

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

CLAIM PETITION NO. 16/SB/2024

Arun Kumar Goel, aged about 61 years, S/o late Sri Pooran Mal Goel, R/o Mahadev Vihar, General Mahadev Singh Road, Dehradun, retired as Superintending Engineer from the office of Engineer-in-Chief, P.W.D., Dehradun.

.....Petitioner

versus

1. State of Uttarakhand through Secretary, Public Works Department, Government of Uttarakhand, Secretariat, Dehradun.
2. Engineer-in-Chief and Head of Department, Public Works Department.

..... Respondents

Present: Sri Arun Kumar Goel, Petitioner
Sri V.P. Devrani, A.P.O., for the Respondents

JUDGEMENT

Dated: 05th April, 2025

Justice U.C. Dhyani (Oral)

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

“(i) That this Hon'ble Tribunal may graciously be pleased to award interest @ 12% on the delayed payment of regular pension, commutation of pension and gratuity amount from 01.01.2023 to 25.09.2023 and interest @ 12% on the amount of interest, till the date of the actual payment of the amount of interest to the petitioner for delayed payment.

(ii) That this Hon'ble Tribunal may graciously be pleased to award compensation Rs. 2,50,000.00 to the petitioner for mental agony.

(iii) That this Hon'ble Tribunal may graciously be pleased to pass any other order or direction which this Hon'ble Tribunal may deem

fit and proper in the circumstances of the case in favour of the petitioner.

(iv) That this Hon'ble Tribunal may graciously be pleased to decide this petition expeditiously.

(v) That the Hon'ble Tribunal may graciously be pleased to allow this petition with cost as quantified Rs. 21,000-00."

2. Petitioner has filed affidavit in support of his claim petition. Relevant documents have been filed in support of the same.

3. The claim petition has been contested on behalf of the respondents. Sri Prem Singh Nabiyal, Senior Staff Officer, Office of Engineer-in-Chief, Public Works Department, Uttarakhand, Dehradun, has filed counter affidavit on behalf of respondents. Relevant documents have been filed in support of the counter affidavit.

4. Rejoinder affidavit thereto has been filed by the petitioner reiterating the facts contained in the claim petition.

5. The short question which arises for consideration of the Tribunal is, whether the petitioner is entitled to interest on delayed payment of regular pension, commutation of pension and gratuity from 01.01.2023 to 25.09.2023 till the date of actual payment.

6. In the C.A., it has been stated that disciplinary enquiry was initiated against the petitioner. One Sri D.K. Yadav, Chief Engineer, Level-1, PWD, was appointed as inquiry officer *vide* Govt. Order dated 22.08.2022. The date of retirement of the petitioner was 31.12.2022. No dues certificate was required from the Govt. so that the post retiral dues of the petitioner could be disbursed within time. It was conveyed that on committing certain financial irregularities, the disciplinary proceedings are pending against the petitioner. Inquiry officer conducted the inquiry against the delinquent. Petitioner was punished by way of minor punishment. 'Censure Entry' was awarded to him *vide* order dated 01.08.2023 Thereafter, on 02.08.2023, no dues certificate was issued to him. Hence, according to the W.S., post retiral dues, final pension and gratuity admissible to the petitioner were duly paid within time.

7. Learned A.P.O drew attention of the Tribunal towards para 16 of the W.S. to show that post retiral dues, leave encashment, GIS, were paid to the petitioner as per the details given therein well within time with admissible interest as per relevant financial rules and G.O.s issued by the department in this regard.

8. Learned A.P.O. also drew attention of the Tribunal towards para 18 of the W.S./ C.A. to submit that delayed payment of post retiral dues *i.e.* final pension and gratuity was to be paid as per Uttar Pradesh Pension Rules. Disciplinary proceedings were pending against the petitioner on the date of retirement as per the directions of Tribunal passed in claim petition no. 101/DB/2021 on 04.07.2022. Hence, there is no justification for paying interest to the petitioner in respect of delayed payment of gratuity and final pension. Moreover, on pendency of disciplinary proceedings, payment of retiral dues could not be made as per rules.

9. Learned A.P.O. also drew attention of the Tribunal towards para 20 of the W.S. and Section 12 of Uttarakhand Pension Benefit Act, 2018, in which it has been stated that interim pension and gratuity for such retired State Employees against whom inquiry is pending in departmental judicial proceedings or in Administrative Tribunal or is required to enquire shall be permissible as may be prescribed. The disciplinary proceedings pursuant to the Tribunal's direction dated 04.07.2022 were finally concluded on 01.08.2023, the date on which the final punishment order of 'censure entry' was passed against the petitioner. Immediately, on 02.08.2023, 'no dues' certificate was issued and final PPO order was issued within a period of one month on 15.09.2023. The PPO was issued by the competent authority, hence there is no question of interest on delayed payment of post retiral dues.

10. Let us see what are the documents available on record to resolve the controversy in hand.

11. As per Part-V Miscellaneous Section 12(1) of Uttarakhand Pension Benefit Act, 2018, interim pension and

gratuity for such retired State employees, against whom inquiry is pending in departmental, judicial proceeding or in Administrative Tribunal or is required to enquire shall be permissible as may be prescribed. Section 12(2) of such Act states that pension, family pension shall not permissible to the person dismissed from the service. It may be noted here that the petitioner has been awarded 'censure entry', which is a minor punishment.

12. In para 4(6) of G.O. No. 1243---(2)/2005 dated 12.05.2005, it is provided that where the consultation with Public Service Commission is not necessary, final order should be passed within 15 days of submission of report by the enquiry officer. In the instant case, the inquiry officer submitted report in February, 2023, and the retiral dues were paid to the petitioner on 01.08.2023. In other words, inquiry officer submitted its report in February, 2023. The punishing authority or the disciplinary authority, as per the G.O. itself, should have passed the order within 15 days. Here, the order was passed on 01.08.2023 and 'no dues' certificate was issued, as stated, on 02.08.2023. Thereafter, retiral dues were paid. By this reckoning, there is delay of about six months in releasing the retiral dues. This is as per the G.O. dated 12.05.2005 issued by the Principal Secretary to the Govt. in Personnel Department.

13. It may be noted here that a direction was issued by Sri Shyam Singh, Joint Secretary to the Govt. in PWD-1 to the Engineer-in Chief, PWD, Uttarakhand on 02.08.2023 that no departmental proceedings are since pending against the petitioner, therefore, necessary action may be taken for releasing pension and retiral dues to the petitioner. Copy of the letter dated 02.08.2023 was sent to the petitioner also.

14. Petitioner drew attention of the Tribunal towards G.O. No. 1543/ *Karmik*-2/2005 dated 28.12.2005 to submit that when the petitioner had retired then the pending inquiry may be kept pending under Article 351 CSR for the purpose of deduction from pension, not for giving him punishment. The Tribunal is unable to agree to such submission of the petitioner inasmuch as the inquiry was

conducted against the petitioner only under the orders of the Tribunal. Earlier, it was initiated by the Govt. but then with the intervention of the Tribunal, liberty was granted to the department to initiate fresh inquiry, as per law. The said provision of the G.O. dated 28.12.2005 is not applicable to the petitioner.

15. It may be noted here, at the cost of repetition, that minor punishment of 'censure entry' was awarded to the petitioner on 01.08.2023. No-dues certificate was issued to him on 02.08.2023. The inquiry officer submitted its report in February, 2023. The retiral dues were although released to the petitioner, as has been submitted by learned A.P.O., to which the petitioner has also agreed, but the only contention of the petitioner is that as the retiral dues were paid late, therefore, he is entitled to interest on delayed payment of such retiral dues. The disciplinary proceedings against the petitioner were conducted as per Tribunal's order dated 04.07.2022. Final decision on the report of inquiry officer was taken by the Govt. on 01.08.2023 (censure entry). On 02.08.2023, no dues certificate was issued and the final PPO order was issued on 15.09.2023.

16. The Tribunal is of the view that since the inquiry report was submitted in February, 2023 and it might have taken some time for the Govt. to take some decision but the fact remains that as per G.O. dated 12.05.2005 of the Personnel Department, the employee against whom the departmental proceedings were pending and against whom the inquiry officer has submitted its report, the decision ought to have been taken within 15 days and retiral dues ought to have been released to him soon thereafter, as only minor punishment was given to the petitioner. Petitioner has, in the instant case, not been released retiral dues after 15 days of submission of inquiry officer's report.

17. The Tribunal is neither commenting anything against the conduct of the respondent department nor against the conduct of the State Govt., for, some time is bound to take on such matters to take decision but the fact remains that the as per the G.O. itself, the

petitioner is entitled to interest on delayed payment of retiral dues. It may again be noted here that minor Punishment (censure entry) was awarded to the petitioner. Once the inquiry officer submitted his report, the decision could have been taken on the same after 15 days, as per relevant G.O. which (decision) has not been taken, therefore, the petitioner is entitled to interest on delayed payment of such retiral dues.

18. There is no scope for further expansion of the judgement. The short point which is to be decided by the Tribunal is, whether the petitioner was released retiral dues belatedly and if so, whether he is entitled to interest on such delayed payment. The Tribunal finds that there is little delay for which petitioner is entitled to interest as per prevalent GPF rate till the date of actual payment.

19. The Tribunal has noted above that the petitioner is entitled to interest as per prevalent GPF rate. This is also based upon a G.O. dated 10.08.2004 issued by the Govt. itself. Although the petitioner has claimed interest @ 12% on the delayed payment of regular pension, commutation of pension and gratuity amount from 01.01.2023 to 25.09.2023 and interest @ 12%, till the date of the actual payment, but the reasonable would it be, on the part of the Tribunal, to direct the respondent department to pay the interest as per prevalent GPF rate(s) as per the G.O. dated 10.08.2004 of the Govt. itself, which (interest) shall be calculated soon after 15 days of submission of the report by the inquiry officer till the date of actual payment.

20. The claim petition is disposed of by directing the respondent department to pay interest, as per prevalent GPF rates as per G.O. dated 10.08.2004 to the petitioner, in accordance with G.O. dated 12.05.2005. The interest shall be payable after 15 days of submission of report by the inquiry officer till the date of actual payment. No order as to costs.

(Justice U.C. Dhyani)
Chairman

DATE: 05th April, 2025
DEHRADUN
RS