

**STATE PUBLIC SERVICES TRIBUNAL, INDIRA BHAWAN
LUCKNOW**

COURT NO. 6

CLAIM PETITION NO. 1578/2022

HARENDRA KUMAR, aged about 65 years, Son of Shri Nand Ji Prasad, resident of Niche Market Badani Nagar, Post Ram Garh, District Ram Garh (Uttarakhand) Pin- 829105

Petitioner

Versus

- 1- Chairman-cum-Managing Director, U.P. Rajya Vidyut Utpadan Nigam Ltd. Shakti Bhawan, 14 Ashok Marg, Lucknow.
- 2- Director Human Resource & Development U,P Rajya Vidyut Utpadan Nigam Ltd. Shakti Bhawan, 14 Ashok Marg,Lucknow.
- 3- Chief Engineer Human Resource & Development, U.P. Rajya Vidyut Utpadan Nigam Ltd,Shakti Bhawan, 14 Ashok Marg Lucknow.
- 4- Principal Secretary Department of Energy U.P. Government Civil Secretariat, Lucknow.
- 5- Chairman-cum-Managing Director, U.P. Power Corporation Ltd. Shakti Bhawan, 14 Ashok Marg, Lucknow.

Opposite parties

Shri Ved Prakash Yadav, Counsel for petitioner

Presenting Officer on behalf of the O.Ps

JUDGMENT

(Delivered by Hon'ble Dr. Anil Kumar Singh, Member (Admn))

The instant claim petition filed under Section 4 of the U.P. State Public Services Tribunal Act 1976 seeking following reliefs;

i- To quash/set-aside impugned order dated 25-01-2022 for denial of three time pay scale (i.e. 12-12-1987, 12-12-1992 and 12-12-1997) to the petitioner contained in Annexure No. 1 to this claim petition in the interest of justice.

ii- To direct the O.Ps to provide three time pay scale (i.e. 12-12-1987, 12-12-1992 and 12-12-1997) and to provide the payment arising out from three time pay scale during the service period of the

petitioner as pension arrears and other retiral dues in the interest of justice.

iii- To pass any other order or direction which may be found them fit and proper under the circumstances of the case.

2- The case of the petitioner in brief are that petitioner, a Junior Engineer was placed under suspension vide order dated 22-05-1982 and departmental proceeding was instituted against him. It is asserted that petitioner was served with a show cause notice dated 03-12-1983 directing him to submit his reply within 15 days from the date of receipt of show cause notice. It is asserted that petitioner had submitted his reply on 03-12-1983 and thereafter reminder/representation on 06-01-1984 but with no result. The petitioner was reinstated in service on 3-12-1983 and fed up with the department, he resigned on 01-06-1984 but his resignation was not accepted. The period for 01-06-1984 to 27-07-1984 treated as extraordinary leave and he had taken over charge on 31-05-1984. The petitioner had given a representation for the payment of all dues since 2-5-1984 to 30-05-1984 for payment of all dues through proper channel and the same were sanctioned 57 days leave as extraordinary on the principle of no work no pay and the continuity of service was allowed to the petitioner. It is contended that in the year 2000, the Uttar Pradesh Electricity Board was trifurcation in three division, U.P. Power Corporation Ltd, Uttar Pradesh and Uttar Pradesh Jal Vidyut Nigam Ltd in which the U.P. Power Corporation Ltd. is a controlling authority. The petitioner was transferred of U.P.S.E.B. under the U.P. Electricity Reforms Transfer Scheme 2000 in UPRVUNL in the year 2007 on the post of Junior Engineer (Civil) with effect from to UPPCL as controlling authority. The pay of the petitioner was revised on dated 31-05-2001 and fixed as Rs. 7000/- on 01-04-2001 which is against the law. It is asserted that the other similarly situated persons had been given revised pay scale vide office memo dated 23-04-1999 but the O.Ps have not given three time scale to the petitioner in the year 1991. The petitioner had retired on 30-09-2015 from the post of Executive Engineer (Civil) after completion of more than 38 years of the satisfactory service . Being aggrieved the petitioner has filed a writ petition no. 17717/(S/S) of 2021 Harendra Kumar Vs State of

U.P. & Ors to provide three time scale and to provide the payment arising out from the said scale in which the Hon'ble High Court has directed petitioner to file representation afresh and O.ps were also given direction to decide the said representation with reasoned and speaking order within three months. In compliance of the order passed by the Hon'ble High Court on 23-09-2021, the petitioner has filed representation on 11-10-2021 which has been decided by the O.Ps vide impugned order dated 25-01-2022 denying the three time scales. Hence the present claim petition.

3- Of the petition, the O.Ps were apprised of. By them CA/Ws has been filed and thereby the contention of the petitioner has been refuted and asserted that the petitioner had submitted his resignation on dated 01-05-1984 and without proper acceptance of resignation, he had been absent for the period of 10 years unauthorizedly. The petitioner had been granted the earned leave for 57 days w.e.f dated 01-06-1984 to 27-07-1984 as an extra ordinary leave i.e. leave without pay with continuity of service on the basis of principle of No work no pay vide order dated 04-06-1997. It is stated that petitioner was placed under suspension vide order dated 22-05-1982 on account of irregularities committed by him during his tenure w.e.f. 08-08-1980 to 22-05-1982 and he was punished vide order dated 03-12-1983. It is contended that the hon'ble High Court has dismissed the writ petition only on the ground of alternative remedy before this Tribunal which was not exhausted by him. It is very pertinent to indicate here that the Hon'ble High Court has not condoned the delay in filing the present claim petition and hence the present claim petition filed by the petitioner is highly time barred. Further the petitioner has not arrayed the State of U.P. and U.P. Rajya Vidyut Utpadan Nigam Ltd. as party which are necessary for proper adjudication of this claim petition. Therefore the present claim petition lack merit and liable to be dismissed.

4- Petitioner has filed rejoinder affidavit reiterating his averments what he has already made in the claim petition.

5- I have carefully heard the submission of both the learned counsels at length and have perused the entire record.

6- In the instant case, admittedly the petitioner had given a representation for the payment of all dues since 2-5-1984 to 30-05-1984 for payment of all dues through proper channel and the same were sanctioned 57 days leave as extraordinary on the principle of no work no pay and the continuity of service was allowed to the petitioner. The petitioner was transferred of U.P.S.E.B. under the U.P. Electricity Reforms Transfer Scheme 2000 in UPRVUNL in the year 2007 on the post of Junior Engineer (Civil) with effect from to UPPCL as controlling authority. The pay of the petitioner was revised on dated 31-05-2001 and fixed as Rs. 7000/- on 01-04-2001 which is against the law. It is asserted that the other similarly situated persons had been given revised pay scale vide office memo dated 23-04-1999 but the O.Ps have not given three time scale to the petitioner in the year 1991. The petitioner had retired on 30-09-2015 from the post of Executive Engineer (Civil) after completion of more than 38 years of the satisfactory service .

7- Being aggrieved the petitioner has filed a writ petition no. 17717/(S/S) of 2021 Harendra Kumar Vs State of U.P. & Ors to provide three time scale and to provide the payment arising out from the said scale in which the Hon'ble High Court has directed petitioner to file representation afresh and O.ps were also given direction to decide the said representation with reasoned and speaking order within three months. In compliance of the order passed by the Hon'ble High Court on 23-09-2021 which is reproduced below;-

“ Since the prayer of the petitioner is relating to make payment of time scale and as per learned counsel for the petitioner no decision has been taken by the competent authority well in time despite the petitioner approached the authorities concerned therefore without entering into the merits of the issue I dispose of the writ petition finally directing the O.ps no. 3 to consider the explanation of the petitioner given before this Court vide supplementary affidavit dated 26-08-2021 explaining the delay and laches and if the considering authority finds that the petitioner had approached the competent authority well in time and due to compelling circumstances the issue could not be decided finally then any appropriate, speaking and reasoned order strictly in accordance with law may be passed within three months from the date of production of certified copy of the order of this Court and such order may be communicated to the petitioner. “

In compliance of the aforesaid order dated 23-09-2021, the O.Ps have decided the representation of the petitioner vide order dated 25-01-2022 denying the relief sought by the petitioner by his representation dated 11-10-2021.

8- I have perused the impugned order dated 25-01-2022 and find that issues raised by the petitioner in his representation have not been taken into consideration by the disciplinary authority. The disciplinary authority has rejected the representation of the petitioner without explaining the reason and even a whisper has not been made by the disciplinary authority on the issues raised by the petitioner in his representation. The representation has been decided by the O.ps in a very casual and cursory manner. Thus the order impugned does not come within in the category of reasoned and speaking order therefore the same is not sustainable in the eyes of law.

In the light of above facts and circumstances discussed above, I am of the view that impugned order being not sustainable in the eyes of law is liable to be quashed.

ORDER

The claim petition is allowed. The impugned order dated 25-01-2022 is quashed. The petitioner is directed to file a fresh representation on the issue in question and O.Ps are hereby directed to decide the representation of the petitioner in the light of observation made in the body of judgment. The representation if any, shall be decided within a period of 03 months from the date of receipt of representation moved by the petitioner with a speaking and reasoned order considering the all the points therein. There is no order as to costs.

Sd/-

(Dr. Anil Kumar Singh)
Member (Admn)

Judgement signed, dated and pronounced today in the open Court.

Sd/-

(Dr. Anil Kumar Singh)
Member (Admn)

Dated: 19th August 2026
M. Husain/Ps