



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE MR. G. NARENDAR

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

Writ Petition (S/B) No. 433 of 2025

15th October, 2025

Suresh -----Petitioner

Versus

State of Uttarakhand and others -----Respondents

With

Writ Petition (S/B) No. 434 of 2025

Surendra Kumar -----Petitioner

Versus

State of Uttarakhand and others -----Respondents

With

Writ Petition (S/B) No. 435 of 2025

Hukum Singh -----Petitioner

Versus

State of Uttarakhand and others -----Respondents

And

Writ Petition (S/B) No. 436 of 2025

Vijendra Kumar -----Petitioner

Versus

State of Uttarakhand and others -----Respondents

Presence:-

Mr. Pankaj Migalni, learned counsel for the petitioners.

Mr. J. S. Bisht, learned Standing Counsel for the



respondents/State.

JUDGMENT : (per Mr. SUBHASH UPADHYAY, J.)

Since common question of facts and law are involved in these writ petitions, as such, the same are being decided by a common order.

2. The facts of Writ Petition No. 433 (S/B) of 2025 are taken into consideration:

The petitioner has filed the Writ Petition praying for the following reliefs:

“(i) To summon the complete record pertaining to the case.

(ii) To issue the writ, order or direction in the nature of certiorari quashing the impugned order dated 11.09.2025 (annexure-3 to the writ petition) whereby the amendment application filed by the petitioner was rejected by learned Uttarakhand Public Service Tribunal and consequently allowing the amendment application for the petitioner.”

3. All the petitioners except the petitioner in Writ Petition No. 436 (S/S) of 2025, Vijendra Kumar are the retired employees and Mr. Vijendra Kumar is also at the verge of retirement. The petitioners had filed a Claim Petition before the learned Public Service Tribunal with the relief that the respondent-authorities be directed to add the service rendered by them on



temporary basis to their regular service for the purpose of calculating the qualifying service of pension.

4. Learned counsel for the petitioners submits that initially they were engaged as daily wager and their services were terminated and the said action was challenged by raising industrial dispute. The Labour Court passed an award in favour of the petitioners and the Writ Petition filed against the said Award was dismissed. The petitioners were reinstated and their services were regularized. The petitioners filed a representation for adding the past services rendered by them on temporary basis to the qualifying service so that the benefit of pension be given to them. When no response was taken on the representation then they filed a Claim Petition claiming the following reliefs:

- (i) *To issue a direction directing respondent-authorities to add his entire temporary services in his regular service for the purpose of calculating qualifying service for the purpose of his pension and,*
- (ii) *To issue any other suitable order or direction as this Hon'ble Tribunal may deem fit & proper under the facts & circumstances of the case.*

5. Learned counsel for the petitioners submits that during pendency of the Claim Petition, the



petitioners filed an Amendment Application. The contents of the said Amendment Application reads as hereunder:

“2. That due to inadvertence & typographical mistake, prayer no. 1 was incomplete. The words “under Old Pension Scheme & other pensionary benefits” are proposed to be added after the words “Pension” & just before the words “and” occurring in the last of prayer no.1.

3. That in paragraph no. 4 after sub-para 14, par15 is proposed to be added as follows:

“15. That in case the temporary service of the petitioner are added to his regular service & he is considered under old pension scheme, the money received by him under new pension scheme be directed to be adjusted against his dues.”

4. That in view of the facts and circumstances as mentioned hereinabove it is imperative in the interest of justice that the proposed amendments mentioned in paragraph nos. 2 & 3 above may kindly be permitted to be carried out.”

6. Learned counsel for the petitioner submits that the proposed amendment in no manner changes the nature of the claim and in case the prayer made before the Tribunal is allowed then they would become entitled for the pension under the Old Pension Scheme. Thus, the amendment sought to be incorporated in the prayer clause and in the pleadings was clarificatory in nature and learned Public Service Tribunal erred in



rejecting the Amendment Application. Moreover, no reasons were assigned as to why the Amendment Application was liable to be rejected and on the oral objection raised by the respondents, the said Amendment Application was rejected.

7. *Per contra*, learned counsel for the respondents contends that the Amendment Application was rightly rejected as the entire nature of the Claim Petition was changed as the petitioners were seeking the benefit of the Old Pension Scheme instead of New Pension Scheme, which was altogether a different cause of action.

8. Having heard learned counsel for the parties and on perusal of the record, we are of the considered view that the prayer made by the petitioners in the Claim Petition was to add the services rendered by them on temporary basis to their regular service for the purpose of counting the same for pension and the contention of the petitioners that on the basis of such reliefs they would become entitled for the benefit of Old Pension Scheme was the matter, which was to be adjudicated finally. The petitioners, who are retired employees except the petitioner Shri Virender Kumar,



2025:UHC:9281-DB

who is also on the verge of retirement cannot be fasten with the liability of pursuing legal remedy for the same and ancillary reliefs and cannot be dragged in multiple litigations.

9. In view of the above, the Writ Petitions are partly allowed. The impugned order passed by the learned Public Service Tribunal is set aside. The Public Service Tribunal is directed to consider the application filed by the petitioners seeking amendment of the Claim Petition, in accordance with law.

(G. NARENDAR, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 15.10.2025
Kaushal