BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL BENCH AT NAINITAL

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

------ Member (A)

Claim Petition No. 43/NB/SB/2024

1. Krishna Kant Yadav (Male) **Adhaar No. 289256078520**, aged about 64 years, S/o Sri Maya Yadav (Retired Senior Clerk Uttarakhand Transport Corporation Haldwani Depot) R/o 3/750, Awas Vikas Colony, Haldwani, Nainital.

2. Ramesh Chandra Dalakoti (Male), **Adhaar No. 700192817503**, aged about 67 years, S/o Sri Teeka Ram (Retired Senior Clerk Uttarakhand Transport Corporation Haldwani Depot) R/o Village Purvi Khera Gaulapar, Haldwani.

3. Ramashrya Prasad (Male), **Adhaar No. 650838819717**, aged about 64 years, S/o Sri Bikael Ram (Retired Senior Clerk Uttarakhand Transport Corporation Rudrapur Depot) R/o Sanjay Nagar Kheda, Behind Ganna Bhawan, Rudrapur, District Udham Singh Nagar.

4. Komal Mashi (Male), **Adhaar No. 643367514907**, aged about 66 years, S/o Sri Swaran Mashi (Retired Driver Uttarakhand Transport Corporation Rudrapur Depot) R/o Ward No. 3, Awas Vikas Kichha, District Udham Singh Nagar.

5. Rakesh Babu (Male), **Adhaar No. 492624081002**, aged about 68 years, S/o Shyam Lal (Retired Station In-charge Uttarakhand Transport Corporation Rudrapur Depot) R/o Village Adalpur, P.O. Baheri, Adilpur, Bareilly, Uttar Pradesh-243201.

6. Mohd. Jamil Khan (Male), **Adhaar No. 791985158006**, aged about 63 years, S/o Abdul Rehman Khan, R/o Chandmari Byura Kham, Kathgodam, Nainital, Uttarakhand.

7. Harak Singh Talal (Male), **Adhaar No. 592213167404**, aged about 63 years, S/o Madan Singh (Retired Centre Incharge Uttarakhand Transport Corporation Kashipur Depot) R/o Village Gauri Vihar, Jaapur Khurd, Kashipur, District Udham Singh Nagar.

8. Omveer Singh (Male), **Adhaar No. 984228047973**, aged about 64 years, S/o Sri Panna Lal, R/o House No. 516, Old Awas Vikas, Kashipur, District Udham Singh Nagar.

9. Anwar Ahmed (Male), **Adhaar No. 350934334475**, aged about 64 years, S/o Abdul Rasheed (Retired Senior Assistant Uttarakhand Transport Corporation Rudrapur Depot) R/o Jokhanpur, Tehsil Baheri, District Bareilly, Uttar Pradesh.

10. Shamshul Kamar (Male), **Adhaar No. 518272487134**, aged about 66 years, S/o Sri Mazhar Hussain (Retired Senior Clerk Uttarakhand Transport Corporation Rudrapur Depot) R/o Kasba Shishgarh, Post Shishgarh, Ward No. 4, Mohalla Gari District Bareilly, Uttar Pradesh-243505.

11. Rampal (Male), **Adhaar No. 670953589919**, aged about 64 years, S/o Ishwari Prasad, R/o EWS 381/1, Ward No. 38, Awas Vikas, Rudrapur, P.O. Rudrapur, District Udham Singh Nagar-263153.

12. Chandan Singh (Male), **Adhaar No. 486970078215**, aged about 66 years, S/o Sagat Singh, R/o Haldupokhara Nayak Fulchaud Anandpur, Haldwani, District Nainital-263139.

13. Kheemanand Mashiwal (Male), **Adhaar No. 765977633778**, aged about 64 years, S/o Ram Dutt Mashiwal, R/o Damwadhunga Bandobasti Near Coltax, Kathgodam, District Nainital.

14. Nanda Ballabh (Male), **Adhaar No. 631826705659**, aged about 64 years, S/o Late Ram Dutt Kabadwal, R/o Jaipur Kheema Motahaldu Jaipur, District Nainital.

15. Ashok Kumar Saxena (Male), **Adhaar No. 360978442430**, aged about 68 years, S/o Ram Kumar Saxena, R/o 1139, Shramik Basti, Kathgodam, Haldwani, District Nainital.

…………… Petitioners

Versus

1. State of Uttarakhand, through Principal Secretary, Transport, Dehradun.

2. Uttarakhand Transport Corporation, Dehradun through its Managing Director, Head Quarter U.C.F. House Deep Nagar Road, Vishnu Vihar, Dehradun.

3. Assistant General Manager (Finance), Uttarakhand Transport Corporation, Kathgodam, Nainital.

…………. Respondents

Present : Sri Harish Adhikari, Advocate for the petitioners
Sri Kishore Kumar, A.P.O. for the respondent No. 1
Sri Shobhit Joshi, Advocate for the respondents No. 2 & 3

With

Claim Petition No. 34/NB/SB/2025

1. Shyam Singh Bora (Male), **Adhaar No. 864740892765**, aged about 65 years, S/o Soban Singh Bora, R/o HMT Niliyam Colony, Post Manpur West Haldwani, Nainital, Uttarakhand-263139.

2. Virendra Kumar (Male), **Adhaar No. 385334062585**, aged about 65 years, S/o Shyam Singh, R/o Sramikbasti Sismahal Kathogodam, Haldwani, Nainital, Uttarakhand-263126.

3. Kumar Singh (Male), **Adhaar No. 529533202497**, aged about 65 years, S/o Buddh Sen, R/o House No. 4-744 Rajendra Nagar, Haldwani, Nainital, Uttarakhand-263139.

4. Mitrapal Singh (Male), **Adhaar No. 486809619986**, aged about 67 years, S/o Sri Shankar Singh (Retired Traffic Inspector, Uttarakhand Transport Corporation Kashipur Depot), R/o Ward No. 2, Near Mandir Jaspur Khurd, Kashipur, District Udham Singh Nagar.

5. Arun Kumar Singh (Male), **Adhaar No. 339030463983**, aged about 64 years, S/o Awdesh Kumar Singh, R/o Shanti Niwas, Rehad Bhowali, Nainital, Uttarakhand-263132.

…………… Petitioners

Versus

1. State of Uttarakhand, through Principal Secretary, Transport, Dehradun.

2. Uttarakhand Transport Corporation, Dehradun through its Managing Director, Head Quarter U.C.F. House Deep Nagar Road, Vishnu Vihar, Dehradun.

3. Assistant General Manager (Finance), Uttarakhand Transport Corporation, Kathgodam, Nainital.

…………. Respondents

Present : Sri Subhash Joshi, Advocate for the petitioners
Sri Kishore Kumar, A.P.O. for the respondent No. 1
Sri Prem Kaushal, Advocate for the respondents No. 2 & 3

JUDGMENT

DATED : *29th* SEPTEMBER, 2025

Both these claim petitions have been filed separately by the petitioners. These are similar and identical cases, which are being decided by a common judgment, wherein in the Claim petition No. 43/NB/SB/2024 Krishna Kant Yadav and others vs. State of Uttarakhand & others is being taken as the leading case.

2. Claim petition No. 43/NB/SB/2024 and Claim Petition No. 34/NB/SB/2025 have been filed seeking the following relief:-

“(i). to issue order or direction appropriate in nature by directing the Respondents No. 2 and 3 to immediately release the amount of 18% interest on delayed payment of post retiral dues such as Gratuity and leave encashment or which the Hon’ble Tribunal may deem fit and proper after calling the entire records from the respondents or in alternate pass any appropriate orders keeping in view of the facts highlighted in the body of the petition or mould the relief appropriately,.

(ii) to issue any other order or direction which this Hon’ble Court may deem fit and proper in the circumstances of the case.”

3. In brief, the facts of the Claim Petition No. 43/NB/SB/2024, which are as under:-

3.1. The petitioners were the employees of the respondent Corporation and were superannuated from service after completing the age of superannuation, the details of the petitioners is as follows:-

Sl. No.	Name of the Petitioner	Date of Superannuation	Amount of Retiral dues(Gratuity + Leave Encashment) which was not paid and paid after Hon'ble Court order	Date of Payment of retiral dues
1.	Krishna Kant Yadav	31.07.2020	Rs.18,65,925.00/-	July 2024
2.	Ramesh Chandra Dalakoti	31.07.2017	Rs. 4,37,700/-	July 2024
3.	Ramashrya Prasad	30.06.2020	Rs.12,42,209.00/-	July 2024
4.	Komal Mashi	31.03.2018	Rs. 4,85,100/-	July 2024
5.	Rakesh Babu	31.01.2016	Rs. 4,21,000/-	July 2024
6.	Mohd. Jamil Khan	31.05.2021	Rs. 9370627.00/-	27.04.2024
7.	Harak Singh Talal	31.10.2018	Rs. 5,90,640/-	July 2024
8.	Omveer Singh	31.12.2020	Rs. 4,57,992.00/-	04.07.2024
9.	Anwar Ahmed	30.06.2020	Rs. 16,97,850.00/-	July 2024
10.	Shamshul Kamar	30.09.2018	Rs. 4,56,141.00/-	July 2024
11.	Rampal	31.01.2020	Rs. 469502/-	05.07.2024
12.	Chandan Singh	31.07.2018	Rs. 556400.00/-	28.08.2024
13.	Kheemanand Mashiwal	30.04.2020	Rs. 7,84,427.00/-	31.08.2024
14.	Nanda Ballabh	31.05.2021	Rs. 7,74,225.00/-	28.08.2024
15.	Ashok Kumar Saxena	31.07.2016	Rs. 4,73,142.00/-	05.07.2024

3.2. The respondents No. 2 and 3 issued order No. 164/H.Q./E.S.T./111-Special Audit/2019 dated 11.11.2020 and after the issuance of the order the respondents issued show-cause notices to the petitioners and without considering the objections raised by the petitioners reduced the calculated retiral dues after their superannuation by taking advantage of non-payment of the same within time. Feeling aggrieved by the action of the respondents No. 2 and 3 the petitioners approached the Hon'ble High Court of Uttarakhand by way of filing writ petitions. The sole ground for the challenging the illegal recovery from the retiral dues of the petitioners is the judgment of the Hon'ble Apex Court in the case of State of Punjab vs. Rafiq Masih & others (2015) 4 SCC 334. The petitioners have stated that the abovementioned case restrict the departments from making recovery against the Class-III employees after their superannuation, but the respondent Corporation having the knowledge of the aforesaid judgment with intention to humiliate the petitioners passed the order of recovery after delay of more than 03 to 06 years of their superannuation. The Hon'ble High Court clubbed all the 27 writ petitions and thereafter decided the bunch of the writ petitions on 14.06.2022 and directed the respondent Corporation to forthwith refund the recovered amount alongwith arrears and also awarded the cost of the petition to the petitioners. The Hon'ble High Court in its judgment held the following:

> "47. In these eventualities, before this could have proceeded to take any action against the respondents/Cooperation, based on the observations made in the report of the Secretary to the Transport Department of the State of Uttarakhand, this Court feels it to be fit that apart for the reasons already discussed above, that when invariably in all the cases following facts are admitted:-
>
> i. That the petitioners had been the employee of the Corporation.
>
> ii. That they have attained the respective age of superannuation.
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> iii. When there is no controversy pertaining to their entitlement to be paid with the retiral benefits and the pensionary benefits based upon the last salary drawn by them.
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> iv. When there is no material on record as such relied by the respondents, to substantiate the stand taken by the respondents, that there had been any valid reason to curtail the retiral benefits.
>
> v. Particularly, even if, for a moment, if there was any impediment in remittance of the retiral benefits of an employee for any valid and justified reason, which has been artificially created by the

respondents in their stand taken in their counter affidavits filed in the Writ Petitions, under the normal service jurisprudence, it was expected that the respondents ought to have provided an opportunity of hearing and should have conducted an enquiry before curtailing the retiral benefits, which was payable to the retired employees, and hence, in the absence of there being any such enquiry ever conducted before taking the impugned action of curtailment of the retiral benefits, the entire action of the respondents would be bad, and that too, lastly particularly, when the extension of service benefit was as a consequence of the decision-making process taken by their own competent authorities, who had fixed the wages, out of which, the benefits has been consistently extended by the respondents and derived by the petitioners and fraud is not an aspect, which has been attributed, argued and established by document on record, against the petitioners, of wrongful extension of ACP benefits to them.

48. In these eventualities, this Court is of the view that the petitioners, who are the retired employees had been rather, owing to the inaction and arbitrary aptitude adopted by the State Corporation have been rather forced upon with the litigation to file a Writ Petition for the enforcement of the genuine rights of payment of retiral benefits, which according to respondents, in some

of the cases, they are already entitled to owing to the partial sanctions already accorded by the respondents.

49. In that eventuality, and for the reasons assigned above, at this stage, this Court is deliberately not addressing itself on the report submitted by the Secretary, Transport Department dated 1st April, 2022, and is refraining to make any observation owing to the stand taken by the respondents counsel, that they would be remitting the retiral benefits, which the petitioners are otherwise entitled to in accordance with the law, based upon the last salary drawn by them.

50. A writ of mandamus is issued to the respondents and the respondents are directed to pay the entire retiral benefits with its arrears, as sought for by the petitioners in each of the respective Writ Petition, as expeditiously, as possible but not later than three months from the date of production of certified copy of this order.

51. Subject to aforesaid, the Writ Petitions are allowed with the respective cost of Rs.5,000/- each to be paid to the petitioners of each of the Writ Petition, in order to 50 enable them to meet the litigation expenses of forced litigation upon them.

52. This order has been rendered on merit, and not on the basis of the consensus given by the respondents Counsel.

53. In case, if any deduction has been made from retiral benefits or the gratuity of the petitioners, the same

would too be remitted back to them within the aforesaid period as directed above."

The Hon'ble Court at Paragraph No. 50 of the judgment categorically mentioned that a writ of mandamus is issued to the respondents and the respondents are directed to pay the entire retiral benefits with its arrears, as sought for by the petitioners in each of the respective Writ Petition, as expeditiously, as possible but not later than three months from the date of production of certified copy of this order. The Hon'ble Court has used the word "its arrears" and the arrears carries interest but the respondents have not paid the admissible interest to the petitioners, thus the petitioners are entitled for interest on delayed payment.

3.3. Feeling aggrieved by the aforesaid judgment the respondent Corporation approached the Hon'ble Division Bench of the Hon'ble High Court of Uttarakhand and the Hon'ble Division Bench vide its order and judgment dated 04.04.2024 dismissed the Special Appeal and directed the respondent Corporation to comply the judgment dated 14.06.2022.

3.4. The Hon'ble High Court of Uttarakhand in Writ Petition No. 413 (S/B) of 2021 "Satish Chandra Joshi vs. State of Uttarakhand and others" directed the respondent Corporation to pay the interest on delayed payment and the respondent Corporation had paid the interest on the direction of the Hon'ble High Court but in the case of the petitioners they have denied the same, thus kind indulgence of this Hon'ble Court is required.

3.5. The Hon'ble High Court of Uttarakhand in the case of Jagdish Prasad Vs. State of Uttarakhand bearing Writ Petiiton No. 450 (S/S) of 2020 of the same Department has granted 18% interest for delayed payment. Against the judgment of the Hon'ble Single Judge the Department preferred Special Appeal No. 226 of 2022 before the Division Bench and the Hon'ble Division Bench vide its order dated 21.07.2022 reduced the rate of interest from 18% to 09%. The case of the petitioner is also similar to the judgment of the Hon'ble High Court and he is also entitled for interest at the rate of 09%.

3.6. The Hon'ble Apex Court in a judgment rendered in **Civil Appeal No. 2463 of 2015 Assistant General Manager vs. Radhey Shyam Pandey**, as decided on 02.03.2020, had laid down that the pension and pensionary benefits, cannot be dealt with arbitrarily and it cannot be denied in an unfair manner.

3.7. The Hon'ble Apex Court in a recent judgment in the case of D. D. Tewari (D) Thr. Lrs. Versus Uttar Haryana Bijli Vitran Nigam Ltd. & Ors. (Civil) Appeal No. 7113) of 2014 decided on 01.08.2014, held that the appellant therein was not awarded interest on the delayed payment of pension and gratuity amount, for which he was legally entitled to, the appellant approached the Court for grant of interest on the delayed payment on the retiral benefits. The Supreme Court made the following observation in Paragraphs 4 & 6:

> "4. It is an undisputed fact that the appellant retired from service on attaining the age of superannuation on 31.10.2006 and the order of the learned single Judge after adverting to the relevant facts and the legal position has given a direction to the employer-respondent to pay the erroneously withheld pensionary benefits and the gratuity amount to the legal representatives of the deceased employee without awarding interest for which the appellant is legally entitled, therefore, this Court has to exercise its appellate jurisdiction as there is a miscarriage of justice in denying the interest to be paid or payable by the employer from the date of the entitlement of the deceased employee till the date of payment as per the aforesaid legal principle laid down by this Court in the judgment referred to supra. We have to award

interest at the rate of 9% per annum both on the amount of pension due and the gratuity amount which are to be paid by the respondent.

6. For the reasons stated above, we award interest at the rate of 9% on the delayed payment of pension and gratuity amount from the date of entitlement till the date of the actual payment. If this amount is not paid within six weeks from the date of receipt of a copy of this order, the same shall carry interest at the rate of 18% per annum from the date of amount falls due to the deceased employee. With the above directions, this appeal is allowed."

3.8. It has been a consistent principle and ratio which had been laid down by the various High Courts, as well as the Hon'ble Apex Court, that the pension and retiral benefits cannot be withheld or adjusted or appropriated or misappropriated even for the purposes of satisfaction of any other dues, which are allegedly outstanding against the retired employee because if even any amount is due to be paid that has to be independently recovered by a permissible procedure under law. The withholdment of pension or a Provident Fund amount cannot be taken as to be a tool and basis for non-remittance of retiral benefits.

3.9. The Hon'ble Apex Court in a judgment rendered in **Civil Appeal No. 2463 of 2015 Assistant General Manager vs. Radhey Shyam Pandey**, as decided on 02.03.2020, had laid down that the pension and pensionary benefits, cannot be dealt with arbitrarily and it cannot be denied in an unfair manner and the said observations made by the Hon'ble Apex Court, was on the ground of considering the socialistic structure of the Constitution of India and the Indian Society, which basically intends to eliminate any process of inequality and the basic frame work of socialism has been held in the said judgment, which intends to provide security in the fall of life of the working people and specially provide security from the cradles of the grave, when the employee has been rendered service less and is in the fag-end of his life. He cannot be left as a destitute at an old stage. Hence, this Court is of the view that the stand taken in the order impugned dated 06.01.2020, is arbitrary in the light of the principles of the Hon'ble Apex Court as already dealt above.

3.10. In the respondent Department pension is not allowed to the employees and only gratuity and leave encashment is allowed and the respondent Corporation knowing this fact that after the judgment of the Hon'ble Apex Court in Rafiq Masih case no recovery is permissible from Class-III employees deliberately recovered from the amount from the Gratuity and Leave Encashment and other dues and thereafter, after the intervention of the Hon’ble High Court have released the withheld amount after almost 03 to 06 years of the superannuation of the petitioners respectively but not given the interest on the withheld amount and paid the same without interest. The Hon’ble High Court in its judgment categorically directed the respondent Corporation to pay the retiral dues alongwith arrears but the respondents have not paid the arrears which include interest, thus kind indulgence of this Hon’ble Tribunal is required in the matter.

3.11. The action of the respondent Corporation is illegal, arbitrary and is running contrary to the judgments of the Hon’ble Apex Court and Hon’ble High Courts, the petitioners have been subjected to exploitation of labour, which otherwise also cannot be permitted in Welfare State like India. It is also relevant to mention here that the posts which was hold by the petitioners are a non-pensionable post and only E.P.F. Pension is available to the petitioners which is meagre amount of Rs. 3000/- to 6000/-.

3.12. Since the petitioners are superannuated from service and the respondents have paid the amount gratuity and leave encashment and other retiral dues after almost 03 to 06 years pursuant to the judgment of the Hon'ble High Court but not paid the interest on the delayed payment thus the petitioners are entitled for interest on the payment of gratuity and other retiral dues.

3.13. Section-7 of the Payment of Gratuity Act, 1972 provides for determination of amount gratuity and similarly Sub-Section 3A provides for interest for delayed payment of gratuity.

3.14. It is a settled preposition of law that retiral benefits are not bounty and an employee earns these benefits by dint of his long, continuous, faithful and unblemished service. Right to receive retiral dues was treated as a right to property.

3.15. In view of aforesaid facts and circumstances, it is apparent that the inaction on the part of the respondents in payment of retiral dues of the petitioner cannot be justified in any view of the matter. As such, a suitable direction deserves to be issued to the respondents to release the said amount alongwith interest at the delayed payment.

3.16. Claim Petition No. 34/NB/SB/2025 is connected and some of the similarly situated persons had filed similar case before this Hon'ble Tribunal bearing Claim Petition No. 43/NB/SB/2024 "Krishna Kant Yadav and others Vs. State of Uttarakhand and others". The aforesaid claim petition is pending and the case of the petitioners is also similar to the petitioners of the aforesaid claim petition. Thus, the matters are identical.

3.17. Brief facts giving rise to the petition are that the petitioners were the employees of the respondent Corporation and were superannuated from service after completing the age of superannuation, the details of the petitioners is as follows:-

Sl. No.	**Name of the Petitioner**	**Date of Superannuation**	**Amount of Retiral dues(Gratuity + Leave Encashment) which was not paid and paid after Hon'ble Court order**	**Date of Payment of retiral dues**
1.	Shyam Singh Bora	31.07.2020	Rs.5,04,634/-	09.01.2025
2.	Virendra Kumar	30.06.2020	Rs. 4,55,306/-	16.01.2025
3.	Kumar Singh	31.08.2020	Rs.5,47,689/-	09.01.2025
4.	Mitrapal Singh	31.05.2017	Rs. 4,67,280/-	11.11.2024
5.	Arun Kumar Singh	30.09.2021	Rs. 18,79,708/-	11.11.2024

3.18. The petitioners had also filed writ petitions before the Hon'ble High Court and the writ petitions of the petitioners were disposed of in terms of the aforementioned writ petitions and Special Appeal.

3.19. In both these petitions, CA/WS has been filed on behalf of the respondents No. 2 & 3 by Sri Sobhit Joshi and Sri Prem Kaushal, learned Counsels, in which, it has been stated that:-

3.20. The present claim petition No. 43/NB/SB/2024 has been filed by the claimants with the prayer to issue direction to the respondents No. 2 and 3, i.e., Uttarakhand Transport Corporation to pay the interest at the rate of 18% on the delayed payment of the post retiral dues such as gratuity and leave encashment.

3.21. At the outset it is important to bring to the kind attention of this learned Tribunal that the petitioners in the present claim petition earlier filed separate-separate writ petitions before the Hon'ble High Court of Uttarakhand claiming for the retiral benefits which had been recovered/adjusted by the Uttarakhand Transport Corporation from their retiral benefits due to excess payment made to them during service period due to wrongful fixation of salary and grant of benefit of ACP. In those writ petitions which were filed by the petitioners before the Hon'ble High Court of Uttarakhand, they have made their prayer for payment of the deducted amount of retiral benefits alongwith the interest.

3.22. The relief sought by the petitioners in the writ petition filed before the Hon'ble High Court of Uttarakhand had been decided by the Hon'ble Court in a Bunch of petition wherein the leading writ petition being WPSS No. 1593 of 2021 "Balam Singh Aswal versus M. D. Uttarakhand Transport Corporation" had been decided by the Hon'ble High Court vide its judgment and order dated 14.06.2022. Hon'ble Court while considering the case of the petitioners on merit also took note of the prayer made by the petitioners in their respective writ petitions which are recorded in para No. 3 to para No. 29 of the judgment and order dated 14.06.2022.

3.23. From a bare perusal of the Paragraph No. 03 to 29 of the judgment and order dated 14.06.2022, it clearly reveals that the Hon'ble High Court while deciding the writ petitions have taken into account the relief as sought by petitioners in their respective writ petitions, which clearly shows that the petitioners have prayed for the relief for payment of the amount of retiring dues alongwith interest payable on it under Section 7 (3A) of the Payment of Gratuity Act, while some of the petitioners have made the prayer for statutory interest on the retiral dues, while some of the petitioners had also prayed for payment of interest in light of the judgment dated 22.09.2021 passed by the Hon'ble High Court in WPSB 413 of 2021, 'Satish Chandra Joshi versus State of Uttarakhand and others' ; and similar other prayers for payment of interest on the payment of retiral dues had also been sought by the petitioners therein.

3.24. The Hon'ble High Court, while deciding the batch of 27 writ petitions has dealt with the contention of both the parties, i.e., the petitioners and the respondent and the Hon'ble High Court after appreciating the facts on merit had passed the judgment and order dated 14.06.2022 wherein direction was issued to the respondent Corporation to pay the entire retiral benefits with its arrears as sought for by the petitioners in each of their respective petitions as expeditiously as possible within a period of three months and has also awarded the cost of Rs. 5000/- to be paid to the petitioner towards the litigation expense.

3.25. Uttarakhand Transport Corporation being aggrieved by the judgment and order dated 14.06.2022, passed by the Hon'ble Single Judge had preferred the special appeals, wherein the leading Special Appeal was registered as SPA No. 245 of 2022 'M,D. Uttarakhand Transport Corporation versus Ashok Kumar Saxena'.

The Bunch of Special Appeal was heard by the Hon'ble Court at length on various occasions and the Hon'ble Court vide its judgment and order dated 04.04.2024, was pleased to dismiss the Special Appeal with the direction to the appellant Corporation to comply with the judgment dated 14.06.2022 within the next three months.

3.26. In compliance to the judgment and order dated 14.06.2022 and 04.04.2024 passed by the Hon'ble High Court in the batch of writ petitions and special appeals, the Uttarakhand Transport Corporation has paid the entire amount of the retiral dues which was deducted/withheld amongwith the cost of Rs. 5000/- to all of the petitioners (the present claimants herein).

3.27. The respondent Corporation humbly submits before learned Tribunal that the present claim petition filed by the petitioners is barred by doctrine of Res-Judicata, as the petitioners who are here before the learned Tribunal seeking the relief for the grant of interest on the reitral benefits made the similar prayer before the Hon'ble High Court in their respective writ petitions, which was not granted by the Hon'ble Single Judge while allowing their writ petitions vide judgment and order dated 14.06.2022, which was subsequently put to challenge by the Uttarakhand Transport

Corporation before the Division Bench of the Hon’ble High Court of Uttarakhand, which was dismissed with the direction to the respondent Corporation to comply the judgment passed by the Hon’ble Single Judge, meaning thereby, the relief for grant of interest that was prayed by the petitioners in the writ petition before the Hon’ble High Court of Uttarakhand, was denied by the Hon’ble Single Judge in the batch of writ petitions, which subsequently got confirmed by the judgment and order dated 04.04.2024 passed by the Division Bench of the Hon’ble High Court of Uttarakhand. The petitioners before the Hon’ble High Court of Uttarakhand have not challenged the order dated 14.06.2022 passed by the Hon’ble Single Judge in their writ petition before any competent Court against the denial of the payment of interest on the retiral benefits till date.

3.28. It is the settled position of law that the petitioners cannot claim for the same benefit that has not been granted by any competent Court or Forum in the earlier round of litigation by filing another petition before a subsequent Forum with the same set of relief.

3.29. From what has been stated above, it is clear that the relief sought by the petitioners in the present claim petition was not granted to them in the earlier round of litigation before the Hon'ble High Court and now the petitioners are trying to overcome the decision passed by the Hon'ble High Court of Uttarakhand in two rounds of litigation (writ petitions and special appeals) by filing a subsequent petition before the learned Uttarakhand Public Services Tribunal, for the same set of relief and as such the present claim petition is barred by the doctrine of res-judicata and as such the present claim petition is liable to be dismissed with heavy costs.

3.30. The present claim petition No. 34/NB/SB/2025 has been filed by the claimants with the prayer to issue direction to the respondents No. 2 and 3, i.e., Uttarakhand Transport Corporation to pay the interest at the rate of 18% on the delayed payment of the post retiral dues such as gratuity and leave encashment.

3.31. At the outset it is important to bring to the kind attention of this learned Tribunal that the petitioners in the present claim petition earlier filed separate-separate writ petitions before the Hon'ble High Court of Uttarakhand claiming for the retiral benefits which had been recovered/adjusted by the Uttarakhand Transport Corporation from their retiral benefits due to excess payment made to them during service period due to wrongful fixation of salary and grant of benefit of ACP. In those writ petitions which were filed by the petitioners before the Hon'ble High Court of Uttarakhand, they have made their prayer for payment of the deducted amount of retiral benefits alongwith the interest.

3.32. The relief sought by the petitioners in the writ petition filed before the Hon'ble High Court of Uttarakhand had been decided by the Hon'ble Court in a Bunch of petition wherein the leading writ petition being WPSS No. 1593 of 2021 "Balam Singh Aswal versus M. D. Uttarakhand Transport Corporation" had been decided by the Hon'ble High Court vide its judgment and order dated 14.06.2022. Hon'ble Court while considering the case of the petitioners on merit also took note of the prayer made by the petitioners in their respective writ petitions which are recorded in para No. 3 to para No. 29 of the judgment and order dated 14.06.2022.

3.33. From a bare perusal of the Paragraph No. 03 to 29 of the judgment and order dated 14.06.2022, it clearly reveals that the Hon'ble High Court while deciding the writ petitions have taken into account the relief as sought by petitioners in their respective writ petitions, which clearly shows that the petitioners have prayed for the relief for payment of the amount of retiring dues alongwith interest payable on it under Section 7 (3A) of the Payment of Gratuity Act, while some of the petitioners have made the prayer for statutory interest on the retiral dues, while some of the petitioners had also prayed for payment of interest in light of the judgment dated 22.09.2021 passed by the Hon'ble High Court in WPSB 413 of 2021, 'Satish Chandra Joshi versus State of Uttarakhand and others' ; and similar other prayers for payment of interest on the payment of retiral dues had also been sought by the petitioners therein.

3.34. The Hon'ble High Court, while deciding the batch of 27 writ petitions has dealt with the contention of both the parties, i.e., the petitioners and the respondent and the Hon'ble High Court after appreciating the facts on merit had passed the judgment and order dated 14.06.2022 wherein direction was issued to the respondent Corporation to pay the entire retiral benefits with its arrears as sought for by the petitioners in each of their respective petitions as expeditiously as possible within a period of three months and has also awarded the cost of Rs. 5000/- to be paid to the petitioner towards the litigation expense.

3.35. Uttarakhand Transport Corporation being aggrieved by the judgment and order dated 14.06.2022, passed by the Hon'ble Single Judge had preferred the special appeals, wherein the leading Special Appeal was registered as SPA No. 245 of 2022 'M,D. Uttarakhand Transport Corporation versus Ashok Kumar Saxena'. The Bunch of Special Appeal was heard by the Hon'ble Court at length on various occasions and the Hon'ble Court vide its judgment and order dated 04.04.2024, was pleased to dismiss the Special Appeal with the direction to the appellant Corporation to comply with the judgment dated 14.06.2022 within the next three months.

3.36. In compliance to the judgment and order dated 14.06.2022 and 04.04.2024 passed by the Hon'ble High Court in the batch of writ petitions and special appeals, the Uttarakhand Transport Corporation has paid the entire amount of the retiral dues which was deducted/withheld amongwith the cost of Rs. 5000/- to all of the petitioners (the present claimants herein).

3.37. The respondent Corporation humbly submits before learned Tribunal that the present claim petition filed by the petitioners is barred by doctrine of Res-Judicata, as the petitioners who are here before the learned Tribunal seeking the relief for the grant of interest on the reitral benefits made the similar prayer before the Hon'ble High Court in their respective writ petitions, which was not granted by the Hon'ble Single Judge while allowing their writ petitions vide judgment and order dated 14.06.2022, which was subsequently put to challenge by the Uttarakhand Transport Corporation before the Division Bench of the Hon'ble High Court of Uttarakhand, which was dismissed with the direction to the respondent Corporation to comply the judgment passed by the Hon'ble Single Judge, meaning thereby, the relief for grant of interest that was prayed by the petitioners in the writ petition before the Hon'ble High Court of Uttarakhand, was denied by the Hon'ble Single Judge in the batch of writ petitions, which subsequently got confirmed by the judgment and order dated 04.04.2024 passed by the Division Bench of the Hon'ble High Court of Uttarakhand. The petitioners before the Hon'ble High Court of Uttarakhand have not challenged the order dated 14.06.2022 passed by the Hon'ble Single Judge in their writ petition before any competent Court against the denial of the payment of interest on the retiral benefits till date.

3.38. It is the settled position of law that the petitioners cannot claim for the same benefit that has not been granted by any competent Court or Forum in the earlier round of litigation by filing another petition before a subsequent Forum with the same set of relief.

3.39. From what has been stated above, it is clear that the relief sought by the petitioners in the present claim petition was not granted to them in the earlier round of litigation before the Hon'ble High Court and now the petitioners are trying to overcome the decision passed by the Hon'ble High Court of Uttarakhand in two rounds of litigation (writ petitions and special appeals) by filing a subsequent petition before the learned Uttarakhand Public Services Tribunal, for the same set of relief and as such the present claim petition is barred by the doctrine of res-judicata and as such the present claim petition is liable to be dismissed with heavy costs.

3.40. In both these petitions, i.e., Claim Petitions No. 43/NB/SB/2024 and 34/NB/SB/2025, learned Counsels for the petitioners does not wish to file any rejoinder affidavit against the CA/WS filed on behalf of the learned Counsels for the respondents No. 2 & 3.

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

5. The learned Counsel for the petitioners has argued that there are 15 petitioners in this claim petition, who superannuated at different times, details of which have been given under the facts of the case head in the form of a statistical table. These all petitioners are in a position to benefit from the Hon'ble High Court's referred judgment dated 14.06.2022 delivered in the bunch of 27 similar writ petitions decided by the Hon'ble High Court. Nevertheless, the respondents failed to release the retiral dues till the year 2024, despite the fact that the Hon'ble High Court had issued a writ of Mandamus against the respondents to make the payments within three months from the date of judgment as follows:-

> "50. A writ of mandamus is issued to the respondents and the respondents are directed to pay the entire retiral benefits with its arrears, as sought for by the petitioners in each of the respective Writ Petition, as expeditiously, as possible but not later than three months from the date of production of certified copy of this order."

In the light of such delayed payments, the learned Counsel for the petitioners has argued that the respondents had been mandated to make the payments finally by 13.09.2022 as per the abovementioned judgment. After that the delay was uncalled for and hence, for the delayed period every petitioner should be given an interest of 18% on the retiral dues. He also argued that since the respondent Corporation began its alleged financial enquiry regarding the wrong pay fixation etc. in the year 2020, so all the petitioners, who had superannuated before that cut-off-date must be given an interest of 18% from the date of each superannuating petitioner upto the cut-off-date, i.e., the beginning of financial enquiry.

6. Learned A.P.O. has informed the Tribunal that in this instant matter the State of Uttarakhand is a formal party.

7. Learned Counsel for the Uttarakhand Transport Corporation, Dehradun (respondents No. 2 & 3) has argued that there came to notice a serious financial irregularity at the ISBT regarding pay fixation, increments and ACP etc, alarmed by which the respondents No. 2 & 3 issued an order No. 164/HQ/EST/III-Special Audit/2019 dated 11.11.2020, from which, over 4000 employees of the respondent Corporation got affected. The affected employees agitated the Hon'ble High Court of Uttarakhand at Nainital, in which, the impugned judgment was delivered on 14.06.2022. Accordingly, all the retiral dues have already been given to the petitioners. Nevertheless, in certain cases, where the

delay took place were not without reason, and definitely were not intentional. It is a well-known fact that the financial position of the respondent Corporation is frail, and has been so for a long time. Further, administrative/financial deliberations might have taken additional time period in cases of a few employees. Nevertheless, this delay does not enable the petitioners to milch the respondent Corporation any further in the name of 18% accrued interest on the delayed payments, reason being that the para-3 to para-29 of the impugned judgment dated 14.06.2022 had already taken care-off with the prayers in the bunch of 27 writ petitions, which included every aspect of the prayers that have been put-forward once again in this instant claim petition, including the question of interest on the retiral dues. Therefore, the prayers made into this instant claim petition are barred by the principle of res-judicata. So far as the Annexure-3 of this claim petition is concerned, it is Hon'ble High Court's judgment dated 22.09.2021 Satish Chander Joshi Vs. State of Uttarakhand & others, which has been relied upon by the petitioners very emphatically is not applicable in the instant matter in the light of para-19 of the impugned judgment dated 14.06.2022. As per the learned Counsel for the respondents, nothing is pending upon the respondents to be paid to the petitioners under question, including the connected claim petition No. 34/NB/SB/2025 Shyam

Singh Bora and others vs. State of Uttarakhand and others. The question of 18% interest is also covered by the impugned judgment.

8. Learned Counsel for the petitioners in his rebuttal again referred to the para-42 of the impugned judgment dated 14.06.2022 and emphasized that all the petitioners, who superannuated between year 2016 to 2020 must be given an interest on the retiral dues at the rate of 18% as per the natural justice.

On the perusal of the records, it is evident that the Hon'ble High Court's judgment dated 14.06.2022 has covered every aspect of the bunch of 27 writ petitions in detail. So far as the question of interest on the retiral dues prior to the date of judgment dated 14.06.2022 is concerned, it is not covered by the term "arrears", which has been mentioned in this judgment. Nevertheless, the Hon'ble High Court would have definitely directed about this point separately, had it found it appropriate and necessary. Therefore, all such matters raised in the instant claim petition are barred by the principle of res-judicata as contended by the learned Counsel for the respondents. Consequently, this Tribunal is not competent to revisit the time periods before the judgments dated 14.06.2022 and 04.04.2024. So far as the question of 18% interest on the delayed payments after 14.09.2022 is concerned, there are two noticeable facts on record as follows:-

(i) The Hon'ble Single Judge's verdict dated 14.06.2022 had been challenged by the respondents before the Division Bench of Hon'ble High Court, wherein, the judgment got delivered finally on 04.04.2024. No doubt that the Special Appeals ultimately got dismissed by the concerned Division Bench; however, during the pendency of these Special Appeals the respondents were justified in withholding the payments due to obvious reasons.

(ii) Further, as per the referred final judgment dated 04.04.2024 another three moths' time was accorded to the respondents to make the final payments, which means that the respondents had been allowed a time period upto 4th July of 2024.

9. Therefore, if the respondents failed to comply with the Hon'ble High Court's final order dated 04.04.2024, in tandem with the earlier judgment dated 14.06.2022, in making the directed payments, without brining into the notice of Hon'ble High Court, or

without taking permission to do so, on valid legal reasons, from the Hon’ble High Court, then the respondents are liable to pay an additional interest on such delayed payments, wherein, the counting of days will begin since 04.07.2024, as directed by the Hon’ble High Court’s judgment dated 04.04.2024.

10. However, for all such cases of delayed payments the acid test before the parties would be what has been detailed in paragraph-47 of the prevailing judgment dated 14.06.2022 as follows:-

> “47. In these eventualities, before this could have proceeded to take any action against the respondents/Cooperation, based on the observations made in the report of the Secretary to the Transport Department of the State of Uttarakhand, this Court feels it to be fit that apart for the reasons already discussed above, that when invariably in all the cases following facts are admitted:-
>
> i. That the petitioners had been the employee of the Corporation.
>
> ii. That they have attained the respective age of superannuation.
>
> iii. When there is no controversy pertaining to their entitlement to be

paid with the retiral benefits and the pensionary benefits based upon the last salary drawn by them.

iv. When there is no material on record as such relied by the respondents, to substantiate the stand taken by the respondents, that there had been any valid reason to curtail the retiral benefits.

v. Particularly, even if, for a moment, if there was any impediment in remittance of the retiral benefits of an employee for any valid and justified reason, which has been artificially created by the respondents in their stand taken in their counter affidavits filed in the Writ Petitions, under the normal service jurisprudence, it was expected that the respondents ought to have provided an opportunity of hearing and should have conducted an enquiry before curtailing the retiral benefits, which was payable to the retired employees, and hence, in the absence of there being any such enquiry ever conducted before taking the impugned action of curtailment of the retiral benefits, the entire action of

> the respondents would be bad, and that too, lastly particularly, when the extension of service benefit was as a consequence of the decision-making process taken by their own competent authorities, who had fixed the wages, out of which, the benefits has been consistently extended by the respondents and derived by the petitioners and fraud is not an aspect, which has been attributed, argued and established by document on record, against the petitioners, of wrongful extension of ACP benefits to them."

Further, at this juncture, for the sake of deciding as to what must be the penal rate of interest on such defaulted/delayed payments, the Hon'ble High Court's judgment dated 22.09.2021, relied upon by both the claim petitions, is an ideal point of reference within the State of Uttarakhand at present. In this referred Writ Petition No. 413 (S/S) of 2021, Satish Chandra Joshi vs. State of Uttarakhand and other, Hon'ble High Court has held as follows:-

> "4. Therefore, the respondent Nos. 2 and 3 are directed to take the necessary steps, and to pay the entire amount of leave encashment,

gratuity alongwith the interest @ 5% per annum, and to pay the medical reimbursement amount of Rs. 2,34,487/- to the petitioner within a period of two months from today."

ORDER

Accordingly, these connected claim petitions, i.e. No. 43/NB/SB/2024 Krishna Kant Yadav and others vs. State of Uttarakhand and others & 34/NB/SB/2025 Shyam Singh Bora and others vs. State of Uttarakhand and others succeed partly, to the extent that on all the delayed payments after 04.07.2024, a penal simple interest of 5% will be paid by the respondents to the aggrieved petitioners. No orders as to costs.

(Capt. Alok Shekhar Tiwari)
Member (A)

DATE: 29th **SEPTEMBER, 2025**
NAINITAL
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