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. 117/NB/DB/2023

Diwan Singh Karki (Male) aged 69 years, S/o Sri Kushal Singh Karki, R/o Mount Rose Compound Nainital, District Nainital

……..Petitioner

Vs.

1. State of Uttarakhand through Secretary Finance Section 6, Civil Secretariat Dehradun District Dehradun.

2. Director Directorate of Lekha Pariksha (Audit) Office at State Election Commission Office Compound Mussoorie Byepass Ring Road Dehardun. District Dehradun.

3. State of Uttar Pradesh through Chief Audit Officer, Cooperative Societies and Panchayats, Uttar Pradesh, 9th Floor, Indira Bhawan, Lucknow, Uttar Pradesh.

……Respondents

Present: Sri Amarmurti Shukla, Advocate, holding brief of
Sri Kishore Rai, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

JUDGEMNT

DATED: OCTOBER 15, 2026

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

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

> "I. Issue an order or direction for quashing the order dated 03-11-2022, passed by respondent no.2 (contained as Annexure No.1 to this writ petition.)

II. Issue an order or direction by directing the respondent no. 1 to make the petitioner entitle for pay scale with G.P. of 6600 as third ACP w.e.f. 01.01.2012.

III. Issue an order or direction by directing the respondents to re-fix the salary of the petitioner at the pay scale with G.P 6600 w.e.f. 01.01.2012 and grant the arrears of salary and pension shall be refixed in accordance with G.P. 6600 and thus all arrears of salary and pension shall be paid to be petitioner forthwith.

IV. Issue any suitable writ, order or direction, which this Hon'ble court may deem fit and proper on the basis of the facts and circumstances of the case."

2. The brief facts of the case are as under:

2.1 The petitioner was appointed as Auditor in Cooperative Societies and Panchayat on 19-4-1979. Thereafter, on 01.01.1986, the petitioner was posted as Senior Auditor in the pay scale of 1400-40-1600-50-2300-60-2600.

2.2 On 09.11.2000, State of Uttarakhand was created by enactment of U.P. Re-organization Act, 2000, the petitioner opted for Uttarakhand and thus retired from the services on 31-10-2014 as District Audit Officer.

2.3 By the State of Uttar Pradesh through its GO dated 09.10.2012 and 16.11.2012, the post of Senior Auditor Grade- I (G.P. 4600) was merged in the post of Assistant Audit Officer G.P. 4800. Thus, in ACP Grade Pay 4600/- was discontinued to the Senior Auditors. A new GO dated 9.7.2015 was issued wherein first, second and third ACP as G.P. 4800, 5400 and 6600 was sanctioned. Even junior employees to the petitioner are getting Rs.6600/- Grade Pay as 3rd ACP.

2.4 Thereafter, the Chief Audit Officer, Cooperative Societies and Panchayat issued consequential order and granted benefits of G.O. dated 09.07.2015 to similarly situated employees through its order dated 14.08.2015.

2.5 After creation of the State of Uttarakhand, under a policy, the Audit Department of Cooperative Societies and Panchayat was merged with the Audit Department of Finance and Audit Department of Cooperative Societies of Panchayat was discontinued in 2003. As there was a serious pay anomaly as in the State of Uttarakhand thus the respondent no. 2 issued a letter on 04.03.2017 making recommendations to the respondent no. 1 that in the new cadre structure the entry level post is Assistant Audit Officer and after promotion, Audit Officer/Deputy Director/Joint Director/ Additional Director are sanctioned post. As such, the post of Senior Audit Officer, Grade-I was abolished. Thus, as per the State of Uttar Pradesh, such employees shall get first ACP after 14 years of service with G.P. 4800. In Uttarakhand, new Audit Cadre Structure with entry level post of Assistant Audit Officer with Grade Pay Rs.4800/- was sanctioned and thus considering the date 07.04.2016 and as per entry level Grade Pay shall be fixed at 4800 and thus considering entry level Grade Pay of Rs.4800/- persons holding post of Senior Auditor shall be entitled to first second ACP at G.P. 5400, 6600 and 7600.

2.6 The petitioner even after completing 26 years' service, although he remained in services for 36 years and subsequently attained the age of superannuation and retired on 31-10-2014. As such retired with GP 5400 after completing more than 26 years of service. Although in the State of Uttar Pradesh on 16.11.2012 Grade Pay Rs.6600/- was the sanctioned as third ACP. As in case petitioner would not have been allocated to the State of Uttarakhand, in said circumstances would have been entitled for third Grade Pay at the rate of Rs. 6600 w.e.f. 16.11.2012.

2.7 As per Section 74 of the U.P. Re-organization Act, 2000, it has been provided that the condition of service is not to be varied or to be made to the disadvantages without prior approval of Central Government. However, in the present case, the petitioner is put to disadvantageous position by not making him entitled for third ACP at

grade pay of Rs. 6600 after completing 26 years of service and thus on 14-3-2018, the petitioner has preferred a detailed representation with a specific demand that the petitioner is entitled for G.P. of Rs. 6600/- as third ACP after completing 26 years of service, which is undecided.

2.8 In case petitioner would have opted for the State of Uttar Pradesh, then by virtue of order dated 16.11.2012, he would have been entitled for G.P. of Rs. 6600 as third ACP after completing 26 years of satisfactory service. However, in the State of Uttarakhand as there was a pay anomaly, the petitioner was retired in the pay scale with G.P. of Rs. 5400. Although respondent no. 2 has specifically recommended for grant of first, second and third ACP as 5400, 6600 and 7600 to the post of Audit Officer/Senior Auditor/Assistant Audit Officer as they all have been merged and called as Assistant Audit Officer. Even though the recommendation of respondent no. 2 was there, the respondent no. 1 has not taken any decision whether the similarly situated employees as to the State of Uttar Pradesh were entitled for the GP of 6600 as third ACP or not.

2.9 The petitioner moved representations on 8-6-2020 and 07-04-2021 although no decision has been taken till date. Thereafter, he filed Writ Petition bearing WPSS No.137 of 2022 before Hon'ble High Court, which was decided vide order dated 27.08.2022 with the directions for making representation for redressal of grievance. The representation of the petitioner was rejected vide order dated 03-11-2022. The contention as raised in impugned order dated 03-11-2022 are erroneous and have been made with the oblique motive for the reason. The petitioner joined the service as Auditor on 19-04-1979, however under 80:20 Scheme, the petitioner was replaced as Senior Auditor on 01-01-1986 and it was not the promotion as in promotion, the employee gives his joining to the promoted post. However, the same thing has not happened in the case of Auditors and Senior Auditors as it was a replacement of post, which will be clear by the

Office Order dated 31-10-2003, issued by respondent no.2 wherein it has been mentioned that on 01-01-1986, the services of the petitioner were regularized and the first promotional pay scale which requires to be granted after 14 years of service was made applicable from 01-01-2000 and in the said Office Order, the name of the petitioner is mentioned at Serial No.60. Thus the contention of the respondent no.2 that the petitioner was first promoted on 01-01-1986 is patently erroneous and against the fact.

2.11 On 01-07-2013 ACP Scheme was revised and it was held that the 1st, 2nd and 3rd promotional pay scales will be issued to the regular employees after 10, 18 and 26 years of service and that to made dated 01-09-2008 being the cut-off date for looking in 26 years of service.

2.12 The petitioner joined the services as Auditor on 19-04-1979, however under Scheme of 80:20, 80% Auditors in erstwhile State of Uttar Pradesh were replaced as Senior Auditor and same was not termed as promotion, no changes in salary, etc. was there, only a replacement to the said post was made, which can be made clear by the respondent no.3 as respondent no.3 is being made party to the claim petition.

2.13 The respondent no.2 itself issued an Office Order on 31-10-2003 wherein petitioner itself was termed as getting 1st promotional pay scale after 14 years of regular service on 01-01-2000. The petitioner was promoted in rank on 15-11-2007 to the post of Senior Auditor Grade-I, and second promotion was made on 07-02-2008 to the post of Assistant Audit Officer, thus 26 years of services stands completed on 01-01-2012, thus on the said date petitioner was entitled for 3rd ACP as 26 years of services has been completed on the said date and Govt. Order dated 01-07-2013 is very much clear on the subject, thus petitioner is entitled for 3rd promotional pay scale on 01-01-2012.

2.14 By virtue of the impugned order dated 03-11-2022, respondent no.2 mentioned that petitioner was first promoted on 01-01-1986 is incorrect and the petitioner found strength to the fact that on 01-01-1986 petitioner was not promoted to the post of Senior Auditor as by an order of respondent no.3 issued on 29-05-2014, issued in compliance of Allahabad High Court's order, it has been specifically mentioned that on 01-01-1986 Auditors were replaced as Senior Auditors and specific word used was (प्रतिस्थापन), thus respondent no.2 with oblique motive and in arbitrary manner has passed an order on 03-11-2022.

2.15 The respondent no.2 vide letter dated 28-06-2014 promoted 17 Senior Auditors as Assistant Accounts Officer which clearly demonstrate that the promotional post of Senior Auditors is Assistant Accounts Officer and the post of Senior Auditors Grade-I is non-existent in the State of Uttarakhand, where the promotion of Senior Auditor is made directly to the post of Assistant Accounts Officer, thus Senior Auditors are entitled for the pay scale of Assistant Audit Officers as first ACP, thus the impugned order is passed in hasty manner without going to the facts and without looking into the structure as prevalent in the State of Uttarakhand.

2.16 In the service book of the petitioner also nowhere it has been mentioned that petitioner was promoted on 01-01-1986, although it was on the recommendation of Samta Samiti just a replacement to the post of Senior Auditor without any promotional pay benefit under the Scheme of 80:20, thus the contention raised by the respondent no.2 while passing the impugned order are erroneous and non-sustainable, thus the order impugned is illegal and liable to be quashed.

2.17 For the third time, the petitioner was promoted to the post of District Audit Officer on 06-12-2012, thus immediately after completion of 26 years of service on 01-01-2012, petitioner becomes entitles for the 3rd promotional pay scale, thus the order impugned

dated 03-11-2022 as issued by the respondent no.2 is a result of hastiness and non-application of mind and lack of knowledge on the facts as the office of the respondent no.2 has itself issued an Office Order wherein the 1st promotional pay scale was granted to the petitioner after completion of 14 years of service on 01-01-2000 considering the date of regularization, thus order impugned is liable to be quashed.

2.18 Although it is settled position of law that after reorganization, the employees who opted for State of Uttarakhand shall not be put to disadvantageous position, although a discrimination was made by the State of Uttarakhand by not allowing third ACP at GP of Rs. 6600, although the petitioner is entitled for GP of 6600 after completing satisfactory services of 26 years, the said date in case of the petitioner is 01-01-2012, thus from the said date, the petitioner is entitled for 3rd promotional pay scale with Grade Pay Rs.6600/-.

2.19 An erroneous decision has been taken by the respondent no.2 on the representation of the petitioner, as by mentioning wrong facts and stating that before 01-09-2008 petitioner was granted three promotions, thus the benefit of ACP cannot be enlarged upon the petitioner. The said fact has been stated without looking into the record or without verifying the facts that petitioner has received 3rd promotion on 07-02-2008 as Assistant Account Officer, thus cannot be granted 3rd promotional pay scale as prevailing through Govt. Orders and thus, petitioner is entitled to GP of 6600 as for third ACP w.e.f. 01.01.2012, as similarly situated employees in Uttar Pradesh have been made entitled to and 3rd ACP has been granted to those employees by respondent no.3, who have joined services along with the petitioner.

2.20 Thus, the petitioner is entitled for third ACP at the rate of 6600 as GP w.e.f. 01.01.2012 and thus the arrears of salary and pension shall be re-fixed as per GP 6600 for which the petitioner is entitled to as employees at par in the State of Uttar Pradesh were

made entitled by Government Order itself. Thus, the present writ petition deserves to be allowed.

3. C.A./W.S. has also been filed on behalf of the respondents No. 1 & 2 mainly stating therein that-

3.1 याची की नियुक्ति अप्रैल 1979 में पूर्ववर्ती राज्य उत्तर प्रदेश मे लेखा परीक्षक के पद पर हुयी थी। यह पद छठवे वेतनमान के अनुसार 2800 ग्रेड वेतन के समतुल्य था। याची को प्रथम पदोन्नति जनवरी 1986 में वरिष्ठ लेखा परीक्षक के पद पर ग्रेड पे रु0 4200– पर की गई। इसके पश्चात याची को द्वितीय प्रोन्नति वरिष्ठ लेखा परीक्षक ग्रेड–1 वेतन–4600 पर की गई। यह पद कालान्तर में सहायक लेखा परीक्षा अधिकारी पद नाम में परिवर्तित करते हुये 4800/– ग्रेड वेतन में उच्चीकृत कर दिया गया। याची को तृतीय पदोन्नति जिला लेखा परीक्षा अधिकारी के पद पर ग्रेड वेतन–5400 पर दिसम्बर 2012 में की गई। इस प्रकार याची को तीन पदोन्नतियां अलग अलग ग्रेड वेतन में प्राप्त हो गई थी। याची अक्टूबर 2014 में सेवानिवृत्त हो गया था। याची द्वारा तृतीय ए०सी०पी० के रूप में रु0 6600/– ग्रेड वेतन की मांग की गई है। याची की इस मांग का आधार पूर्ववर्ती राज्य उत्तर प्रदेश में जुलाई 2015 की तिथि से निर्गत शासनादेश है। याची द्वारा उपलब्ध कराये गये अभिलेखों के अनुसार पूर्ववर्ती राज्य उत्तर प्रदेश में जुलाई 2015 की तिथि में निर्गत शासनादेश के माध्यम से याची के सवंर्ग के कार्मिकों को तृतीय वित्तीय स्तरोन्नयन के रूप में रु0 6600/– ग्रेड वेतन दिये जाने का उल्लेख हैं किन्तु उक्त शासनादेश न ही उत्तराखण्ड राज्य को संदर्भित है और यह शासनादेश राज्य पुर्नगठन के पश्चात निर्गत होने के कारण उत्तराखण्ड राज्य में मान्य नहीं है।

3.2 याचिकाकर्ता का यह कथन सही है कि सीनियर ऑडिटर ग्रेड–1 का पद पे बैण्ड–02 में ग्रेड पे 4600 का था जिसे उत्तराखण्ड राज्य में भी ग्रेड पे 4800 को पद सहायक लेखा परीक्षा अधिकारी (असिस्टेंट ऑडिट आफिसर) पर उच्चीकृत कर दिया गया था। इस तरह सीनियर ऑडिटर–ग्रेड पे 4200 से प्रोन्नति का अगला पद असिस्टेंट आडिट आफिसर–ग्रेड पे 4800 हो गया था। पूर्ववर्ती राज्य उत्तर प्रदेश द्वारा 09 जुलाई, 2015 की तिथि में निर्गत जिस शासनादेश का उल्लेख याचिकाकर्ता द्वारा किया गया है, वह उत्तराखण्ड राज्य में स्वतः प्रभावी नहीं है। वर्तमान तक ऐसा कोई शासनादेश उत्तराखण्ड राज्य द्वारा निर्गत नहीं किया गया है।

3.3 यह सही है कि उत्तराखण्ड राज्य में 07 अप्रैल, 2016 की तिथि में निर्गत ढांचे में लेखा परीक्षा संवर्ग में एंट्री लेवल पद सहायक लेखा परीक्षा अधिकारी (असिस्टंट ऑडिट आफिसर) का पद था जो ग्रेड पे 4800 का था। किन्तु इस पद की न्यूनतम अहर्ता सी०ए०/कॉस्ट अकाउंटेंट/ एम०बी०ए० फाइनेंस/एम०कॉम० थी, किन्तु इससे पूर्व की व्यवस्था में लेखा परीक्षा संवर्ग में एंट्री लेवल पद लेखा परीक्षक (ऑडिटर) किन्तु इसकी न्यूनतम अहर्ता बी०कॉम (B-Com) थी। अतः बी०कॉम० की अहर्ता वाले पद पर चयनित लेखा परीक्षक ग्रेड पे 2800 को इसी पद पर चयन की तिथि से एम० कॉम० की अहर्ता वाले पद असिस्टंट ऑडिट ऑफिसर ग्रेड पे 4800 पर नियुक्त नहीं माना जा सकता है। इस तरह 07 अप्रैल, 2016 की तिथि में निर्गत ढाचे में लेखा परीक्षा संवर्ग में हुए अत्यंत अल्पकाल के लिए हुए परिवर्तन के आधार पर प्रथम ए०सी०पी०, द्वितीय ए०सी०पी० व तृतीय ए०सी०पी० के रूप में ग्रेड पे क्रमशः 5400, 6600, 7600 की संस्तुति/मांग का आधार भी तर्क संगत नहीं रह जाता है। इसके अतिरिक्त यह भी कहना है कि दिनाँक 07 अप्रैल, 2016 से पूर्व ही 31 अक्टूबर 2014 में याचिकाकर्ता श्री दीवान सिंह कार्की सेवानिवृत्त हो गये थे। अतः उनकी सेवानिवृत्ति के बाद की तिथि 07 अप्रैल, 2016 से हुये ढांचे में परिवर्तन से याचिकाकर्ता की सेवा शर्ते पूर्वगामी रूप से आच्छादित नहीं होती हैं। याचिकाकर्ता द्वारा उत्तराखण्ड राज्य में सेवा का विकल्प स्वेच्छा से दिया गया था। राज्य पुनर्गठन की तिथि 08 नवम्बर, 2000 के बाद, पूर्ववर्ती राज्य उत्तर प्रदेश द्वारा निर्गत शासनादेशा उत्तराखण्ड राज्य के कार्मिकों पर स्वतः लागू नहीं होते।

3.5 उत्तर प्रदेश राज्य पुनगर्ठन अधिनियम–2000 की धारा 74 में दी गयी व्यवस्था की मूल भावना/आशय यह है कि राज्य पुनगर्ठन के उपरान्त किसी कार्मिक की सेवा शर्तों में कोई ऐसा बदलाव नहीं किया जाना था जिसके कारण राज्य पुनर्गठन की तिथि 08 नवम्बर, 2000 या उससे पूर्व विद्यमानसेवा शर्तों के परिप्रेक्ष्य में राज्य पुनगर्ठन के कारण, कार्मिक का कोई अहित होता। पूर्ववर्ती राज्य उत्तर प्रदेश द्वारा 09 जुलाई, 2015 की तिथि में निर्गत जिस शासनादेश के आधार पर याचिकाकर्ता द्वारा तृतीय ए०सी०पी० के रूप में 6600 ग्रेड पे की मांग की गई है, यह शासनादेश, राज्य पुर्नगठन के बाद की तिथि 08 नवम्बर, 2000 के पश्चात 09 जुलाई 2015 की तिथि में निर्गत हुआ है। अतः उत्तर प्रदेश राज्य द्वारा निर्गत उक्त शासनादेश, राज्य पुनगर्ठन अधिनियम–2000 की धारा 74 से आच्छादित नहीं होता है।

3.6 उपनिदेशक लेखा परीक्षा द्वारा दिनाँक 20 सितम्बर, 2021 की तिथि में निर्गत पत्र के माध्यम से याचिकाकर्ता को शासन के समुचित निर्णय की जानकारी से संसूचित कर दिया गया था। उत्तराखण्ड. शासन, वित्त अनुभाग–7 के शासनादेश सं० 872/XXVII (7)/ न०प्रति०/2011 दिनांक 08.03.20011 एवं शासनादेश सं० 589/ xxvii (7)/40/(ix) 2011 दिनांक 01 जुलाई, 2013 के प्रावधानों के आलोक में वादी के प्रतिवेदन का निस्तारण कार्यालय ज्ञाप सं० 8991/2022 दिनांक 03.11.2022 द्वारा किया गया। वादी द्वारा स्वयं स्वीकार किया गया है कि ज्येष्ठ लेखा परीक्षक पद पर प्रतिस्थापित किया गया है। उल्लेखनीय है कि लेखा परीक्षक पद का वेतनमान–1200–30–1560–EB–40–2040 (चतुर्थ वेतनमान) था। जबकि वरिष्ठ लेखा परीक्षक का वेतमान–1400–40–1600–50–2300–EB–60–2600 (चतुर्थ वेतनमान) था। दिनांक 01. 01.1986 से याचिकाकर्ता को वरिष्ठ लेखा परीक्षक का वेतनमान अनुमन्य किया गया। कार्यालय ज्ञाप संख्या 1526/एक–3(4)/नि0को०वि० से० / 2003 दिनांक 31 अक्टूबर, 2003 के द्वारा समयमान वेतनमान पूर्व व्यवस्था के अन्तर्गत तत्समय स्थापित नियमों / शासनादेशों प्रावधानों के अन्तर्गत (वैधिक वेतनमान) अनुमन्य कराया गया।

3.7 उत्तराखण्ड राज्य के गठन दिनांक 09.11.2000 के पश्चात् उत्तर प्रदेश राज्य द्वारा निर्गत शासनादेश उत्तराखण्ड में लागू नहीं होते हैं। इसीलिए उत्तर प्रदेश राज्य के शासनादेश सं0 2108, दिनांक 19.10.2012 एवं आदेश सं0 2790, दिनांक 16.11.2012 के द्वारा प्रश्नगत कार्मिकों का प्रकरण आच्छादित नहीं होता है। विभाग में सहायक लेखा परीक्षा अधिकारी का पद नही है। तदापी सहायक लेखा परीक्षा अधिकारी का पद उपलब्ध है। कथन मान्य नहीं है। सन्दर्भित आदेश संख्या–360ध दिनाँक 28.06.2014 के प्रथम प्रस्तर में ज्येष्ठ लेखा परीक्षक ग्रेड–1 एवं ज्येष्ठ लेखा परीक्षक ग्रेड–1 वरिष्ठ वेतनमान परिवर्तित पद–सहायक लेखा परीक्षा अधिकारी का उल्लेख किया गया है। तथा उक्त आदेश द्वारा तत्समय लागू सेवानियमावली के प्रावाधान अनुसार सहायक लेखा परीक्षा अधिकारी पद पर पदोन्नति की गयी है।

3.8 वादी को 01.01.1986 को ज्येष्ठ लेखा परीक्षक पद पर प्रथम, दिनांक 15.11.2007 को ज्येष्ठ लेखा परीक्षक ग्रेड–1, पद पर द्वितीय एवं दिनांक 07.02.2008 को सहायक लेखा परीक्षा अधिकारी पद पर तृतीय तथा दिनांक 06.12.2012 को जिला लेखा परीक्षा अधिकारी के पद पर चतुर्थ पदोन्नति प्रदान की गयी। अतः कथन मान्य नहीं है। उत्तराखण्ड राज्य में

लागू शासनादेश के अनुसार उत्तरप्रदेश राज्य में कार्यरत कार्मिकों की भाती तृतीय ए०सी०पी० के रुप में ग्रेड वेतन–6600 की अनुमन्यता नहीं बनती है। याचिका असत्य एवं भ्रामक तथ्यों पर आधारित है, जिस कारण उक्त याचिका खारिज होने योग्य है।

4. Learned A.P.O. has filed C.A/W.S. on behalf of respondent no.3 separately, mainly stating that under ACP scheme, the Grade Pay of Rs.4600 for Senior Account Auditor has been discontinued is not admitted being incorrect. The government order no. 1385/Dus-2015-322(29)/13 dated 09-07-2015 is not related to A.C.P. Scheme. It is further stated that the Account Auditor employees who were getting benefit of Third A.C.P. as grade pay of Rs.5400/- were granted the benefit of Grade pay of Rs. 6600 in place of Rs.5400/- w.e.f. 16-11-2012 from when the government order is issued in pursuance to the government order no. 1385/Dus-2015-322(29)/13 dated 09-07-2015. Meaning thereby the benefit of the Grade Pay of Rs.6600 has allowed the employees w.e.f. 16-11-2012. It is further stated that under 80:20 scheme w.e.f. 01-01-1986 the account auditors who completed 14 years' service were granted first promotional pay scale on 01-01-2000. That at that time the pay scale of Account Auditor and Senior Account Auditor was Rs.1200-30-1560 Da-Ro-40-2040 and Rs.1400-40-1600-50-2300 Da-Ro-60-2600 respectively and the claim petition is liable to be dismissed.

5. No R.A. has been filed on behalf of petitioner.

6. Heard learned Counsel for the parties and perused the record carefully.

7. Learned Counsel for the petitioner has argued that the petitioner has been granted 3rd promotion in the grade pay of 5400/- whereas, the Govt. of U.P. vide order dated 09.10.2012 and 16.11.2012, merged the grade pay of Rs. 4600/- i.e. Senior Auditor with Assistant Audit Officer (Grade Pay of Rs. 4800) and a new G.O. has been issued in 2015 in which, 1st, 2nd, and 3rd ACPs have been sanctioned as Grade

Pay of Rs. 4800/-. Had the petitioner been employee of the Uttar Pradesh, he would have got Grade Pay of Rs. 6600/-. The petitioner deserves to be granted Grade Pay of Rs. 6600/- with change of the designation as per the order of the Govt. of U.P. under the provisions of U.P. Re-organization Act, 2000. The contention of the respondents that he was first promoted as Senior Auditor on 01.01.1986 is erroneous as it was a replacement of pay scale under 80:20 scheme, is against the content of letter which says that services of the petitioner were regularized and the first promoted scale was granted from 01.01.2000. The petitioner got first promoted scale on 15.11.2007 to the post of Senior Auditor and the second promotion as the Assistant Auditor on 01.01.2012. So, he is entitled to 3rd promotional pay scale in the Grade Pay of Rs. 6600 on 01.01.2012 after completing 26 years of the service. In view of the facts mentioned above, the claim petition is liable to be allowed and the impugned orders dated 03.11.2022 is liable to be quashed.

8. Learned A.P.O. has argued that the petitioner was appointed in the pay scale equivalent to the Grade pay of Rs. 2800/- in April 1979. He got first promotion as Senior Auditor in 1986 in the Grade Pay of Rs. 4200/- The Grade Pay was upgraded to Rs. 4800/- and designation of the petitioner was changed to Assistant Audit Officer. The petitioner was given 3rd promotion on the post of District Audit Officer in the grade pay of Rs. 5400/- in December 2012 and he retired in October 2014. The G.O. of the Govt. of U.P. of July 2015 is not applicable in the Govt. of Uttarakhand after Reorganization of the State. Moreover, this order has not been adopted by the Govt. of Uttarakhand. The Govt. of Uttarakhand revised the structure of the audit cadre in 2019 but changed the designation as well as eligibility criteria, for which the petitioner was not eligible and moreover, the petitioner has retired in October 2014 before the new cadre structure came into existence. The new cadre structure is applicable with prospective effect. The Govt. of U.P. issued the order after the re-organization of the State i.e. 09.11.2000 and that is not applicable to

the employees of the Uttarakhand. In view of the above, the claim petition is liable to be dismissed.

9. Based on the arguments of the parties and the documents submitted to the Tribunal, it is found that the petitioner has requested for grant of 3rd ACP in the Grade Pay of Rs. 6600/- based on the orders of the Govt. of Uttar Pradesh issued on 09.10.2012 and 16.11.2012, which are not applicable to the employee of the Govt. of Uttarakhand. It is also clear that the petitioner has been given three promotions during his service period and he is not entitled to upgradation under ACP. The revised structure of Audit cadre was carried out in 2019 whereas, the petitioner has retired in 2014 before the revised structure came into existence. Hence, the petitioner is not entitled to get any relief and the claim petition is liable to be dismissed.

ORDER

The claim petition is hereby dismissed. No order as to costs.

(RAJENDRA SINGH)
ACTING CHAIRMAN

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

DATED: OCTOBER 15, 2026
DEHRADUN
KNP