

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

Present: Hon'ble Mr. Rajendra Singh

.....Acting Chairman

Hon'ble Mr. A.S. Rawat

.....Vice Chairman (A)

CLAIM PETITION NO. 83/DB/2024

Subhash Chand Puri, aged about 59 years, S/o Sri Somnath Puri,
Senior Clerk, Uttarakhand Transport Corporation, Roorkee Depot.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Transport,
Government of Uttarakhand, Secretariat, Subhash Road,
Dehradun.
2. Divisional Manager (Operation), Uttarakhand Transport
Corporation, Gandhi Road, Dehradun.
3. Assistant General Manager, Uttarakhand Transport
Corporation, Roorkee Depot.

..... Respondents

Present: Sri L.K. Maithani & Sri R.C. Raturi, Advocates,
 for the Petitioner
 Sri V.P. Devrani, A.P.O., for the Respondent No. 1
 Sri Vaibhav Jain & Sri Ramdev Sharma, Advocates,
 for Respondents no. 2 and 3

Judgement

Dated: 14th August, 2026

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

“(i) To quash the impugned order dated 05.08.2023 (Annexure No. 1) and impugned pay fixation order dated 16.08.2021 (Annexure No. 2) of respondent no. 3 with its effect and operation.

(ii) To issue an order or direction to the respondents to sanction the benefit of first ACP to the petitioner since 01.09.2008 as till that date the petitioner already completed more than 19 years and 11 months service on the post and accordingly sanction the benefit of second and third ACP to the petitioner since 01.09.2011 and 01.09.2022 respectively with interest on the amount of arrear of the ACP.

(iii) 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.

(iv) To award the cost of petition.”

2. Brief facts, giving rise to present claim petition, are as follows:

2.1. Petitioner was initially appointed on the post of Conductor under the respondent department on 01.10.1989 and at present he is posted and working on the post of Senior Clerk in Roorkee Depot of the respondent. The benefit of three financial upgradation was provided to the employees of the state after completion of 10, 16 and 26 years of satisfactory service as first, second and third ACP respectively. The cut off date for sanctioning the benefit of ACP was 01.09.2008. Since the date of appointment till the date of 01.09.2008 the petitioner has already completed 18 years and 11 months of service, therefore he was entitled for benefit of first ACP grade pay 2400 since the punishment of 01.09.2008, but due to withholding of four increments without any cumulative effect in the year 2008, the respondents sanctioned the benefit of first ACP to the petitioner since 01.09.2013 instead of 01.09.2008. Second ACP grade pay 2800/- was given to the petitioner since 01.07.2014. As the petitioner has already completed 26 years' service in the year 2017, therefore he made representation to the respondent No. 3 and prayed for the benefit of third ACP.

2.2. Respondent No. 3 vide his letter dated 1.10.2017 informed the petitioner that under the G.O. No. 872 dated 08.03.2011 there

is a provision to give third ACP after ten years of second ACP. As you have been given first ACP on 02.11.1999 and second ACP on 02.07.2013 therefore third ACP is payable on 02.07.2013. The benefit of third ACP will be given only after clean service period after 10 years from the due date of second ACP. In respect of the benefit of ACP granted to the employees of the department, an inquiry was conducted by the respondents and for this purpose a committee was constituted. On the basis of the report of the committee, the respondents refixed the pay of the employees of the department and made recovery against them from their retiral dues. Most of the employees challenged their pay refixation orders and recovery order before the authority, Hon'ble High Court and Tribunal, and the Hon'ble Court ordered for return of the amount recovered from the retiral dues. On the basis of the report of committee, the respondent No. 3 vide his office order dated 16.08.2021 amended the pay of the petitioner and shifted the date of 10 years pay scale, first and second ACP showing the same as wrong.

2.3. Ten years pay scale was given to the petitioner dated 01.11.2000, but in the impugned office order dated 16.08.2021 the respondent showed the same as wrong and made payable it from 01.11.2001. It is submitted that the petitioner was appointed in the service of the respondents on dated 01.10.1989 and as such his ten years service was completed upto 01.10.1999, but due to the punishment of withholding of one increment without any cumulative effect in the year 1995, the **ten years pay scale was given to the petitioner after a delay of one year** i.e. after 11 years on dated 01.11.2000. Thus on the basis of same punishment further shifting the date of 10 years pay scale from 01.11.2000 to 01.11.2001 is wrong and illegal.

2.4. In the year 2008 the petitioner was suspended from 10.01.2008 to 03.10.2008 and in the departmental proceedings awarded punishment of withholding four increments without any

cumulative effect. It is submitted that despite this punishment the benefit of first ACP grade pay 2400 was given to the petitioner since 01.09.2008. as upto the date of 01.09.2008 the petitioner already completed more than 19 years and 11 months' service on the post of direct recruitment. The respondent vide his impugned order dated 16.08.2021 shifted the date of first ACP from 01.09.2008 to 01.07.2013, because in departmental proceedings 4 increments of the petitioner were withhold. It is submitted that for the admissibility of first ACP 10 years' satisfactory service is required to employee from the date of his appointment on the post of direct recruitment. Till the date 01.09.2008 the petitioner was already completed more than 19 years' service out of which 17 years' service of the petitioner was satisfactory, thus shifting the date of first ACP from 01.09.2008 to 01.07.2013 is wrong and illegal. But due to shifting the date of first ACP, the respondents also changed the date of second ACP from 01.07.2014 to 23.07.2019.

2.5. As the respondent no. 3 already informed the petitioner vide his letter dated 10.10.2017 that the third ACP will be admissible to him from the date 02.07.2023, therefore, petitioner vide his application dated 29.07.2023 made request to the respondent No. 3 for the benefit of third ACP, since 02.07.2023, but the respondent No. 3 vide his impugned order dated 05.08.2023 denied the benefit of third ACP to the petitioner, that his service records was not found clean and satisfactory due to which his pay and ACP was amended and time scale and second ACP sanctioned respectively since the year 2001 and 23.07.2016, therefore under the MACP the admissibility of third ACP is not made on dated 02.07.2023. From the bare perusal of impugned pay fixation order dated 16.08.2021, it is revealed that first ACP was admissible to the petitioner 01.09.2008, but due to the withholding of four increments without any cumulative effect the respondents delayed the admissibility of first ACP for four years and sanctioned it from 01.07.2013 due to which the date of second ACP was amended and shifted. Four increments were withheld in the

departmental proceedings in the year 2008, thus only the service of year 2008 was unsatisfactory and adverse, but on the quantity of punishment the respondent made four years' service of the petitioner unsatisfactory, which is not permissible in the eyes of law. The ACRs of the year 2009, 2010, 2011, 2012 and 2013 of petitioner was good and satisfactory. That there is no rule and law of ACP that on the basis of the quantity of the punishment the number of years of an employee can be adverse. Due to the punishment of with holding of four increments only the service of the year 2008 was unsatisfactory, thus benefit of first ACP was to be given to the petitioner only after a delay of one year i.e. after completion of 11 years service and accordingly the benefit of second and third ACP was to be given to the petitioner. Thus shifting the date of first ACP from 01.09.2008 to 01.07.2013 vide impugned order dated 16.08.2021 is illegal.

2.6. As till the date 01.09.2008 the petitioner has already completed more than 19 years and 11 months' service thus the benefit of first admissible completion of 10 years' service was to be given to the petitioner since 01.09.2008 as after a delay of one year (Due to the punishment) was already completed upto the year 1999 and second ACP after three years of the first ACP i.e. since 01.09.2011. Similarly, the benefit of third ACP was to be given to the petitioner since the year 01.09.2022 under the scheme of MACP. Thus, amendment in the pay fixation and shifting the date of ACP are wrong and illegal.

3. The claim petition has been contested on behalf of the respondents. C.A. has been filed by Divisional Manager (Operation), Uttarakhand Transport Corporation, denying the material averments contained in the claim petition. Relevant documents have been filed by the respondents. Counter affidavit has been filed mainly stating that the service record of the petitioner was not found appropriate and hence only on 23.07.2016, petitioner was given second ACP. The provision for providing third ACP is

after 10 years of second ACP and hence the petitioner, shall be entitle for third ACP after 23.07.2026, however as per records the Petitioner shall stand superannuated from his services on 31.05.2025. The petitioner inspite of being aware of the same on false & frivolous facts filed the present petition.

3.1. The impugned order under challenge is dated 05.08.2023. The present petition has been filed post 02.09.2025, i.e. after expiry of period of more than 1 year from the date of occurrence of alleged cause of action. The petitioner failed to state on which date the said order was received, the date as stated is vague. The petitioner also failed to file any application seeking condonation of delay. The present petition is barred by limitation.

3.2. The service record of the petitioner was not appropriate and hence the petitioner was not found eligible for first ACP on 2008 and was only found entitled for the same in 2013. The said order is final and is binding upon the petitioner. On 23.07.2016, petitioner was given second ACP. The provision for providing third ACP is after 10 years of second ACP and hence the petitioner will be entitled to third ACP after 23.07.2026, however, as per records, the petitioner is superannuated from his service on 31.05.2025.

4. Rejoinder affidavit has been filed by learned Counsel for the petitioner reiterating the facts contained in the claim petition and denying the material averments contained in the counter affidavit. R.A. has been filed mainly stating that as per the scheme of ACP, the benefit of 1st, 2nd and 3rd ACP were granted to the employees of the state and corporation respectively after completion of 10, 16 and 26 years of satisfactory service. As per rules of ACP, the qualifying service for admissibility of ACP is counted from the date of appointment on the post of direct recruitment. The petitioner was appointed on the post of Conductor, which is a direct recruitment post and as such the qualifying service of the petitioner for the benefit of 1st, 2nd and 3rd ACP was completed on 01.10.1999,

01.10.2005 and 01.10.2015 respectively. The respondent vide impugned order shifted the benefit of first ACP from 01.09.2008 to 01.07.2013 and second ACP from 01.07.2014 to 23.07.2014 due to punishment of withholding of four increments without cumulative effect. On 01.09.2008, when the first ACP was given to the petitioner, he already completed more than 18 years' service. Thus, first ACP was given to the petitioner after completion of his 18 years' service. Thus, eight years' service was already washed out due to the cut off date and therefore there was no occasion to shift the date of first ACP from 01.09.2018 to 01.10.2017 as due to delayed payment of benefit of ACP, the effect of punishment was already washed. Similarly, the second ACP was given to the petitioner after completion of more than 23 years, i.e. after delay of 7 years on 01.07.2014. Thus, on the basis of said punishment, the shifting of date of ACP is wrong and illegal.

5. We have heard the Learned Counsel for the petitioner, learned A.P.O. and perused the documents placed before the tribunal.

6. Learned Counsel for the petitioner argued that the petitioner was appointed as conductor on 01/10/1989 and is working as the senior clerk in the respondent department. The petitioner was to be granted three financial upgradation 1st, 2nd and 3rd ACP after completion of 10, 16 and 26 years of service as per the Govt. scheme as per Govt. order dated 18.03.2011 with subsequent government orders .

7. Learned Counsel for the petitioner has further argued that petitioner was entitled to the grade pay of Rs. 2400 on 01/09/2008 but due to the punishment of withholding of increments without cumulative effect in the year 2008 the petitioner was given benefit of 1st ACP w.e.f. 01.09.2013. The petitioner was granted 2nd ACP w.e.f. 01.07.2014. He completed requested for granting 3rd ACP as he completed 26 years of the service on 2/7/2013. There was an

enquiry in the department in respect of the benefits of the ACP given to the employees in the UTC. The committee constituted for the enquiry recommended to refix the date of grant of ACP. Respondent No. 3 as per recommendation of the committee modified the date of 1st ACP from 01/07/2013, date of 2nd ACP was modified to 23/07/2019. The petitioner was not given 3rd MACP which was due on 01/9/2022. The department refixed the pay of the petitioner and ordered for the recovery, which is wrong, illegal, arbitrary, malafide and against the principles of natural justice. Hence, the claim petition is liable to be allowed.

8. Learned APO argued that the petitioner was appointed on 01.10.1989. His service record was not good, he was awarded penalty in 1995 with stoppage of one increment and date of grant of time scale of pay on 2001 which was due in 2000. Further 2008 he was awarded penalty of withholding of the increments for four years and he was under suspension also before that he was granted 2nd ACP w.e.f. 23/07/2016. His 3rd MACP was due on 23/07/2026 but he retired on 31/05/2025 and he could not be granted 3rd MACP. Hence his claim petition is liable to be dismissed.

9. Based on the arguments of the parties and the documents submitted, it is found that the petitioner was granted 1st time scale of pay in 2001 due to penalty of withholding of one increment in 1995. He was entitled to get 2nd ACP after completion of 8 years of service but it gets deferred by 4 years due to stoppage of 4 increments in 2008 and he was to get 2nd ACP in 2014 but it has been granted in 2016. So there is discrepancy in granting 2nd ACP to the petitioner in terms of the date of 2nd ACP due to which the 10 years' time required for the 3rd MACP was not available to the petitioner. The respondents are supposed to revisit the date of grant of 2nd ACP and in case the petitioner is entitled to 3rd MACP before his superannuation he should be granted 3rd MACP also.

10. In view of the above, the claim petition is liable to be allowed and the order dated-05/8/2023 and the pay fixation dated 16/8/2021 are liable to be dismissed.

ORDER

The claim petition is allowed. The impugned order dated 05/8/2023 and the impugned pay fixation order dated 16/08/2021 are quashed. Respondents are directed to grant the 2nd ACP to the petitioner from the due date and subsequently grant him 3rd MACP also and refix the pay of the petitioner and pay him all consequential benefits of the increased pay too. No order as to costs.

(RAJENDRA SINGH)
ACTING CHAIRMAN

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

DATE: 14TH AUGUST, 2026
DEHRADUN

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