



2026:UHC:135-DB

*Reserved on 22.12.2025
Delivered on 05.01.2026*

**IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL**

Writ Petition (S/B) No.69 of 2020

Udal Singh Sanger

.....Petitioner

Versus

State of Uttarakhand and Another

.....Respondents

Presence:-

Mr. M.C. Pant, learned counsel (through Video Conferencing) and Ms. Annupriya Kukreti, learned counsel for the petitioner.

Mr. K.N. Joshi, learned Deputy A.G. for the State.

**Coram: Hon'ble Ravindra Maithani, J.
 Hon'ble Alok Mahra, J. (Per)**

By means of the present writ petition under Article 226 of the Constitution of India, the petitioner seeks issuance of a writ in the nature of certiorari for quashing the judgment and order dated 12.12.2019 passed by the learned Public Services Tribunal, Uttarakhand, in Claim Petition No. 49/DB/2019 (Udal Singh Sanger v. State of Uttarakhand and another), as well as the consequential order dated 06.02.2019, whereby the benefit of third Assured Career Progression (ACP) earlier granted to the petitioner was cancelled. A further prayer has been made to allow the claim petition in toto.

2. Brief facts of the case, as per record, are that the petitioner was initially appointed as Junior Engineer on 26.10.1972 and was subsequently promoted to the post of Assistant Engineer in June, 2000; that, The petitioner attained the age of superannuation and retired from service on 31.01.2008 from the office of Executive Engineer, N.H.



Division, P.W.D., Roorkee; that, at the time of his retirement, the petitioner was drawing Grade Pay of ₹6600/-; that, the State Government issued Government Order dated 08.03.2011, introducing the Assured Career Progression (ACP) Scheme, with retrospective effect from 01.01.2006 / 01.09.2008, depending upon the grade pay held by an employee; that, under para 2(i) of the said Government Order, provision was made for grant of three financial up-gradations on completion of 10, 18 and 26 years of continuous satisfactory service from the date of direct recruitment; that, pursuant to the said Government Order, a Screening Committee was constituted and, on its recommendation, vide office order dated 20.10.2011, the petitioner was granted the benefit of third ACP w.e.f. 01.09.2008. Subsequently, on representation made by the petitioner claiming entitlement to third ACP from 01.01.2006, the department re-examined the matter and vide order dated 06.02.2019, cancelled the ACP benefit altogether, on the ground that the petitioner had already retired on 31.01.2008, i.e., prior to the cut-off date of applicability of the ACP Scheme. Aggrieved, the petitioner approached the Public Services Tribunal, which, after exchange of pleadings, dismissed the claim petition vide judgment dated 12.12.2019. Hence, this petition.

3. Learned counsel for the petitioner contended that learned Tribunal failed to appreciate that once the benefit of ACP had been granted and pension fixed accordingly, the same could not have been withdrawn retrospectively; that, the cancellation order dated 06.02.2019 was passed without affording any opportunity of hearing, thereby violating the principles of natural justice; that, the ACP benefit constitutes a vested right and property under Article 300-A of the Constitution and cannot be taken away without due process of law. He would further submit that



the subsequent Government Order dated 30.10.2012, amending the ACP Scheme, specifically provided that benefits already granted under the G.O. dated 08.03.2011 shall not be reopened. The Tribunal ignored binding precedent of the Hon'ble Supreme Court in Union of India v. SPS Vains (2008) 9 SCC 125, which prohibits discriminatory treatment among similarly situated retirees based solely on date of retirement.

4. Per contra, learned State Counsel supported the impugned judgment and submitted that the ACP Scheme introduced vide Government Order dated 08.03.2011 was applicable only to working employees and not to those who had already retired prior to its enforcement; that, the petitioner admittedly retired on 31.01.2008, whereas the ACP Scheme came into effect from 01.09.2008, and therefore, no benefit could legally accrue to him. He would further submit that the grant of third ACP to the petitioner in 2011 was a clerical/administrative mistake, which was later rectified vide order dated 06.02.2019; that, the rectification of an erroneous benefit does not require prior notice, as no penal or recovery proceedings were initiated; that, learned Tribunal correctly held that the petitioner was never entitled to third ACP, and therefore, the claim was rightly dismissed.

5. Learned State Counsel would submit that the petitioner's reliance on Union of India Vs. SPS Vains (Retd.) & Others is wholly misconceived. The said judgment dealt with arbitrary discrimination between pensioners of the same rank based solely on different dates of retirement, which was held to be violative of Article 14; that, no such discrimination or parity issue arises in the present case; that, the action of the respondents is merely corrective in nature, undertaken to rectify a financial benefit wrongly



granted in contravention of the applicable Government Orders. It is settled law that no vested or accrued right can arise from an illegal or mistaken grant, and a benefit erroneously extended does not become lawful by passage of time. The principles laid down in *D.S. Nakara* and *S.P.S. Vains* apply only where a pension scheme is selectively applied to a class of pensioners, which is not the situation here. The reliance on Article 300-A is equally misplaced, as withdrawal of an illegally granted benefit cannot be termed deprivation of property. Benefits such as ACP are subject to eligibility and statutory compliance and cannot be claimed as an indefeasible right. Hence, *SPS Vains* does not advance the petitioner's case, and the impugned judgment calls for no interference on this ground.

6. Heard learned counsel for the parties and perused the record.

7. It is an admitted position that the petitioner stood superannuated on 31.01.2008. Vide Government Order dated 08.03.2011, the benefit of the Assured Career Progression (A.C.P.) Scheme was to be granted to employees in accordance with the recommendations of the 6th Pay Commission. As per the said Government Order, the benefit of A.C.P. was to be extended w.e.f. 01.01.2006 to those employees who were appointed in the Grade Pay of ₹5400/- and above, whereas in respect of employees in the Grade Pay of ₹4800/- and below, the scheme was to be implemented w.e.f. 01.09.2009. Subsequently, another Government Order dated 30.10.2012 was issued by the State Government, clarifying that for the purposes of the A.C.P. Scheme, the relevant "post held" would be the post to which the employee was initially appointed by direct recruitment.

8. It is an admitted case of the petitioner that he



was initially appointed to the post of Junior Engineer in the pay scale of ₹175-10-300 in the year 1972. Thus, it is evident that he was not appointed on a post corresponding to the Grade Pay of ₹5400/-. Consequently, the benefit of the A.C.P. Scheme, even otherwise, would have been applicable to him only w.e.f. 01.09.2008. It is pertinent to note that the benefit of the A.C.P. Scheme is admissible only to those employees who were in service on the date of its implementation. Since the petitioner had already retired from service on 31.01.2008, and the benefit of the A.C.P. Scheme became applicable to employees in the relevant grade only w.e.f. 01.09.2008, the petitioner was clearly not entitled to the benefit of the third A.C.P. carrying Grade Pay of ₹7600/- w.e.f. 01.07.2006.

9. So far as the contention of the petitioner that no opportunity of hearing was afforded to him prior to issuance of the order dated 06.02.2019 is concerned, the said submission is devoid of merit as the cancellation order dated 06.02.2019 merely rectified an apparent mistake and, therefore, no prior opportunity of hearing was required. Moreover, no recovery proceedings were initiated pursuant to the said cancellation order. In such circumstances, the plea of violation of principles of natural justice is misconceived. The reliance placed by the petitioner upon the judgment of the Hon'ble Supreme Court in *Union of India v. S.P.S. Vains (Retd.) & Others* is also misplaced. In the said case, the issue pertained to discriminatory grant of pension among similarly situated retirees, whereas the controversy in the present case relates to the applicability and implementation of the A.C.P. Scheme. Hence, the said judgment has no application to the facts of the present case.

10. This Court finds no perversity, illegality, or



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jurisdictional error in the impugned judgment of the Tribunal so as to warrant interference under Article 226 of the Constitution of India.

11. In view of the aforesaid discussion, the writ petition lacks merit and is accordingly dismissed.

12. No order as to costs.

(Alok Mahra, J.)
05.01.2026

Mamta

(Ravindra Maithani, J.)
05.01.2026

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