of the 20 years of the pay scale and 3<sup>rd</sup> ACP grade pay of Rs. 4200.

8 These benefits were given to him after due verification of the service records at that time against which the petitioner submitted representation, which was rejected by the respondent authorities. Petitioner made a representation to the higher authorities that remained pending for long time and it was rejected only after the order of the Tribunal in the Claim petition 49/NB/DB/2024.

9 The Learned counsel for the petitioner further argued that the matter related to the punishment was of the petitioner's engagement on daily wages service rendered by him prior to his contractual engagement in the department for which he was punished also in terms of 15 days Route off. His permanent service was not the follow up of the daily wages service rendered by him but was a separate appointment on Compassionate grounds. He has been already punished for the offence by deducting 4 increments with cumulative effect.

10 Although, the nature of the punishment awarded to him should have been as per the terms of engagement of the daily wages employees but the petitioner accepted the punishment of the terms of engagement of regular employees. The punishment awarded for the offence should not come on the way of grant of promotion in the regular appointment. In view of the above the Claim petition is liable to be allowed and the impugned orders are liable to be quashed.

11            Learned Counsel for the Transport Corporation argued that the petitioner did not challenge the order of the punishment awarded to him on 30.09.1989 in appeal to the higher authorities or in the Court of law. So, the punishment has attained finality. The time scale of pay and ACP granted to him were changed after the punishment order against the petitioner were pointed out during the course of the service and there is no illegality committed by the department. In view of the above the Claim petition is liable to be dismissed. Learned A.P.O. also agrees to the arguments made on behalf of learned Counsel for the Transport Corporation.

12            Based on the arguments of the parties and perusal of the record, the Tribunal finds that the respondents initiated the departmental enquiry against the petitioner during his engagement as the daily wage employee but awarded punishment when he got permanent appointment on compassionate grounds as conductor. The punishment related to his previous engagement was implemented in his subsequent regular appointment, which the petitioner did not challenge and became final also.

13            The petitioner was earlier given time scale of pay after 10 and 20 years of the service and was also granted 2<sup>nd</sup> and 3<sup>rd</sup> ACP without this punishment coming in the way of these promotions. But the punishment order was implemented subsequently on complaint only. Here the Tribunal has to decide whether the punishment of the previous daily wage engagement which is not related to the current permanent engagement, will have effect on the current engagement. The terms of engagement of the daily wages and the permanent employee are totally different. Why was the offence of the petitioner not considered as deterrent to his appointment on the compassionate ground? The petitioner was given 15 days route off after he was caught allowing 13 persons travelling without ticket was not that a punishment also. The authorities continued with the proceedings started during his

engagement as the daily wage employees, issued show cause notice for termination but decided to award punishment of withholding 4 increments with cumulative effect as lenient view of the offence.

14 This Tribunal is of the opinion that the punishment related to previous daily wage engagement of the petitioner which was not related to current permanent engagement should not have effect on his promotion during the current permanent engagement. The respondent authorities did not consider the offence as bar to his permanent appointment on compassionate ground rather they preferred to continue with proceedings against the petitioner and punished him also, so the matters should have ended there. This punishment should not be deterrent to any promotion of the petitioner to his current permanent engagement. Hence the impugned orders are liable to be quashed and the petitioner is entitled to get all the benefits as the employees were having an impeccable record during his service. Hence, the claim petition is liable to be allowed.

### **ORDER**

The Claim Petition is hereby allowed. The impugned orders dated 26.12.2020, 31.12.2020, 20.07.2021, 09.03.2022 and 25.08.2025 respectively are hereby quashed. The respondent authorities are directed to restore all the benefit of the petitioner like time scale of pay and the benefits of ACP given him time to time as per his eligibility within three months of presentation of certified copy of the judgement. No order as to costs.

**(RAJENDRA SINGH)**  
ACTING CHAIRMAN

**(A.S. RAWAT)**  
VICE CHAIRMAN (A)

*DATED: APRIL 23, 2026*  
*DEHRADUN*  
*KNP*