BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL AT DEHRADUN

Present: Hon'ble Mr. Rajendra Singh

………..Acting Chairman

Hon'ble Mr. A.S. Rawat

………..Vice Chairman (A)

CLAIM PETITION NO. 60/DB/2025

Binder Kumar S/o Sh Rajpal Singh, Ex Chief Assistant, Uttarakhand Jal Sansthan, R/o Village- Miragpur, Tehsil- Deoband, Saharanpur.

………………Petitioner

versus

1. State of Uttarakhand through Secretary, Peyjal, Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. The Chief General Manager (Headquarters), Uttarakhand Jal Sansthan, Jal Bhawan, B Block, Nehru Colony, Dehradun.
3. The Superintending Engineer, 58, Rishikesh Road, Bhoopatwala, Haridwar, Uttarakhand-247663.
4. The Executive Engineer, Rural Engineering Service Department, Haridwar Division, Haridwar.

…………….... Respondents

Present: Sri Uttam Singh, Advocate, for the Petitioner
Sri V.P. Devrani, A.P.O., for the Respondent No. 1
Sri Deepak Singh, Advocate, for Respondents No. 2 to 4

Judgement

Dated: 17th September, 2026

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

"(i) To call the records of the respondents.

(ii) To set aside the order dated 15.05.2025 wherein the respondent has ordered to adjust the provident fund held as trustee (Annexure No. 1).

(iii) To direct the respondent to remit the provident fund along with interest @ 8% p.a.

(iv) Any order the Hon'ble Tribunal may deem fit and proper.

(v) Award the cost of the petition of the petitioner."

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

2.1. The petitioner was serving as Chief Assistant. The petitioner was assigned the duty of Collection Clerk at the collection counter, in Laksar Division of the Uttarakhand Jal Sansthan. The petitioner was responsible for ensuring the proper deposit of all the amount collected at his Counter into the official bank account. The respondent themselves assigned the collection of water charges to outsource staff and in respect to rural area, to the field staff. The field staff on collection of the amount from the consumer in rural area, used to issue the receipt in their own hand writing. The field staff on collection of water charges from the Consumer in rural area, directly deposited the amount in the bank account of the Jal Sansthan and pay-in-slip was provided to the petitioner. The field staff never deposited the amount in bank in time. The field staff, out of collected amount, deposited some part in bank account of Jal Sansthan and kept some part with them.

2.2. The petitioner in the monthly return relating to collection of water charges, submitted report to the respondent no. 3 through respondents no. 4 & 5 about less deposit of water charges in bank account, comparing to the receipt issued. There was a clear mismatch of the bill issued, receipt issued and amount deposited in bank. The documents are within the custody of the respondent. The petitioner has also personally informed the then Executive Engineer, Assistant Engineer and Junior Engineer. The then Executive Engineer who was also in promotion zone threatened the petitioner not raise such question as he is in promotion zone of Superintendent Engineer.

2.3. The respondent department on 05.01.2021 suspended the petitioner and attached him with the office of the Executive Engineer, Jal Sansthan, New Tehri, wherein the petitioner regularly attended and marked his presence through thumb impression but no full pay and allowances was paid.

2.4. Later the department to save the responsible officer from Superintendent Engineer to Junior Engineer, shifted the blame/ liability on the petitioner, on the basis of the fake, fabricated affidavit. The respondent vide letter dated 02.05.2023 requested the District Collector, Haridwar to issue a recovery certificate for Rs. 1,64,66,100/- under the Uttar Pradesh Water Supply and Sewerage Act, 1975. Recovery Certificate under this Act can be issued in respect of the Consumers only who has not paid the water charges bill as consumer. The District Collector, Haridwar without application of judicial mind, benevolent of adding 10% collection charges, worked as agent of the department, issued Recovery Certificate and on 06.05.2023 requested to the District Collector, Saharanpur for recovery of a sum of Rs. 1,81,12,710/-.

2.5. The petitioner filed a Claim Petition No. 99/SB/2023 before this Tribunal and the Tribunal on 01.08.2023 was pleased to set aside the recovery certificate issued by the respondent. The Tribunal had given liberty to the respondent to recover the amount by other procedures and process, in accordance with the law. The respondent on 22.10.2024 dismissed the petitioner from the service and in the said order, it was stated that the department has filed appeal against the order dated 01.08.2023 as such the amount held in the GPF would not be released till then.

2.6. It is a great surprise that the petitioner being the employee in the lowest rung has been punished with severe punishment of dismissal from service and further recovery for no fault. The respondent department is continuously trying to save the then

Superintendent Engineer to Junior Engineer and others staff who were responsible for siphoning the water charges.

2.7. The petitioner filed a complaint through registered post to the Secretary (Pey Jal)/ respondent no.1 on 03.12.2024 for complete enquiry in connection with non-depositing of water charge through an independent body or from the Hon'ble District Judge(Retired), but the same is continuously pending before the respondent no. 1 best known to them. The respondent challenged the order dated 01.08.2023 before the Hon'ble High Court of Uttarakhand by way of Writ Petition No. 644(S/B) of 2024 and the same has been dismissed on 12.12.2024.

2.8. Due to non-payment of the GPF and even after dismissal of the appeal by the Hon'ble High Court of Uttarakhand, the petitioner filed a claim petition No. 8/SB/2025 before this Tribunal. The Tribunal on 16.01.2025 disposed of the claim petition with the direction to file representation. The petitioner filed representation on 22.01.2025. Due to pendency of the representation, the petitioner filed execution petition and later Contempt petition No. C-8/SB/2025. The respondent again on 15.05.2025 passed an illegal order which is under challenge. The contempt petition was disposed of on 17.05.2025.

2.9. The respondent No. 2 on 15.05.2025 passed following order: *अतः इसलिए विभाग श्री बिन्दर कुमार (प्रधान सहायक के पद से पदच्युत) पुत्र श्री राजपाल सिंह निवासी मीरपुर तहसील, देवबंद जिला सहारनपुर उत्तर प्रदेश की जनरल प्रावेडउेंट फंड की धनराशि मात्र गबन धनराशि के सापेक्ष समायोजित किया जाये"* While maintaining the provident fund, the respondent department is functioning as trustee and it is the duty of the trustee to remit the amount held with him but the respondent/trustee is committing a criminal breach of trust under section 316 of Bharatiya Nayay Sanhita.

2.10. The Provident Fund is governed by the General Provident Fund Act, 1925. The amount deposited in the provident fund is not a grant/ assistance from the Government/department but a compulsory deduction (under Section 4 of the Act), at the time of payment of salary to the employee to secure retirement. The amount deposited in the PF account of the employee cannot be assigned or charged and not liable for attachment under any decree or order of any civil, revenue or criminal court in respect of any debt or liability incurred by the subscriber or depositor. A similar provision is also made in the Section 10 of the Employees' Provident Funds & Misc. Provisions Act, 1952.

2.11. The respondent is adjusting the compulsory deposit on a colourable exercise of the power. It is the fundamental legal concept that *"what cannot be done directly cannot be done indirectly."* The respondent is trying to achieve the illegal or unconstitutional purposes which they are not permitted by the law.

2.12. The petitioner was dismissed from the service on 22.10.2024 and there is unreasonable delay in payment of General Provident Fund as such the petitioner is entitled for interest @ 8% in accordance with the Uttarakhand Pension Cases (Submission, disposal and Avoidable of Delay) Rules, 2003. The respondent has illegally, deliberately withhold the Provident Fund of the petitioner and deprived the petitioner to live dignified life which is violation of the Article 21 of the Constitution of India.

Hence, the claim petition.

3. The claim petition has been contested on behalf of the respondents. C.A. has been filed by the then Incharge Superintending Engineer, Haridwar, denying the material averments contained in the claim petition. Relevant documents have been filed by the respondents. Counter affidavit has been filed mainly stating that the Petitioner was a permanent employee of answering respondent Department and has been working on the post of Chief Assistant in Laksar Sub Division, District Haridwar and was assigned the duty of Collection Water Charge, Petitioner was responsible for collection of Cost of Water from consumers and deposit the amount so collected from consumers into the concerned Bank account of the Answering respondent Department,

but Petitioner did not deposited the said amount into the Bank account of the Uttarakhand Jal Sansthan and committed fraud with the Answering respondent department. On dated 24.02.2020 Divisional Accountant, Uttarakhand Jal Sansthan Haridwar informed the Executive Engineer, Uttarakhand Jal Sansthan, Haridwar that he had examined the revenue receipt record up to December 2019 and it has been found that an amount of Rs. 1,36,91,722/- has been less deposited in the Bank account of Department.

3.1. The respondent issued a show cause notice to the petitioner on 28.02.2020 wherein it was stated that petitioner was working on the post of Clerk in Laksar and Manglore Unit Jal Sansthan of the Respondent Department and according to the Rules, it was the responsibility of the Unit clerk to tally the amount/water cost received against each receipt issued to the consumers and then to deposit the same in Bank Account of the Respondent Department., Further, it is also the responsibility of the Unit clerk to reconcile the MPR received in the office of Unit with the amount deposited in the Bank Account of Respondent Department,. Therefore, it is clear that an amount of Rs 1,36,91,722/- has not been duly deposited by him. Accordingly, the Petitioner was directed to deposit the said amount by 08.03.2020.

3.2. In pursuance of Show cause Notice dated 28.02.2020, the Petitioner submitted an Affidavit dated 05.03.2020 by saying that he will deposit the said amount and not only this the Petitioner has also admitted on oath that he has received the amount against the receipts issued by him and had not deposited the amount received by him in the bank account of the Answering respondent Department.

3.3. Vide letter dated 16.03.2020 General Manager (Head quarter) gave directions to Superintending Engineer, Uttarakhand Jal Sansthan,Haridwar to enquire into the revenue received by the Department at Laksar Unit for the period September, 2012 to March

2020 against the bills raised for the cost of water. After then the Enquiry Officer concluded the inquiry, and the Petitioner was found guilty of embezzlement of an amount of Rs. 1,72,16,100/- i.e. water cost. Thereafter, the petitioner was put under suspension vide suspension order dated 05.01.2021. The respondent department lodged an FIR under Section 409 IPC against the petitioner in the Police Station, Laksar, Haridwar.

3.4. The petitioner despite filing an affidavit on oath to deposit the amount of Rs. 1,72,16,100/- failed to deposit to complete amount and deposited only Rs. 7,50,000/-. Thereafter, the Respondent Department passed an order dated 02.05.2023 to recover the remaining amount of Rs, 1,81,12710/- through Land Revenue. The order dated 02.05.2023 to recover the embezzled cost of water to the tune of Rs. 1,81,12710/- through Land Recovery was rightly passed. The order dated 02.05.2023 was set aside by this Hon'ble Tribunal vide order dated 01.08.2023 by directing that recovery proceedings for recovery of Rs. 1,81,12,710/- from Petitioners as arrear of Land Revenue, however it was further directed that Respondent Department can recover the said amount by other procedures and processes in accordance with Law. The relevant extract of order are as follows:

> "The claim petition is disposed of, with the consent of Ld. counsel for the parties, by directing Respondent No.2, to decide the representation of the petitioner, by a reasoned and speaking order, as per law, as expeditiously as possible and without unreasonable delay on presentation of certified copy of this order along with representation highlighting his grievance, enclosing the documents in support thereof. No order as to costs."

3.5. Since, the Hon'ble Tribunal had directed the Respondent Department vide order dated 01.08.2023 not to recover the embezzled amount through Land revenue, but is free to recover the said amount by other procedures and processes in accordance with Law. Therefore, the Respondent Department has not forfeited the earned GPF amount of the Petitioner in compliance of Rule 3 (1) of

Employees Provident Fund Act, 1925, whereas the GPF amount of the Petitioner has been merely adjusted from the amount embezzled by the Petitioner and after this adjustment the embezzled amount has reduced automatically. Petitioner who has embezzled Public Money is painting an incorrect picture, as there is no abuse of Power by Respondent Department, as the GPF amount of the Petitioner has not been forfeited, but has been simply adjusted from the amount embezzled and payable by Petitioner.

4. Rejoinder affidavit has been filed by learned Counsel for the petitioner reiterating the facts contained in the claim petition and denying the material averments contained in the counter affidavit. R.A. has been filed mainly stating that petitioner was nowhere responsible for misappropriation of money. The respondent in order to save themselves has shifted the blame on the petitioner. The respondent conducted a departmental enquiry and no opportunity was given for cross examination of the witnesses, no documents was provided. The petitioner has challenged the dismissal order before the Hon'ble High Court in writ petition No. 2129/2024 which is pending. The petitioner submitted that he has filed a detailed complaint on 03.12.2024 before the respondent No.1/Secretary (Peyjal) for detailed enquiry but no enquiry so far has been ordered.

5. We have heard the learned Counsel for the petitioner, learned Counsel for respondent Pey Jal and perused the documents placed before the Tribunal.

6. Learned Counsel for the petitioner argued that the outsourced staff and the field staff collected water charges from the consumers and deposited the amount in the bank of Corporation. They submitted pay in slip to the petitioner. The petitioner submitted the monthly return of the amount shown in the receipts against the bill raised to the consumers to the higher officers. He intimated personally the matter to Executive Engineer and the Assistant Engineer but they did not take any action on this matter of under

collection of water charges by the field staff. The senior officers passed on the blame for shortage of the revenue collection on the petitioner and he was subjected to recovery certificate issued against him by the District Collector, Saharanpur for a sum of Rs. 1,81,12,710/- which was set aside by this Tribunal with the direction to the respondent to recover the amount by other processes in accordance with law. The respondents ordered to adjust the amount of GPF against the embezzlement amount of Rs. 1,72,16,100/- vide order dated 15.05.2025.

7. Learned Counsel for the petitioner further argued that the amount of GPF deposited in the account of the petitioner cannot be adjusted as directed vide impugned order and it is against the provision 3(1) of Provident Fund Act, 1925, which clearly lays down that "compulsory deposit in any Govt. or Railway Provident Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Civil, Revenue or Criminal Court in respect of any debt or liability incurred by subscriber or depositor and neither the official assignee nor any receiver appointed by the Provincial Insolvency Act 1920, shall be entitled to or have claim on any such compulsory deposit." A similar provision is there in the Section 10(1) of Employees' Provident Funds & Misc. Provisions Act, 1952. Learned Counsel for the petitioner has cited the judgement of the Hon'ble Apex Court dated 21.05.1952 in the matter of Union of India vs. Hira Devi and others, in support of his contention in which the Hon'ble Apex Court directed that the receiver cannot be appointed to execute a decree in respect of compulsory deposit in a provident fund due to the judgement debtor. He has also relied upon the judgement of Central Administrative Tribunal, Hyderabad Bench dated 22.03.2021 in O.A. No. 116/2020, in which Section 3(1) of Provident Fund Act, 1925, has been interpreted that GPF is not liable to be attached.

8. In view of the above, the impugned order dated 15.05.2025 is liable to be set aside and petitioner is entitled to the amount

deposited in his provident fund with the interest @ 8% in accordance with Uttarakhand Pension Cases (Submission, disposal and Avoidance of Delay) Rules, 2003.

9. Learned Counsel for the respondent department argued that the petitioner working as a Clerk was responsible for tallying the amount of water cost received against bill issued to the consumer and then deposit in the bank account of the respondent department. It was his responsibility to reconcile the amount received in the office of the unit and the amount deposited in the bank account of the respondent department. It is clear that he has not deposited the amount and he has been directed to deposit the same. Since he has not deposited the said amount by the stipulated date, General Manager (Headquarters) ordered to inquire into the revenue collected by the Laksar Unit of the department from September, 2012 to February, 2020, against the bill raised for cost of water. The petitioner has been found guilty of embezzlement of amount of Rs. 1,72,16,100/- after depositing Rs. 7,50,000/-. The department got an order from the District Collector to get the amount recovered through land recovery but that order has been set aside by this Tribunal with the direction to recover the amount by other procedures as per law. The department has not forfeited the GPF account of the petitioner in contravention of Provident Fund Act, 1925 and Employees' Provident Funds & Misc. Provisions Act, 1952. It has been merely adjusted. So, in view of the above, the claim petition is liable to be dismissed.

10. Learned A.P.O. agrees to the submission made by learned Counsel for the respondent department.

11. Based on the arguments of the parties and the documents presented before the Tribunal, we find that the petitioner has been charged with embezzlement of Rs. 1,81,12,710/- against which the petitioner could deposit Rs. 7,50,000/- only. To recover the rest of the amount from the petitioner, the respondents have ordered to adjust the GPF amount deposited in the account of the petitioner

against embezzled amount vide order dated 15.05.2025. This order has been issued by the respondents in view of the order of this Tribunal dated 01.08.2023 in which the recovery of the amount by the arrear of land revenue was set aside and the recovery by other procedures in accordance with law was ordered.

12. The GPF amount deposited in the account of the petitioner is not a grant or assistance from the Govt. department but a compulsory deposit from the salary of the petitioner to secure his retirement. This amount cannot be assigned or charged and is not liable for any attachment under any order of any Civil, Revenue or Criminal Court in respect of any debt or liability incurred by subscriber or depositor. This is clearly laid down in Section 3(1) of General Provident Fund Act, 1925 as well as Section 10 of Employees' Provident Funds & Misc. Provisions Act, 1952. The respondents cannot recover the amount from the GPF Fund of the petitioner. The impugned order dated 15.05.2025 is liable to be set aside and the petitioner is entitled to get his GPF amount released immediately along with admissible interest as per prevailing GPF interest related order.

ORDER

The impugned order dated 15.05.2025 is set aside and respondents are directed to release the GPF amount to the petitioner with admissible interest as per prevailing GPF rates within three months on presentation of certified copy of the judgement. No order as to costs.

(RAJENDRA SINGH)
ACTING CHAIRMAN

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

DATE: 17TH SEPTEMBER, 2026
DEHRADUN

RS