

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

Present: Hon'ble Mr. Rajendra Singh

-----Acting Chairman

Hon'ble Mr. A.S.Rawat

-----Vice Chairman (A)

CLAIM PETITION NO. 141/NB/DB/2023

Khimanand Budhani (male) aged about 63 years S/o Sri Durga Dutt, R/o
Awla Kot, Kotabagh, District Nainital.

.....Petitioner

Vs.

1. State of Uttarakhand through Secretary Rural Development Department,
Government of Uttarakhand Dehradun
2. Commissioner, Rural Development, Uttarakhand, Pauri.
3. Chief Development Officer, Vikas Bhawan, Nainital.
4. District Development Officer Nainital District Nainital.
5. Block Development Officer, Ramnagar, District Nainital.
6. Additional Director, Directorate of Accounts & Pension (Lekha Evam
Hakdari) Uttarakhand, Camp Office, Haldwani District Nainital.

.....Respondents

Present: Sri Dinesh Gahtori, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents.

JUDGMENT

DATED: SEPTEMBER 02, 2026

Per: Hon'ble Sri A.S.Rawat, Vice Chairman (A)

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

*“a) To quash/ set aside the impugned order dated
04.08.2023 (Annexure-1) passed by respondent no.3.*

a-1) The absence of 06 years 3 months and 13 days be regularized.

b) To direct the respondents to forthwith prepare and complete the pension payers and to make payment of Gratuity, Pension, insurance and other Pensionary dues of the petitioner which have illegally been withheld by respondents

c) To direct the respondents to pay penal interest @ 15% for delayed payment of Gratuity, Pension, insurance and other Pensionary dues of the petitioner from the due day of payment till the date of actual payment.

d) Any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. Brief facts of the case are as under:-

2.1 The petitioner was serving in the Rural Development Department and on attaining the age of superannuation was retired from the post of Village Development Officer from Block, Ramnagar District Nainital on 30.4.2019 after the total service of 31 years 6 Days. It is revealed from the service record that the petitioner was appointed on the post of VDO against the substantive post/vacancy on 13.01.1982, the work of the petitioner was perennial in nature.

2.2 For the purposes of pension of petitioner, the Block Development Officer issued No Dues Certificate. However, the Treasury raised objections that in the No Dues Certificate signature and seal of the Block Development Officer were not there. Thereafter, on 05.01.2021, the Block Development Officer, Gangolihat, Pithoragarh issued No Dues Certificate in favour of the petitioner. After his retirement, the pension could not be sanctioned to the petitioner remained absent for 06 years 03 months and 13 days and for such period no medical certificates were submitted due to which his salary for the said period could not be paid and his services of said period are not certified/verified.

2.3 Regarding pension matter of the petitioner, District Development Officer, Nainital wrote letter dated 10.9.2021 to the Commissioner, Rural Development, Uttarakhand, Pauri informing that the pension and gratuity of the petitioner has been assessed after deducting the service period of 06 years 03 months and 13 days as provided in the Pension Rules and thus the pension matter of petitioner was forwarded for verification.

2.4 The petitioner moved a representation dated 15.12.2021 before District Development Officer Nainital which was duly forwarded by Block Development Officer, Ramnagar, Nainital to District Development Officer, Nainital.

2.5 Vide letter dated 23.3.2022 Block Development Officer, Ramnagar Nainital wrote to Block Development Officer Okhalkanda (Nainital) for verification of the service from 1.12.1988 to 10.12.1988 and from 21.5.1989 to 30.6.1989. The wife of petitioner also moved representation dated 27.6.2022 before Chief Development Officer and Kumaon Commissioner, Nainital narrating the entire facts and circumstances and requested to pay the pension and other pensionary benefits of her husband. The Block Development Officer, Ramnagar Nainital again wrote letter dated 27.06.2022 to Block Development Officer Okhalkanda Nainital stating that previously also correspondence was made for verification of service of petitioner but no response was given and thus again request was made for service verification of petitioner so that action be taken in pension matter of petitioner.

2.6 Pursuant to representation moved by wife of petitioner, the District Development Officer vide letter dated 27.8.2022 directed the Block Development Officer, Ramnagar Nainital directing to take necessary action in the pension matter of the petitioner. Again, vide letter dated 19.11.2022 the District Development Officer Nainital directed the Block Development Officer, Ramnagar, Nainital to take

prompt action. The District Development Officer, Nainital submitted a detailed report/letter dated 08.12.2022 in the matter of absence of the petitioner to the Chief Treasury, Nainital seeking instruction in the matter whether the said period of 6 years 03 months 13 days can be adjusted/included in service period or not and for further grant of extraordinary (without pay) leave.

2.7 The Block Development Officer, Ramnagar, Nainital issued letter dated 21.1.2023 to the petitioner enclosing the copy of letter dated 07.01.2023 of the office of District Development Officer whereby the grant of extra ordinary leave of 6 years 03 months 13 days was refused. Thereafter, the petitioner moved representation dated 16.3.2023 through proper channel before Commissioner, Rural Development Uttarakhand Pauri enclosing the service verification memo/details of service tenure, requesting that from 28.8.2008 to 30.4.2019, 10 years 06 months 08 days of service of petitioner is continue and undisputed and although the service of 06 years 03 months 13 days has not been verified, but even then, he is entitled for pension.

2.8 In aforesaid circumstances, the petitioner preferred Writ petition No.1204 (SS) of 2023 before Hon'ble High Court of Uttarakhand Nainital, which was dismissed in limine vide order dated 12.7.2023 with observation that the claim of retiral dues of petitioner may very well be entertained by the Tribunal. The Hon'ble Court however provided that even if petitioner filed a representation, the respondents may decide it, in accordance with existing rules.

2.9 Thereafter, the petitioner moved a detailed representation dated 24.7.2023 to the respondents narrating the entire facts and circumstances and requested to grant him pension and gratuity and to decide the representation in compliance of order of the Hon'ble High Court.

2.10 The Chief Development Officer, Nainital vide impugned order dated 04.08.2023, without considering the facts and circumstances of the case decided to reject the application of petitioner for grant of extra ordinary leave and refused to grant pension and gratuity to the petitioner.

2.11 The petitioner was retired on 30.04.2019 after rendering 37 years 03 months 19 days of service and out of this service, the services of 31 years and 06 months are verified, therefore since 20 years of service is required for pension, the respondents cannot deprive the petitioner from pensionary benefits. The respondents have alleged that services of 06 years 03 months and 13 days of petitioner are not verified. For the said disputed period, the petitioner is either entitled for extra ordinary leave or Dies non for the purposes of payment of pensionary benefits.

2.12 The period of 31 years and 06 months services of petitioner is verified and undisputed, therefore, qualifying service of 20 years for the purpose of pension has already done, therefore in any view of matter, the respondents cannot be permitted to withhold the pension and other pensionary/ service benefits of petitioner. Almost 04 years have been passed from the date of retirement of petitioner but till date his pension and pensionary benefits have not been paid by the respondents. The amount of gratuity/pension/ pensionary benefits are neither charity nor bounty but the same is property within the meaning of Article 300A of the Constitution of India and thus the same cannot be withheld by employer on their own whims and fancies. Although as per the allegations of respondents the service of petitioner for 06 years 03 months 13 days is not verified but during his service period no departmental proceedings has ever been initiated against the petitioner no adverse order was ever issued against him and thus now after retirement, the respondents cannot be permitted to withhold the pensionary dues of the petitioner.

3. C.A./W.S. has been filed on behalf of the respondents mainly stating therein that-

3.1 वादी दिनांक 30.04.2019 का विकास खण्ड रामनगर से सेवा निवृत्त हुए। इस संबंध में स्पष्ट किया जाता है कि वादी की प्रथम नियुक्ति 13.04.1982 को विकास खण्ड खटीमा में हुई। वादी निम्न अवधियों में शासकीय कार्यों से अनाधिकृत रूप से अनुपस्थित रहे।

01.10.1987 से 13.10.1987	13 दिन	(13दिन)
01.02.1988 से 04.02.1988	04 दिन	(04दिन)
20.03.1988 से 31.03.1988	12 दिन	(12दिन)
01.04.1988 से 30.06.1988	03 माह	(91दिन)
01.12.1988 से 10.12.1988	10 दिन	(10दिन)
21.05.1989 से 30.06.1989	1 माह 11 दिन	(41दिन)
01.05.1990 से 30.09.1991	1 वर्ष 05माह	(518दिन)
8.01.06.1993 से 31.08.1993	03 माह	(92दिन)
01-09-1993 से 31-08-1995	02 वर्ष	(730 दिन)
01-12-1995 से 31-01-1996	02 माह	(62 दिन)
20-03-1996 से 31-03-1996	12 दिन	(12 दिन)
01-08-1997 से 31-08-1998	01 वर्ष 01 माह	(396 दिन)
01-03-1999 से 30-06-1999	04 माह	(122 दिन)
01-08-2006 से 17-11-2006	03 माह 17 दिन	(109 दिन)
01-07-2008 से 31-07-2008	01 माह	(31 दिन)
28-08-2008 से 20-10-2008	01 माह 24 दिन	(54 दिन)

3.2 इस प्रकार वादी कुल 06 वर्ष 03 माह 13 दिन कुल 2297 दिन शासकीय कार्यों से अनधिकृत रूप से अनुपस्थित रहे। जिस कारण वादी की उक्त अवधियों की सेवाएं तत्कालीन आहरण वितरण अधिकारी द्वारा सत्यापित नहीं हुई, ना ही वेतन आहरित हुआ। कार्यालय आदेश संख्या 2674-77/1-स्था०/व्य०प०/दिनांक 03-07-1992 द्वारा अनधिकृत रूप से अनुपस्थित रहने तथा कर्तव्यों की घोर उपेक्षा व उदासीनता बरतने के आरोप में वादी को तात्कालिक प्रभाव से निलम्बित किया गया। उक्त के अतिरिक्त वादी अपनी सम्पूर्ण सेवाकाल में निम्न अवधियों में निलम्बित रहे:-

1. जिला विकास अधिकारी कार्यालय नैनीताल के आदेश संख्या 4780-8211/दिनांक 04-09-1996 द्वारा थानाध्यक्ष कालाढूँगी की रिपोर्ट दिनांक 16-08-1996 के अनुसार कानून की अपराध धारा 302/404 के अन्तर्गत गिरफ्तार कर जेल किये जाने के फलस्वरूप 11-07-1996 को निलम्बित किया गया।

2. जिला विकास अधिकारी कार्यालय नैनीताल के आदेश संख्या 10504-10/दिनांक 19-02-2004 द्वारा ग्राम पंचायत अमोठा विकास खण्ड कोटाबाग में प्राइमरी विद्यालय में छात्रों की छात्रवृत्ति वितरण न किये जाने पर निलम्बित किया गया।
3. जिला विकास अधिकारी कार्यालय, नैनीताल के आदेश संख्या 6290-96/दिनांक 18-11-2006 के द्वारा सहवर्गीय बैठक में भाग न लेने एवं महतोलियागॉव में खड़न्जा निर्माण/30000-00 रुपये क्षेत्र पंचायत विधायक निधि नगो० पोखरी में ऑगनबाड़ी निर्माण में मुवलिंग 25000-00 रुपये के निर्माण कार्यों में अनियमितता एवं उच्चाधिकारियों के आदेशों की अवहेलना करने का वादी को निलम्बित किया गया वादी की उक्त असंतोषजनक सेवा के कारण वादी अपने मूल पद पर सेवानिवृत्ति तक स्थायी नहीं है।

3.3 खण्ड विकास अधिकारी रामनगर से प्राप्त पेंशन प्रकरण एवं वादी का आवेदन पत्र कार्यालय पत्र संख्या 1994/दिनांक 10 सितम्बर 2021 द्वारा आयुक्त ग्राम्य विकास पौड़ी को मुख्यकोषाधिकारी, नैनीताल की टिप्पणी सहित पेंशन जाँच हेतु प्रेषित की गयी। आयुक्त ग्राम्य विकास पौड़ी द्वारा अपने कार्यालय पत्र संख्या 2240/दिनांक 06-12-202 द्वारा सेवा निरन्तरता ना होने के कारण आपत्ति सहित पेंशन प्रकरण वापस किया गया। तदुपरान्त इस कार्यालय के पत्र संख्या 3511/दिनांक 04-01-2022 के द्वारा खण्ड विकास अधिकारी रामनगर को आपत्तियों के निस्तारण हेतु प्रकरण प्रेषित किया गया। खण्ड विकास अधिकारी रामनगर द्वारा वादी का पेंशन प्रकरण कार्यालय पत्र संख्या 1588/दिनांक 22-11-2022 द्वारा वादी के 2297 दिनों का सेवा सत्यापन नहीं होने संबंधी विवरण सहित असाधारण अवकाश स्वीकृत किये जाने हेतु जिला मुख्यालय को प्रेषित किया गया। वादी के 06 वर्ष 03 माह 13 दिन की असाधारण अवकाश स्वीकृति के संबंध में पेंशन प्रकरण मुख्यकोषाधिकारी नैनीताल को प्रेषित किया गया। मुख्य कोषाधिकारी नैनीताल द्वारा अपनी टिप्पणी दिनांक 21-12-2022 में निम्न प्रकार अवगत कराया गया:-

06 वर्ष से अधिक अनुपस्थिति अवधि का असाधारण अवकाश स्वीकृति के संबंध में कृपया मूल नियम-18 (02 से 04) के तहत कार्यवाही करे। उक्त नियम के तहत "जब तक शासन किसी मामले की विशेष परिस्थितियों को ध्यान में रखकर कोई दूसरा निर्णय ना दे, भारत में वाहय सेवा को छोड़कर अवकाश पर या बिना अवकाश के अपनी ड्युटी से 05 वर्ष से अधिक लगातार अनुपस्थित रहने पर जब तक शासन कुछ अन्यथा न अवधारित (**determinal**) करे उसे कोई अवकाश स्वीकृत नहीं किया जा सकता तथा उसके विरुद्ध अनुशासनिक कार्यवाही की जानी चाहिए। 05 वर्ष से अधिक अवकाश पर रहने के पश्चात बिना नियुक्ति अधिकारी की

अनुमति के उसको ज्युटी पर उपस्थित नहीं होने देना चाहिए। कार्यालय के पत्र संख्या 3015/दिनांक 07-01-2023 से उक्तानुसार प्रकरण खण्ड विकास अधिकारी रामनगर को वापस करते हुए वादी को अवगत कराये जाने हेतु प्रेषित किया गया। वादी द्वारा प्रत्यावेदन देने के पश्चात कार्यालय पत्र संख्या 2471/ दिनांक 19-11-2022 द्वारा खण्ड विकास अधिकारी रामनगर को आवश्यक कार्यवाही हेतु प्रेषित किया गया। कोषाधिकारी नैनीताल की टिप्पणी के आधार पर मूल नियम-18 में उपलब्ध व्यवस्था के अनुसार वादी का असाधारण अवकाश स्वीकृत नहीं किया गया।

3.4 वादी द्वारा दिनांक 28-08-2008 से 30-04-2019 तक कुल 10 वर्ष 06 माह 08 दिन की सेवा संतोषजनक है, लेकिन वादी द्वारा अपनी उक्त अवधियों की पेंशन हेतु कोई आवेदन पत्र नियुक्ति प्राधिकारी को प्रस्तुत नहीं किया गया। जिस कारण वादी को उक्त अवधि के पेंशन गणना हेतु कोई कार्यवाही नहीं की गयी। तत्समय वादी के असाधारण अवकाश के अवकाश की स्वीकृति की प्रक्रिया गतिमान थी। आयुक्त, ग्राम्य विकास, उत्तराखण्ड पौड़ी के आदेश संख्या 1066/दिनांक 02-07-2008 के द्वारा वादी का स्थानान्तरण जनपद पिथौरागढ़ को किये जाने के फलस्वरूप उनको खण्ड विकास अधिकारी, धारी के कार्यालय पत्र संख्या 612/दिनांक 20-10-2008 के द्वारा कार्यमुक्त किया गया, लेकिन वादी द्वारा स्थानान्तरित जनपद में योगदान नहीं किया गया। वादी द्वारा जनपद पिथौरागढ़ में योगदान न करते हुए लगभग 4 वर्ष बाद जनपद नैनीताल में योगदान किया गया। इस प्रकार वादी बिना किसी सूचना के लगभग 04 वर्ष अनधिकृत रूप से शासकीय सेवा से गायब रहे। इस बीच वादी को शासकीय कार्य में उपस्थित होने हेतु इस कार्यालय के पत्र संख्या 2442/दिनांक 24 जनवरी 2013 को नोटिस भी निर्गत किया गया। वादी के 10 वर्ष 06 माह 08 दिन की सेवा संतोषजनक के मध्ये कार्यालय आदेश संख्या 594/ दिनांक 23-05-2015 द्वारा दिनांक 10-10-2011 से दिनांक 07-2-2013 तक कुल 486 दिन का असाधारण अवकाश एवं दिनांक 20-10-2010 से दिनांक 09-10-2011 तक कुल 365 दिनों का निजि मामलो का अवकाश स्वीकृत किया गया है। अतः वादी की सेवा संतोषजनक नहीं मानी जा सकती। इस प्रकार वादी अपने सेवाकाल में अधिकतर बिना किसी सूचना के अनधिकृत रूप से अनुपस्थित रहने के आदी है।

3.5 वादी के प्रत्यावेदन दिनांक 24-07-2023 के कम में इस कार्यालय के आदेश संख्या 1325/ दिनांक 04-08-2023 द्वारा वादी का प्रत्यावेदन अस्वीकृत करते हुए निस्तारित कर दिया है। वादी की निरन्तर 37 वर्ष की सेवाएं निरन्तर संतोषजनक नहीं है। मूल नियम 18 के

अन्तर्गत वादी का असाधारण अवकाश स्वीकृत नहीं किया गया। वादी द्वारा उक्त अवधि के असाधारण अवकाश के निरस्तीकरण एवं मात्र 10 वर्ष 06 माह की सेवा हेतु पेंशन दिये दिये जाने हेतु सक्षम स्तर को प्रत्यावेदन प्रस्तुत नहीं किया गया। वादी लगातार अपने असाधारण अवकाश की स्वीकृति हेतु पत्राचार करते रहे, यदि वादी मात्र 10 वर्ष की सेवा की पेंशन हेतु सक्षम प्राधिकारी को लिखित रूप से प्रत्यावेदन दिया जाता तो उस पर पेंशन नियमावली के अनुसार अग्रिम आवश्यक कार्यवाही संचालित की जाती।

3.6 वादी 31 वर्ष 06 माह की सेवाओं के मध्ये मात्र 10 वर्ष 6 माह की सेवाए ही निरन्तर है। उक्त अवधि के पेंशन हेतु वादी द्वारा कार्यालय में कोई प्रत्यावेदन प्रस्तुत नहीं किया गया। वादी नियमानुसार सेवाएं संतोषजनक ना होने के कारण पेंशन स्वीकृत नहीं की गयी जिस कारण वादी को ग्रेच्युटी की धनराशि का भुगतान नियमानुसार नहीं किया गया। वादी के 06 वर्ष 03 माह 13 दिन के अनधिकृत अनुपस्थिति के संबंध में तत्कालीन कार्यालयाध्यक्षों द्वारा नियमानुसार अनुशासनिक कार्यवाही संचालित की गयी है। इस अवधि में वादी तीन बार निलम्बित हुए एवं इसके साथ-साथ वादी कानून की 5 अपराध धारा 302/404 के अन्तर्गत गिरफ्तार कर जेल भी गये। अतः याची मा० अधिकरण अधिकरण से कोई अनुतोष पाने का अधिकारी न होने के कारण याची की याचिका निरस्त किये जाने योग्य है।

4. R.A. has been filed on behalf of the petitioner to the C.A./W.S filed on behalf of the respondents, in which the petitioner defended himself against the allegation cited in the Counter Affidavit that the inquiry officer gave him a full clean chit, restored his full salary, and proved the suspension was unjust harassment. Neighbours falsely implicated the petitioner in a criminal case (IPC 302/404) due to a conspiracy. The inquiry officer gave him a clean chit in 1997, and the Trial Court fully acquitted him from all the charges in March 1998. The scholarship fund Rs. 9,600 was insufficient for the large number of eligible SC/ST students, and distributing it would cause disputes. Following the Headmaster's objection, the money was returned to the Social Welfare Department via bank draft. His suspension over this was arbitrary. Meeting notices were sent by the office, but the petitioner never received them until after he was suspended. He was suspended within just four months of his transfer to Dhari before he could even get accustomed to the area's geography. He had already

handed over all Gram Panchayat registers and documents before leaving Kotabagh. The delay in constructing the bridge/wall was due to the late release of MP Funds, not by the petitioner. Funds (Rs. 20,000) were directly deposited into the beneficiary's (Gopi Chand) personal account. The beneficiary delayed starting the work himself. For multiple projects in Mahtolia, either no work orders were actually issued to him, or the project was still underway when he was suspended. The inquiry officer later reinstated him with full salary, proving the allegations were false. After transferring to Gangolihat in 2008, his basic pay was cleared, and in 2014–15, his annual increments covering 1984 to 2013 were finally granted, showing past harassment by District authorities. His son, Late Man Mohan Budhani, died as a martyr while serving in the Indian Army in the Poonch Sector. The cited absence of 6 years, 3 months, and 13 days was neither intentional nor deliberate, and no action was taken at the time. Between 2008 and April 2019, he completed over 10 years of satisfactory service.

5. Supplementary Affidavit has also been filed on behalf of the petitioner reiterating the facts in the claim petition and pleaded that petitioner's appointment was on probation for two years. The period of probation of the petitioner was never extended. So at the end of the probation or extended period of probation, the appointing authority should have confirmed the petitioner which they did not do. As per "Uttarakhand Government Servant Confirmation Rules 2002", Rule 4(2)(iii), it is the duty of the appointing authority to issue a formal order of confirmation in favor of the petitioner. The Constitution Bench of Hon'ble Supreme Court in ***State of Punjab Vs Dharam Singh Civil Appeal No.787/1966*** held that when the employee crossed the period of probation and no formal order of confirmation was passed then he is treated to be deemed confirmed. During entire service, the petitioner was given charge of ADO S.T. several times but was not promoted substantively. The petitioner was transferred several times during his service to different districts and it is settled law that the confirmed and

substantively appointed employee can only be transferred. The petitioner was working on a substantive post and was appointed substantively then it cannot be said that the petitioner should be regularized on the post for getting pensionary benefits.

6. We have heard the arguments of the parties and perused the record carefully.

7. Learned Counsel for the petitioner argued that the petitioner was appointed as village Development Officer on 13.01.1982 against a substantive post and superannuated on 30.04.2019 after completing more than 37 years of service. He has superannuated after rendering for more than 37 years of service, but has not gotten pensionary benefits so far. He has submitted No Dues Certificate, but his absence of 6 years 3 months and 13 days has not been regularized and service for the period has not been verified. He has even applied for the extra ordinary leave for the aforesaid period but that has been refused. When the representations from him as well as by his wife, the matter was not resolved, the petitioner filed a Writ Petition before the Hon'ble High Court and the Hon'ble High Court directed to make a detailed representation to the respondents, which he submitted on 24.07.2023 and that was also refused by the Chief Development Officer, Nainital vide his order dated 04.08.2023. The service period of 31 years 6 months is verified as against 20 years of service required to be admissible for the pension. The period of absence of the petitioner can be regularized by granting him extra ordinary leave or *dies non* and the pensionary benefits for the verified period may be granted to him. Learned Counsel to the petitioner further argued that the petitioner completed 2 years of probation period but the respondents did not confirm him in the service so he should be considered as deemed confirmed in the service, this has been held by the Hon'ble Apex court in ***Civil Appeal No 787/1966 in the matter of State of Punjab Vs Dharam Singh*** that employee crossed the period of probation and no formal order of confirmation was issued then he be treated to be

deemed confirmed. The impugned order dated 04.8.2023 is liable to quashed and the claim petition is liable to be allowed.

8. Learned A.P.O. argued that the petitioner has remained absent for 6 years 3 months and 13 days (2297 days) on different occasions from 1987 to 2008. He was arrested and put under suspension thrice for different acts of commission or omissions during the above period. He has also been granted extraordinary leave for unauthorized absence of almost 4 years. He has not been confirmed because of the above reasons. The Chief Treasury Officer, Nainital was consulted regarding regularization of the aforesaid period of absence, but as per the advice of the CTO that any person who has remained absent continuously for more than five years, no leave can be sanctioned, and departmental action should be taken against the person, the period of absence of the petitioner was not regularized and the petitioner was informed accordingly. Learned A.P.O. further argued that the petitioner has satisfactory service for the period from 28/8/2008 to 30/4/2019 for 10 years 6 months and 8 days and rest of the period of the service cannot be considered satisfactory. But the petitioner has not submitted any application for pension for the aforesaid period. The services of the petitioner have not been found satisfactory that is the reason that he has not been sanctioned retiral benefits. Hence the claim petition is liable to be dismissed.

9. Based on the arguments of the parties and perusal of the record, we find that the petitioner remained absent for 6 years 3 months and 13 days on different occasions from 1987 to 2008 and during that period, he was arrested and put under suspension thrice. Even during the other period also, he has been sanctioned extraordinary leave for the unauthorized absence leaving aside the period of 10 years 6 months, which is continuous and satisfactory also. The petitioner cannot be left without paying him pensionary benefits for the period admissible for the pensionary benefits. The respondents, as submitted in the Counter Affidavit as well as argued by learned APO

during the course of argument that the petitioner has not applied for the pensionary benefit for the continuous service of 10 years 6 months and 8 days rendered him. In view of the above, the claim petition is liable to be allowed partly to the extent of granting pensionary benefits to petitioner for satisfactory service of 10 years and 6 months. The petitioner may apply for the same and complete the formalities as required for getting pensionary benefits. Respondents are also directed to grant him the pensionary benefits admissible to him within three months of submission of the certified copy of this judgement.

10. The claim petition is disposed of accordingly. No order as to costs.

(RAJENDRA SINGH)
ACTING CHAIRMAN

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

DATE: SEPTEMBER 02, 2026
DEHRADUN.
KNP