

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

Present: Hon'ble Mr. Capt. Alok Shekhar Tiwari

----- Member (A)

Claim Petition No. 67/NB/SB/2021

J. P. Bhatt (Male), aged about 61 years, S/o Late Bachiram Bhatt, R/o Divisional Logging Manager, Mandakini Puram, Bhagwanpur Road, P.O.- Haripunayak, Haldwani, District-Nainital.

..... Petitioner

Versus

1. State of Uttarakhand, through Secretary, Environment and Forest, Secretariat, Dehradun.
2. Managing Director, Uttarakhand Forest Development Corporation, Aranya Vikas Bhawan, 73 Nehru Road, Dehradun.
3. General Manager, Kumaon, Uttarakhand Forest Development Corporation

..... Respondents

Present : Sri Yogesh Pant, Advocate for the petitioner

Sri Kishore Kumar, A.P.O. for the respondent
No. 1

Ms. Seema Sah, Advocate for the respondents
No. 2 & 3

JUDGMENT

DATED : **11 JULY , 2025**

This claim petition has been filed seeking the following relief:-

- “A. to pass necessary order or direction, quashing the inquiry report dated 16.01.2018 (Contained as Annexure No. 1) alongwith all the consequential orders in respect to the petitioner.
- B. to pass necessary order or direction directing the respondents to pay the retirement dues of the petitioner, i.e., Gratuity and leave encashment alongwith interest @ 18% per annum, after providing no-dues certificate to the petitioner, from the date of its being due, i.e., 20.06.2020 till the date of its final payment.

- C. to direct the respondents to pay the litigation expenses to the petitioner.
- D. to grant such other reliefs which this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case."

2. In brief, the facts of the case are that during the period from 24.07.2011 to 08.09.2014 the petitioner was posted as Divisional Forest Development Manager, Almora. When the petitioner took charge of the above said post, it came to knowledge of the petitioner that one Civil Execution Suit No. 02 of 2011 was filed, on 09.08.2011, before the Hon'ble Civil Judge (SD) Almora, namely, "Abrar Ahmed vs. Van Nigam".

2.1. The earlier proceedings, which had led to the filing of the above said civil Execution Suit by Abrar Ahmed are as follows:-

S. No.	Case Type and Court Name	Purpose of Filing	Result
01	Civil Suit No. 22 of 1993 Ld. Civil Judge (SD) Almora- Abrar Ahmed vs. Van Nigam	In regard to the quantity of coal which the plaintiff bought during auction, from Van Nigam, but later it was found that the auctioned quantity was not present at the spot so he demanded compensation @ Rs. 50 per Qtl. for a quantity of 1341 Qtl.	Decided on 29.02.2000- The Court directed the respondent to provide the quantity of coal to the plaintiff, i.e., 1341 Qtl.
02	Civil Appeal No. 06 of 2000- Ld. District Judge Almora (Transferred to Ld. A.D.J., Almora)- Van Nigam vs. Abrar Ahmed	It was filed against judgment and decree passed in Civil Suit No. 22 of 1993	Decided on 05.12.2013- Court dismissed the appeal.
03	No second Appeal filed by the Van Nigam		
04	Civil Execution No. 02 of 2011-Ld. Civil Judge (SD) Almora- Abrar Ahmed vs. Van Nigam	For execution of the decree dated 29.02.2000 passed in the Civil Suit No. 22 of 1993	Decided on 30.09.2016 by way of compromise where Rs. 10, 93,175/- given by the defendant to the plaintiff.

2.2. During his tenure in Almora Division (From 24.07.2011 to 08.09.2014) the petitioner pursued the case as directed by the Departmental High Higher Authorities, the details of which are as follows:-

- (a). On 13.06.2012, the petitioner informed the Regional Manager (Kumaon Region) that in the said Execution Suit the Court has directed the judgment debtor to pay Rs. 50,000/- to the decree holder as compensation, and further the petitioner sought permission to pay the same. However, no permission for the same was given even after the fact that already an amount of Rs. 1,30,497/- had been recovered, by the Department, from the erring employees.
- (b). On 04.07.2012, the petitioner informed the Regional Manager (Kumaon Region) that now the decree holder was demanding Rs.

2,50,000/- in place of Rs. 50,000/- and the Executing Court had directed the judgment debtor to pay the same (i.e. Rs. 2,50,000/-) before the next date. The petitioner again sought permission to pay the same, but no permission was granted by the superior authorities.

- (c). On 07.11.2012, the petitioner informed the Regional Manager (Kumaon Region) that the Executing Court, after considering the rate of coal submitted by the judgment debtor, by its order dated 30.10.2012 directed to pay Rs. 1,34,100/- to the decree holder as a final amount of compensation and the petitioner further sought necessary direction either to pay the same, or to give direction in regard for any other action.
- (d). On 20.11.2012, the petitioner again sent a reminder letter to the Regional Manager

(Kumaon Region) in relation to his earlier letter dated 07.11.2012.

- (e). In consequence to the above said reminder letter dated 20.11.2012, Regional Manager (Kumaon Region) referred the letter of the Managing Director, Dehradun dated 20.11.2012, and instructed by his letter dated 26.11.2012 to seek necessary direction from the panel Advocate in the Hon'ble High Court of Uttarakhand. In consequence the petitioner took advice from the panel Advocate and on his advice regarding the Executing Court order dated 30.10.2012, an appeal was filed before the District Judge, Almora, which was registered as Misc. Civil Appeal No. 11 of 2013, namely, Van Nigam Vs. Abrar Ahmed. Against the same order dated 30.12.2012 the plaintiff also filed an appeal before the District Judge, which was

registered as Misc. Civil Appeal No. 03 of 2013. Both the aforementioned appeals were decided by the order dated 05.12.2013 by the Ld. A.D.J., Almora, wherein, order dated 30.12.2012 passed by the Executing Court was set-aside and it ordered that the judgment debtor will pay a fine of Rs. 3,500/- to the decree holder and shall deliver the quantity of coal, i.e., 1341 Qtl. and if the judgment debtor fails to deliver the same within 15 days, it would be liable to pay further fine of Rs. 1/- per qtl. per day to the decree holder.

- (f). Once again, the Regional Manager (Kumaon Region) instructed the petitioner to take advice from the panel Advocate in the Hon'ble High Court of Uttarakhand and in consequence on the advice of the panel Advocate a Review Application was filed in

the Court of Ld. A.D.J., Almora, but the same was dismissed by the Court's order dated 22.03.2014. These actions taken by the petitioner on the advice of the Regional Manager (Kumaon Region) were duly informed to the departmental superiors.

(g). Thereafter, the Regional Manager (Kumaon Region) directed the petitioner to take necessary instructions from the panel Advocate, High Court of Uttarakhand, but when the panel Advocate clearly stated that no action in the High Court can be taken against the order passed on the Review Application, the petitioner informed the Regional Manager (Kumaon Region) for necessary direction.

(h). When no advice was given, in the light of letter dated 04.04.2014, the petitioner again gave a detailed information of the case, by

letter dated 15.05.2014 to the Regional Manager (Kumaon Region) seeking necessary direction.

- (i). Thereafter, on the advice of the Regional Manager (Kumaon Region) a Writ Petition was filed in the Hon'ble High Court of Uttarakhand, against the order dated 05.12.2013 passed by the Ld. A.D.J., Almora, in the Misc. Civil Appeal, whereby, it had been ordered that the judgment debtor will pay fine of Rs. 3,500/- to the decree holder and shall deliver the quantity of coal, i.e., 1341 Qtl. and if it failed to deliver the same within 15 days, it would be liable to pay further fine of Rs. 1/- per qtl. per day to the decree holder.
- (j). On 10.07.2014, the petitioner informed the Regional Manager (Kumaon Region) that the said Writ Petition filed before the Hon'ble

High Court was dismissed by order dated 09.07.2014 and that the decree holder had moved an application for forfeiting the property of the Van Nigam, as the order of the Ld. A.D.J., dated 05.12.2013, was not followed by the Van Nigam. Therefore, the petitioner sought necessary direction from the Regional Manager (Kumaon Region), but no direction was given to the petitioner.

- (k). On 14.07.2014 and 15.07.2014, the petitioner again informed the Regional Manager (Kumaon Region) that on the dates fixed the decree holder is seeking compensation @ Rs. 800/- per qtl. alongwith fine @ Rs. 1/- qtl. per day and the Executing Court had directed the concerned officials to be present on the next date, which was on 15.07.2014 and, therefore, the petitioner sought his direction on the matter.

- (l). On 31.07.2017, 07.08.2014, 12.08.2014, 19.08.2014, 22.08.2014 and 03.09.2014, the petitioner informed the Regional Manager (Kumaon Region) that as per the direction, the petitioner had contacted Senior Panel Advocate in the Hon'ble High Court of Uttarakhand and the reply was still awaited.
- (m). On 04.09.2014, the petitioner yet again informed the Regional Manager (Kumaon Region) that as the decree holder was claiming a compensation @ Rs. 800/- per qtl., while the Department had submitted a rate of present coal, i.e., Rs. 200/- per qtl. and the Executing Court had informed the judgment debtor that on the next date, i.e., 15.09.2014 the appropriate order will be passed.

2.3. From the above stated facts, it is clear that the petitioner did his level best to pursue the Court proceeding

and followed each and every direction from the Higher Authorities. After the transfer of the petitioner from Almora Division on 08.09.2014, the execution proceeding was carried forward by another Officer of the Almora Division and it was on 30.09.2016, the decree holder and the judgment debtor came to a compromise, and the execution case was thereafter decided on the basis of that compromise.

2.4. Surprisingly, on 22.10.2018, a show-cause notice alongwith inquiry report dated 16.01.2018 (Annexure No. 1) was sent to the petitioner for seeking his reply against his fault for non-payment of decretal amount in time, to the decree holder, in the Civil Execution state above.

2.5. From the perusal of the inquiry report dated 16.01.2018, it is, prima facie, clear that the only allegation on the petitioner was that he had not made timely payment of the decretal amount to the decree holder, which is totally false and misconceived because from the communication made and direction sought by the petitioner from the Higher

Authorities (mentioned in para No. 4.5 of this claim petition). It is very much clear that no permission for the payment of the decretal amount was given to the petitioner by the Higher Authorities and that he was again and again directed to challenge each and every order passed by the Executing Court, therefore, the allegation made on the petitioner was totally unreasonable and the same was made without looking into the inaction of the Higher Authorities, and thus, cannot sustain in the eyes of law.

2.6. Thereafter, on 12.11.2018, 19.11.2018, 14.02.2019, 23.07.2019, 19.09.2019, 28.05.2020, 10.07.2020, 29.08.2020 and 07.06.2021, the petitioner had submitted various replies/representations (filed as Annexure No. 16) before the concerned authorities, opposing the allegations made on the petitioner in the show-cause notice and the inquiry report dated 16.01.2018. The petitioner had also requested for releasing his retirement dues after providing a "No Dues Certificate" to the petitioner, but till date no action was taken by the authorities. The petitioner retired

from his service on 20.06.2020, but the authorities by taking shelter of the so-called show-cause notice and inquiry report did not issue No Dues Certificate to the petitioner and kept withheld the retirement dues (Gratuity and Leave Encashment) leading to the grave financial difficulty to the petitioner as in the Forest Development Corporation there is only a nominal pension for the retired employees.

2.7. The respondents have been sitting over the show-cause notice and the inquiry report, since 2018, and no further action, in furtherance to the replies submitted by the petitioner or on their own motion has been taken till date and in consequence due to non-issuance of no-dues certificate, the petitioner is not yet given his retirement dues leading to grave financial difficulties. Hence, this claim petition has been filed by the petitioner before the Uttarakhand Public Services Tribunal, Nainital Bench, Nainital.

3. CA/WS has been filed on behalf of the respondents No. 2 & 3 by Mrs. Seema Sah, Advocate, in which, it has been stated that:-

3.1. याचिकाकर्ता प्रभागीय लौगिंग प्रबन्धक, गौला खनन, हल्द्वानी के पद से दिनांक 20.06.2020 को अपनी अधिवर्षता आयु पूर्ण करने के उपरान्त सेवानिवृत्त हो गये है। याचिकाकर्ता के प्रभागीय लौगिंग प्रबन्धक, उत्तराखण्ड वन विकास निगम, पूर्वी कालाढूंगी में वर्ष 1993-94 तथा प्रभागीय लौगिंग प्रबन्धक, अल्मोड़ा के पद पर वर्ष 2011-14 में कार्यरत् रहने के दौरान अल्मोड़ा वन प्रभाग के अंतर्गत एन0डी0टी0 टाल में कोयला चूरा प्रकरण में उत्तराखण्ड वन विका निगम को रू0 10,93,175/—(दस लाख तिरानब्बे हजार एक सौ पिचहत्तर) मात्र की हुई क्षति के संबंध में याचिकाकर्ता के विरुद्ध वसूली एवं प्रकरण लम्बित होने के कारण वर्तमान में प्रभागीय लौगिंग प्रबन्धक, उत्तराखण्ड वन विकास निगम, पूर्वी कालाढूंगी एवं प्रभागीय लौगिंग प्रबन्धक, अल्मोड़ा से अदेयता प्रमाण-पत्र न दिये जाने के कारण याचिकाकर्ता को उनके सेवानिवृत्त देयकों के भुगतान किये जाने के संबंध में यथोचित कार्यवाही प्रभागीय लौगिंग प्रबन्धक, गौला खनन, हल्द्वानी द्वारा नहीं किया गया।

3.2. याचिकाकर्ता वर्ष 1993-94 में प्रभागीय लौगिंग प्रबन्धक, उत्तराखण्ड वन विकास निगम, पूर्वी कालाढूंगी में प्रभागीय लौगिंग प्रबन्धक के पद पर कार्यरत् थे। याचिकाकर्ता के द्वारा कृषि से संबंधित विभिन्न मदों में अवशेष धनराशि रू0 46,912.50/— जमा न किये जाने के विरुद्ध वर्ष

1993-94 से रू0 46,912.50/- की वसूली लम्बित थी। याचिकाकर्ता के द्वारा वर्ष 1993-94 से दिनांक 20.06.2020 को सेवानिवृत्त होने के उपरांत भी उक्त धनराशि जमा नहीं किया गया, जिसके कम में प्रभागीय लौगिंग प्रबन्धक, उत्तराखण्ड वन विकास निगम, पूर्वी कालाढूंगी ने अपने कार्यालय की पत्र संख्या-1514/कृषि लीज धनराशि दिनांक 14.01.2022 के द्वारा रू0 46,912.50/- जमा करने हेतु याचिकाकर्ता को लिखा गया।

3.3. अल्मोड़ा लौगिंग प्रभाग, उत्तराखण्ड वन विकास निगम, के अंतर्गत वर्ष 1993 से लम्बित कोयला चूरा प्रकरण में याचिकाकर्ता भी सम्मिलित होने के कारण याचिकाकर्ता को प्रभागीय लौगिंग प्रबन्धक, अल्मोड़ा द्वारा अदेयता प्रमाण-पत्र निर्गत नहीं किया गया। प्रबन्ध निदेशक, उत्तराखण्ड वन विकास निगम, देहरादून ने अपने कार्यालय आदेश संख्या-ई05953/कोर्ट केस/अबरार अहमद दिनांक 05.03.2022 के द्वारा अल्मोड़ा लौगिंग प्रभाग के अंतर्गत एन0टी0डी0 कोयला डिपो से लम्बित कोयला चूरा प्रकरण में लम्बित रू0 10,93,175/- (दस लाख तिरानब्बे हजार एक सौ पिचहत्तर) मात्र को माल-हानि मद में दर्शित करते हुये प्रकरण का समाप्त/निस्तारण करते हुए कार्यालय आदेश जारी किया गया है, जिसके अनुपालन में याचिकाकर्ता को प्रभागीय लौगिंग प्रबन्धक, अल्मोड़ा ने अपने कार्यालय की पत्र संख्या-1487/अदेयता प्रमाण-पत्र/दिनांक 23.03.2022 के द्वारा अदेयता प्रमाण-पत्र निर्गत किया गया। इसी प्रकार याचिकाकर्ता के द्वारा प्रभागीय लौगिंग प्रबन्धक, उत्तराखण्ड वन विकास निगम, पूर्वी कालाढूंगी के कार्यालय में दिनांक 16.04.2022 को रू0 46,912.50/- जमा करने के उपरांत प्रभागीय

लौगिंग प्रबन्धक, उत्तराखण्ड वन विकास निगम, पूर्वी कालाढूंगी ने अपने कार्यालय की पत्र संख्या-83/अदेयता प्रमाण-पत्र/दिनांक 16.04.2022 के द्वारा याचिकाकर्ता के पक्ष में अदेयता प्रमाण-पत्र निर्गत किया गया।

3.4. याचिकाकर्ता के पक्ष में समस्त प्रभागों एवं कार्यालयों से दिनांक 16.04.2022 तक अदेयता प्रमाण-पत्र निर्गत होने के फलस्वरूप प्रभागीय लौगिंग प्रबन्धक, गौला खनन, हल्द्वानी ने अपने कार्यालय की पत्र संख्या ई-116/ग्रेच्युटी, दि० 21.04.2022 के द्वारा याचिकाकर्ता को ग्रेच्युटी का भुगतान किये जाने के संबंध में सचिव, जी०जी०सी०ए० ट्रस्ट, देहरादून को प्रकरण/मांग-पत्र प्रेषित किया गया तथा उपार्जित अवकाश नकदीकरण का भुगतान किये जाने हेतु क्षेत्रीय प्रबन्धक (कु०क्षे०), उत्तराखण्ड वन विकास निगम, हल्द्वानी ने अपने कार्यालय की पत्र संख्या-354/उपार्जित अवकाश, नकदीकरण, दि० 22.04.2022 के द्वारा महाप्रबन्धक (पेंशन एवं समूह बीमा) भारतीय जीवन बीमा निगम, कनाट प्लेस, देहरादून को भेजा गया है। याचिकाकर्ता के द्वारा रू० 46,912.50/- विलंब से दिनांक 16.04.2022 को जमा किये जाने के फलस्वरूप ही उनको सेवानिवृत्ति देयकों का भुगतान ससमय नहीं किया गया, जिसके लिये स्वयं याचिकाकर्ता जिम्मेदार है। अदेयता प्रमाण-पत्र निर्गत होने के फलस्वरूप प्रतिवादीगणों की ओर से भुगतान किये जाने के संबंध में कोई भी विलंब नहीं किया गया। इस प्रकार याचिकाकर्ता के द्वारा ही विलम्ब से उनके विरुद्ध अवशेष धनराशि को उत्तराखण्ड वन विकास निगम में जमा किया गया।

3.5. याचिकाकर्ता पूर्वी कालाढूंगी में वर्ष 1993-94 में प्रभागीय लौगिंग प्रबन्धक के पद पर कार्यरत् रहने के दौरान उनके विरुद्ध कृषि मदों में रु0 46,912.50/- की धनराशि की वसूली अवशेष थी तथा वर्ष 2011-14 के बीच लौगिंग प्रभाग, अल्मोड़ा में प्रभागीय लौगिंग प्रबन्धक, अल्मोड़ा के पद पर कार्यरत् थे। याचिकाकर्ता के द्वारा लौगिंग प्रभाग, अल्मोड़ा के अन्तर्गत विचाराधीन कोयला चूरा प्रकरण के निस्तारण/कोर्ट केस की पैरवी में शिथिलता करने में अपने पदन दायित्वों का निर्वहन नहीं किया गया एवं याचिकाकर्ता भी उक्त प्रकरण में सम्मिलित होने के फलस्वरूप याचिकाकर्ता को प्रभागीय लौगिंग प्रबन्धक, अल्मोड़ा द्वारा अदेयता प्रमाण-पत्र निर्गत नहीं किया गया। इसी प्रकार पूर्वी कालाढूंगी में वर्ष 1993-94 में प्रभागीय लौगिंग प्रबन्धक के पद पर कार्यरत् रहने के दौरान उनके विरुद्ध कृषि से सम्बन्धित विभिन्न मदों में रु0 46,912.50/- की वसूली अवशेष थी तथा उक्त धनराशि को जमा न किये जाने के कारण याचिकाकर्ता को सेवानिवृत्ति देयकों का अदेयता प्रमाण-पत्र निर्गत न होने के कारण भुगतान ससमय नहीं किया गया है। इस प्रकार याचिकाकर्ता किसी भी प्रकार से ग्रेच्युटी एवं उपार्जित अवकाश नकदीकरण के भुगतान पर ब्याज पाने का अधिकारी नहीं है।

3.6. अल्मोड़ा लौगिंग प्रभाग के अंतर्गत एन0टी0डी0 टाल से सम्बन्धित कोयला चूरा प्रकरण में याचिकाकर्ता सहित 13 कर्मचारी/अधिकारी सम्मिलित थे। प्रबन्ध निदेशक, उत्तराखण्ड वन विकास निगम, देहरादून ने अपने कार्यालय की पत्र संख्या- ई05953/कोर्ट केस/अबरार अहमद दिनांक 05.03.2022 के द्वारा अल्मोड़ा लौगिंग प्रभाग के अंतर्गत लम्बित कोयला चूरा प्रकरण को

समाप्त/निस्तारण कर दिया गया है। इसके उपरांत याचिकाकर्ता को उनके सेवानिवृत्ति देयकों के भुगतान की कार्यवाही की गयी।

3.7. याचिकाकर्ता के द्वारा विलम्ब से स्वयं दिनांक 16.04.2022 को ₹0 46,912.50/- जमा किया गया, तदुपरान्त याचिकाकर्ता को प्रभागीय लौगिंग प्रबन्धक, उत्तराखण्ड वन विकास निगम, पूर्वी कालाढूंगी ने अदेयता प्रमाण-पत्र निर्गत किया गया। इस प्रकार याचिकाकर्ता किसी भी प्रकार से देय ग्रेच्युटी/उपार्जित अवकाश नकदीकरण की धनराशि पर 18 प्रतिशत ब्याज पाने का अधिकारी नहीं है। विस्तृत तथ्यों का उल्लेख उपरोक्त पैराओं में किया जा चुका है।

3.8. याचिकाकर्ता को पूर्व में ही ई0पी0एफ0 एवं जी0आई0एस0 (सामूहिक बीमा) का भुगतान किया जा चुका है। प्रभागीय लौगिंग प्रबन्धक, उत्तराखण्ड वन विकास निगम, गौला खनन, हल्द्वानी ने अपने कार्यालय की पत्र संख्या ई-116/ग्रेच्युटी, दि0 21.04.2022 के द्वारा याचिकाकर्ता को ग्रेच्युटी का भुगतान किये जाने के संबंध में सचिव, जी0जी0सी0ए0 ट्रस्ट, देहरादून को प्रकरण/मांग-पत्र प्रेषित किया गया है तथा उपार्जित अवकाश नकदीकरण का भुगतान किये जाने हेतु क्षेत्रीय प्रबन्धक (कु0क्षे0), उत्तराखण्ड वन विकास निगम, हल्द्वानी ने अपने कार्यालय की पत्र संख्या-354/जी0एल0ई0एस0 (उपार्जित अवकाश नकदीकरण) दिनांक 22.04.2022 के द्वारा महाप्रबन्धक (पेंशन एवं समूह बीमा), भारतीय जीवन बीमा निगम, कनाट प्लेस, देहरादून को प्रेषित किया गया है।

3.9. याचिकाकर्ता के द्वारा जमा की जाने वाली धनराशि को पूर्व में एवं सेवानिवृत्त दिनांक 20.06.2020 के पश्चात् दिनांक 16.04.2022 को रू0 46,912.50/- विलम्ब से जमा किया गया, जिस कारण याचिकाकर्ता को प्रभागीय लौगिंग प्रबन्धक, उत्तराखण्ड वन विकास निगम, पूर्वी कालाढूंगी ने अदेयता प्रमाण-पत्र यथासमय निर्गत नहीं किया गया। अदेयता प्रमाण-पत्र निर्गत होने के उपरांत याचिकाकर्ता को नियमानुसार ग्रेच्युटी एवं उपार्जित अवकाश नकदीकरण का भुगतान किये जाने हेतु प्रस्ताव सक्षम स्तर को प्रेषित किये गये। प्रभागीय लौगिंग प्रबन्धक, उत्तराखण्ड वन विकास निगम, खनन हल्द्वानी ने अपने कार्यालय की प. संख्या-321/उपार्जित अवकाश नकदीकरण दिनांक 25.05.2022 के द्वारा याचिकाकर्ता को सेवानिवृत्त उपरांत उपार्जित अवकाश नकदीकरण की धनराशि के भुगतान हेतु बैंक आफ बड़ौदा (मुख्य शाखा), हल्द्वानी का चैक संख्या-003507 दिनांक 24.05.2022 के द्वारा रू0 19,35,180.00 (उन्नीस लाख पैतीस हजार एक सौ अस्सी) मात्र का भुगतान कर दिया गया है। साथ ही याचिकाकर्ता को उनके सेवानिवृत्ति के उपरांत उनके ग्रेच्युटी का भुगतान प्रभागीय लौगिंग प्रबन्धक, खनन गौला, हल्द्वानी ने अपने कार्यालय की पत्र संख्या-410/ग्रेच्युटी भुगतान दिनांक 03.06.2022 के द्वारा श्री जगदीश प्रसाद भट्ट, से0नि0, प्रभागीय लौगिंग प्रबन्धक, को चैक संख्या-003544 दिनांक 03.06.2022 के द्वारा रू0 20,00,000/- (बीस लाख) का भुगतान कर दिया गया है।

उपरोक्त उल्लिखित तथ्यों के आधार पर याचिकाकर्ता किसी भी प्रकार से ग्रेच्युटी एवं उपार्जित अवकाश नकदीकरण की भुगतान की जाने वाली धनराशि पर 18 प्रतिशत ब्याज पाने का पात्र नहीं है।

3.10. याचिकाकर्ता के द्वारा माननीय न्यायाधिकरण, नैनीताल के समक्ष वास्तविक तथ्यों को छिपाते हुये निराधार तथ्यों के आधार पर निर्देश याचिका योजित की गई है, जो सव्यय निरस्त किये जाने योग्य है।

4. Rejoinder affidavit has also been filed reiterating the facts mentioned in the present claim petition.

5. I have heard the learned Counsels for the parties and perused the records.

6. Initially the arguments of the concerned parties were heard on 04.12.2024, wherein, the learned Counsel for the petitioner completed his arguments. However, during her arguments the learned Counsel for the respondents No. 2 & 3 had admitted that there were certain un-answered questions in the departmental narrative/WS, which needed to be clarified by a supplementary affidavit of the respondents. This prayer of the learned Counsel for the respondents No. 2 & 3 was allowed and subsequently, a supplementary affidavit

was filed by the respondents No. 2 & 3 on 27.12.2024 and was taken on record. Thereafter, learned Counsel for the petitioner filed Rejoinder Affidavit on 04.04.2025. Finally, full arguments were heard on 28.05.2025 in this instant matter. This Tribunal is taking cognizance of both the hearings dated 04.12.2024 and 28.05.2025 respectively.

7. The learned Counsel for the petitioner apprised the Court that the petitioner had retired on 20.06.2020, but his retiral dues had not been released in his favour by the respondents with a lame excuse that there was instituted a departmental enquiry in the year 2016, which finalized its report on 30.08.2017, wherein, the petitioner's name appears at Serial No. 06 amongst the 13 employees/officers found, prima facie, accountable for a financial loss of Rs. 10,93,175/- to the Department due to the alleged dereliction of duty of these 13 enlisted employees/officers. Due to seizure of the retiral dues the petitioner has been facing financial crisis as he has been getting only Rs. 2,500/- per month, as the partial pension. The petitioner has already deposited an amount of

Rs. 46,912.50/- under protest to the Department after a notice of recovery was served upon the petitioner by the respondent Corporation. However, even after this recovery, the petitioner's retiral dues have not been released till date. According to the petitioner's Counsel, the Corporation has held-up the petitioner's retiral dues maliciously since the petitioner had never been given any prior notice of recovery before 2022 and this notice of recovery against the petitioner about the pending dues was, in fact, an afterthought, as well as a lame excuse to cover-up the delay in releasing the retiral dues of the petitioner. This recovery of the pending dues had been made from the petitioner despite the fact that after creation of the State of Uttarakhand in the year 2000 all the officers and employees, who shifted to the newly created State from the jurisdiction of the State of U.P. had already been given No Dues Certificate by the parent Department situated at Lucknow. As per the petitioner's Counsel the Gratuity amount of Rs. 20,00,000/- has been retained by the respondent Corporation just in the name of pending dues

recovery. According to the petitioner's Counsel, the matter under enquiry against the enlisted 13 employees/officers pertains to year 1991 while the petitioner had served at the concerned place of enquiry between 24.07.2011 to 08.09.2014. Obviously, it was evident to the respondent Corporation from the very beginning that the financial irregularity of 1991 under enquiry had not taken place during the posting tenure of the petitioner. The only accusation against the petitioner was that he did not pursue the case proactively and effectively before the Court, where, a civil recovery case was under trial, wherein, the plaintiff, one Abrar Ahmed, had claimed recovery against the Uttar Pradesh Forest Corporation with a complaint that the respondent Corporation had deliberately held-up the plaintiff's payment. According to the petitioner's Counsel, the real fact is that the petitioner conducted his duty towards the Corporation religiously in the Court case and continuously kept on apprising the Superior Officers in writing about the pending payment as per the Court's order and had regularly been

asking for departmental permission to deposit the said payment in the Court concerned, between 13.06.2012 to 04.09.2014. According to the petitioner's Counsel, all these written reports as submitted by the petitioner have been admitted by the respondent Corporation. In reality, it was not the petitioner, who is responsible for the delay in payment or alleged dereliction of duty, rather it was the Superior Officers of the Corporation, due to whose want of permission for payment resulted into the Ire of the Court in the matter concerned and, therefore, insinuating the petitioner in this matter and holding-up his retiral dues by the respondent Corporation is not only unjustified, but also attracts a penalty of 18% interest on the retiral dues as well. The petitioner's Counsel emphatically argued that the respondent Corporation was also unjustified in holding-up the petitioner's gratuity and other such retiral benefits, which are not permitted to be held up once an employee has attained his superannuation as per various landmark judgments and directions of the Hon'ble Apex Court.

8. The Learned A.P.O. appearing on behalf of respondent No. 1 apprised the Tribunal that the State of Uttarakhand is only a formal party in this instant matter and does not have stakes in this claim petition.

9. The Learned Counsel for the respondents No. 2 & 3, i.e., the respondent Corporation, emphasized that the Supplementary Affidavit filed by the respondent Corporation is aptly clear to establish that the petitioner was, prima facie, responsible for non-compliance of the Civil Court's orders in this matter and he is also responsible for non-payment of initial amount of Rs. 50,000/- to the plaintiff Abrar Ahmed as per the Civil Court's orders, which resulted into a huge financial loss to the respondent Corporation. The Learned Counsel for the respondents also apprised the Tribunal that the petitioner had realized his mistake and, therefore, had deposited the recovery amount of Rs. 46,912.50/- in the respondent Corporation. There is nothing on record to show that the recovery amount was deposited by the petitioner under protest. Thus, this is only an afterthought and a fig of

imagination on the part of the petitioner. The learned Counsel for the respondent Corporation drew the attention of the Tribunal towards Paragraphs No. 2 to 8 of the Supplementary Affidavit, which has clarified the respondents' averments as follows:-

- “2. The petitioner filed present claim petition for quashing the inquiry report dated 16.01.2018 alongwith all consequential orders in respect to the petitioner further to give the direction to the respondents to pay the retirement dues, i.e, Gratuity and Leave Encashment alongwith interest 18% per annum, after providing no-dues certificate to the petitioner, from the date of its being due, i.e., 20.06.2020 till the date of its final payment.
3. It is necessary to mention here that on 24.07.2011, the petitioner joined his duty as Divisional Forest Development Manager in Forest Development Corporation, Almora till

08.09.2014. During his tenure one Abrar Ahmed filed an execution case against the Van Nigam on 09.08.2011, which was registered as Civil Execution Case No. 02 of 2011, Abrar Ahmed Vs. Van Nigam and regarding the aforesaid case the petitioner informed his higher authority, i.e., Regional Manager (Kumaon) on 13.06.2012 and thereafter, Regional Manager (Kumaon) forwarded the same to the Managing Director, Uttarakhand Forest Development Corporation for his kind consideration.

4. It is pertinent to mention here that in pursuance of the judgment passed by the Learned Civil Judge, Almora as well as judgment passed by the Learned District Judge, Almora a compromise settlement took place between the parties on 30.09.2016 and in pursuance of the above compromise a

sum of Rs. 10,93,175/- has been paid to the Abrar Ahmed by the Van Vikas Nigam.

5. Due to the negligence on the part of the then employees, the Forest Corporation had to suffer a financial loss of Rs. 10,93,175/-, therefore a 03 Members Inquiry Committee was constituted vide letter dated 03.12.2016 for inquiring into the matter and after completion of the inquiry, the Inquiry Committee submitted their report, in which, it is clearly mentioned that the petitioner is also responsible for a financial loss suffered by the Forest Development Corporation.
6. After receiving the inquiry report, show-cause notices were issued to all the concerned 13 employees alongwith the petitioner and after receiving the show-cause notice dated 22.10.2018 the petitioner filed his reply on 19.11.2018.

7. Thereafter, vide letter No. 5956/Court Case/Abrar Ahmed/dated 05.03.2022 the then Managing Director, Uttarakhand Forest Development Corporation took a decision and the matter was closed.
8. After receiving the final order dated 05.03.2022 passed by the Managing Director, Uttarakhand Development Corporation, as well as the “No dues certificate” submitted by the petitioner, the concerned authority has paid all retiral dues to the petitioner, hence, there is no delay on the part of the concerned authority in releasing the retiral dues, therefore, the petitioner is not entitled to get any interest. The claim petition filed by the petitioner is devoid of merits and is liable to be dismissed with cost.”

10. After having perused the record the Tribunal has summarized the facts of this instant case as follows:

- (I) The petitioner was posted as Regional Logging Manager at Eastern Kaladhungi during the year 1993-94 where a departmental recovery of Rs. 46,912.50/- was initiated against the petitioner pertaining to various agricultural items, which was demanded by the Department from the petitioner, and was paid up by the petitioner to the Department on 16.04.2022 after his superannuation. This is not clear to the Tribunal as to whether prior notice regarding the departmental recovery was given to the petitioner before his superannuation or not? Nevertheless, it does not seem logical that this recovery proceeding was allegedly initiated maliciously against the petitioner after his superannuation with the purpose of

withholding the petitioner's retiral dues. So far as the petitioner's claim is concerned that the payment of recovery amount to the Department was done by the petitioner under protest is not evident as per the case-record. Therefore, it is logical to comprehend that there was a recovery amount of Rs. 46,912.50/- long pending against the petitioner, which he deposited in the department on 16.04.2022 and because of this legal lacuna the department had withheld the release of retiral dues in favour of the petitioner till April 2022.

- (II) The much bigger matter under question is about the theft of fragmented coal from N.T.D. Toll of Almora Logging Division in the year 1991-1994 and subsequent Civil Court cases from the year 1993 to 2016. It is interesting to note here that the petitioner had

been posted as Divisional Forest Development Manager from 24.07.2011 to 08.09.2014. Obviously, the petitioner was neither posted at the concerned place of the crime when the coal theft took place nor was he posted there during the course of initial litigation. More importantly, the Civil Court's initial orders were passed against the Department much before the petitioner's posting at the concerned place. Similarly, the petitioner was also not posted there when the litigation finally got decided in the year 2016 wherein a compromise was reached between the plaintiff/coal contractor Abrar Ahmed and the respondent Corporation as per which the respondent Corporation agreed to pay Rs. 10,93,175/- to the plaintiff.

(III). This is ironical to note here that as per the initial orders of the Court the respondent

Corporation had been ordered to pay only Rs. 4,202.50/- to the plaintiff as the litigation expenses, alongwith 1341 qtl. quantity of fragmented coal to the plaintiff on 29.02.2000, which was later on confirmed by the Superior Court on 04.10.2001, and which, due to the red tapism and culture of passing the buck pervasive in the respondent Corporation, culminated into a payment of Rs. 10,93,175/- in the year 2016. This does not speak bad only about the petitioner, but also speak volumes about the work culture of the respondent Corporation and the Senior Officers sitting at the top of the Corporation, who were financially not wise enough.

- (IV). The petitioner has submitted approximately a dozen Annexures manifesting the effort of the petitioner to keep the departmental superiors well informed about the progress of the

Court's proceedings and had been asking to permit the petitioner to make the payments of comparatively the much smaller amounts as ordered by the then Courts' orders during his tenure between 24.07.2011 to 08.09.2014.

- (V) Surprisingly, the departmental superiors never felt like giving permission to the petitioner for making the smaller payments as per the Court's orders during petitioner's tenure, which later on, snow balled into a whopping sum of Rs. 10,93,175/-.
- (VI) It is further ironical to notice that despite a frequent and continuous reporting by the petitioner about the court's proceedings, the petitioner himself was made accountable for non-perusal of the court cases and for non-payment of the dues to the plaintiff as per the court's order, and subsequently, the

respondent Corporation withheld the release of retiral dues to the plaintiff.

- (VII) From the records, it is apparent that a three member Enquiry Committee was constituted by the department on 03.12.2016, which concluded its report on 30.08.2017, wherein, the Enquiry Committee enlisted 13 employees/officers accountable for the financial loss to the respondent Corporation, and responsible for dereliction of duty.
- (VIII) Subsequently, a detailed recommendatory report was submitted in this matter by the Managing Director of the respondent Corporation before the Board of Directors on 17.04.2021 and with the consent of the Board of Directors the matter was disposed off on 05.03.2022 as follows:-

.....

अधोहस्ताक्षरी द्वारा क्षेत्रीय प्रबन्धक (प0क्षे0), उत्तराखण्ड वन विकास निगम, रामनगर द्वारा प्रस्तुत की गयी जॉच रिपोर्ट का भी अवलोकन किया गया। जॉच रिपोर्ट के इस बिन्दु से सहमत हूँ कि श्री बी0डी0 हर्बोला, प्रभागीय लौगिंग प्रबन्धक, श्री दिनेश चन्द्र तिवाड़ी, प्रभागीय लौगिंग प्रबन्धक, श्री बिजेन्द्र प्रसाद, प्रभागीय लौगिंग प्रबन्धक एवं श्री जे0 पी0 भट्ट, प्रभागीय विक्रय प्रबन्धक को प्रबन्ध मण्डल की संस्तुति के उपरान्त सक्षम स्तर से कारण बताओ नोटिस जारी नहीं किये गये। सम्बन्धित अधिकारी/कर्मचारी पर प्रश्नगत् प्रकरण लगभग 30 वर्ष पुराना होने के फलस्वरूप वर्तमान में कोई भी व्यक्तिगत आरोप सिद्ध नहीं होता है। अभिलेखों के अवलोकन से यह भी स्पष्ट होता है कि प्रकरण में विभागीय कार्यवाही एवं विभिन्न कार्यालयों के आपसी पत्राचार में हुए विलम्ब से अपेक्षित कार्यवाही बाधित रही, जिस कारण वादी अबरार अहमद को समय से मा0 सिविल जज सीनियर डिविजन, अल्मोड़ा के

न्यायालय में क्षतिपूर्ति के सम्बन्ध में किये गये दावे का भुगतान नहीं किया जा सका।

.....

“ आदेश ”

निष्कर्ष में उल्लिखित तथ्यों, साक्ष्यों एवं महाप्रबन्धक (कु०क्षे०), उत्तराखण्ड वन विकास निगम, हल्द्वानी के द्वारा की गई संस्तुति के आधार पर प्रकरण लगभग 30 वर्ष पुराना होने के फलस्वरूप उत्तराखण्ड वन विकास निगम के हित में वर्तमान में उत्तराखण्ड वन विकास निगम में कार्यरत् किसी भी अधिकारी/कर्मचारी को आरोपित कर उसके विरुद्ध दण्डात्मक कार्यवाही किया जाना प्राकृतिक न्याय की दृष्टि से न्यायोचित प्रतीत नहीं होता है। वादी अबरार अहमद को मा० न्यायालय के आदेश के समादर में विभागीय सहमति के आधार पर तत्कालीन प्रबन्ध निदेशक के द्वारा दी गयी वित्तीय स्वीकृति के उपरान्त रू० 10,93,175/— की धनराशि का भुगतान किया गया है। इस सम्पूर्ण प्रकरण की विवेचना से यह स्पष्ट है कि स्व. श्री पूरण सिंह बिष्ट, तत्कालीन

स्केलर/टाल प्रभारी से उनकी मृत्यु के पश्चात् उनके देयकों से रू0 1,30,497/— की गई वसूल भी नियमानुसार सही नहीं है तथा इसे उनके सम्बन्धित उत्तराधिकारी को वापस करने के निर्देश प्रभागीय लौगिंग प्रबन्धक, अल्मोड़ा को दिये जाते हैं। यह पूरा प्रकरण संस्थागत असफलता का एवं टाल-मटोल करने की तथा जिम्मेदारियों पर तुरंत कार्यवाही नहीं करने का उदाहरण है। इस प्रकार उत्तराखण्ड वन विकास निगम को रू0 10,93,175/— की हुई क्षति के सम्बन्ध में वर्तमान में किसी भी अधिकारी/कर्मचारी के विरुद्ध दोष सिद्ध न होने के कारण प्रकरण को अपास्त किया जाता है।

चूंकि रू0 10,93,175/— (दस लाख तिरानब्बे हजार एक सौ पछत्तर रुपये मात्र) की धनराशि मा0 उच्च न्यायालय के आदेश के क्रम में प्रबन्ध मण्डल की 70वीं बैठक दिनांक 07.09.2020 एवं दिनांक 21.09.2020 के अनुमोदन के पश्चात् किया गया है।

अतः उक्त रू0 10,93,175/— (दस लाख तिरानब्बे हजार एक सौ पछत्तर रुपये मात्र) की धनराशि को माल-हानि मद में दर्शित करते हुए

प्रभागीय लौगिंग प्रबन्धक, अल्मोड़ा को निर्देश दिए जाते हैं कि वे लेखा पुस्तक से उक्त धनराशि को हटाने/विलुप्त करने के सम्बन्ध में नियमानुसार आवश्यक कार्यवाही करते हुये इस अपलेखन हेतु प्रबन्ध मण्डल की आगामी बैठक में प्रबन्ध मण्डल के समक्ष प्रस्तुत किया जायेगा।

उक्तानुसार प्रबन्ध मण्डल के अनुमोदन की प्रत्याशा में यह प्रकरण समाप्त किया जाता है।

ह0/— 05.03.22
(डी0जी0के0 शर्मा)
प्रबन्ध निदेशक।”

- (IX) It is evident here that since the petitioner was held accountable for non-perusal of court's orders in the inquiry report dated 30.08.2017 by the 03 member Enquiry Committee, the respondent Corporation seems to have been seized with the matter until the final outcome of the disciplinary proceedings and the individually separate actions to be taken

against the 13 enlisted employees/officers, it kept withholding the retiral dues of the petitioner, till the time, the matter was finally disposed off on 05.03.2022 as quoted above with the consent of the Board of Directors.

- (X) The petitioner too, it seems, kept on waiting for this final outcome, because he deposited the pending recovery amount not before 16.04.2022.
- (XI) It appears practically justifiable that the respondent Corporation had been withholding the release of retiral dues of the petitioner till the final decision by the Board of Directors, and of course till the receipt of full payment of recovery of pending dues against against the petitioner.
- (XII) Thereafter, the release of petitioner's retiral dues has been done in April, 2022 as per the

Counter Affidavit/WS filed by the respondent Corporation, which is as follows:-

“

7. याचिकाकर्ता को पूर्व में ही ई0पी0एफ0 एवं जी0आई0एस0 (सामूहिक बीमा) का भुगतान किया जा चुका है। प्रभागीय लौगिंग प्रबन्धक, उत्तराखण्ड वन विकास निगम, गौला खनन, हल्द्वानी ने अपने कार्यालय की पत्र संख्या ई-116/ग्रेच्युटी, दि0 21.04.2022 के द्वारा याचिकाकर्ता को ग्रेच्युटी का भुगतान किये जाने के संबंध में सचिव, जी0जी0सी0ए0 ट्रस्ट, देहरादून को प्रकरण/मांग-पत्र प्रेषित किया गया है तथा उपार्जित अवकाश नकदीकरण का भुगतान किये जाने हेतु क्षेत्रीय प्रबन्धक (कु0क्षे0), उत्तराखण्ड वन विकास निगम, हल्द्वानी ने अपने कार्यालय की

पत्र संख्या—354 / जी0एल0ई0एस0
 (उपार्जित अवकाश नकदीकरण) दिनांक
 22.04.2022 के द्वारा महाप्रबन्धक (पेंशन
 एवं समूह बीमा), भारतीय जीवन बीमा
 निगम, कनाट प्लेस, देहरादून को
 प्रेषित किया गया है।

..... ”

(XIII) Thus, it seems that by the end of month of April 2022 the retiral dues of the petitioner have been released by the respondent Corporation in favour of the petitioner. It does not appear to the Tribunal that there was any element of malice or deliberate procrastination on the part of the respondent Corporation in releasing the retiral dues in favour of the petitioner.

(XIV) In the last, but not the least, the overall conduct of the petitioner too was not above the Board, and was not becoming of a Senior

Officer, because of two observations of the Tribunal, firstly the petitioner deliberately kept pending the payment of old departmental recovery against him which was, by no way, related to the fragmented coal theft matter, and secondly, as an Officer his duty was not merely sending and receiving letters to and fro, but to deliberate and resolve the problem by taking initiatives, briefing and convincing the superiors to take practical and logical decisions in the matter, which sadly he failed to perform in the capacity of Divisional Forest Development Manager, Almora.

In the Tribunal's conclusion, it is ironical to note that the indecision of the Superior Officers resulted in huge financial loss to the respondent Corporation and erroneously the onus was put upon the shoulder of the petitioner, which was uncalled for. Nevertheless, since the quantum of this financial loss was grave, and could finally be

disposed off on 05.03.2022 by not below the level of Board of Directors, it cannot be concluded that the respondent Corporation withheld the release of retiral benefits of the petitioner maliciously and deliberately, therefore, the claim petition lacks force and deserves to be dismissed as such.

ORDER

Accordingly, the claim petition is hereby dismissed. No orders as to costs.

(Capt. Alok Shekhar Tiwari)
Member (A)

DATE : 11 JULY , 2025

NAINITAL

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