



SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<u>WPSB/110/2023</u> Kumaon Mandal Vikas Nigam Ltd. --Petitioner Versus Mohan Chandra Pandey & another --Respondents <u>Hon'ble Manoj Kumar Tiwari, J.</u> <u>Hon'ble Pankaj Purohit, J.</u> Mr. Sandeep Kothari, learned Counsel for petitioner. 2. Mr. Krishant Kant Joshi, learned Counsel i/b Mr. D. Barthwal, learned Counsel for respondent no.1. 3. Mr. K.N. Joshi, learned Dy.A.G. for the State-respondent no.2. 4. Kumaon Mandal Vikas Nigam (KMVN) has challenged judgment and order dated 20.12.2022 passed by Uttarakhand Public Services Tribunal, Bench at Nainital in Writ Petition No.71 (S/B) of 2022 (<i>Mohan Chandra Pandey v. State and others</i>) (<i>Claim Petition No.76/NB/ DB/2022</i>) whereby claim petition filed by respondent was allowed. Paragraph Nos.11, 12 and 13 of said judgment are extracted here-in-below: - <i>"11. Learned Counsel for the petitioner submitted that on the basis of the recommendation of the 6th Pay Commission, the Govt. of Uttarakhand issued a G.O. dated 30.12.2009 regarding revised pay scale of the employees of the KMVN & GMVN whereby the State Govt provided that the employees of the said Nigams were also entitled to get revised pay scale of 6th Pay Commission from 01.08.2009. It has also been submitted on behalf of the petitioner that vide G.O. dated 30.12.2016 and 30.05.2019, the amount of Gratuity of the employees of the Corporations of Uttarakhand has been enhanced from 10 Lacs to Rs. 20 Lacs and as per this G.O., enhanced gratuity will be effective from 01.01.2018 i.e., the incumbents who were in service on 01.01.2018 will be entitled to get the enhanced gratuity of Rs. 20 Lacs. The petitioner has retired on 31.05.2019 and thus he is entitled to get remaining amount of Gratuity as per G.Os. dated 30.12.2016 and 30.05.2019. The recommendations of the VII Pay Commission has been made applicable to the respondent corporation w.e.f. 01.01.2016 vide G.O. dated 11.06.2019. The benefits of 6th Pay Commission has been granted to the petitioner w.e.f. 01.01.2018, whereas the same ought to have been granted to him w.e.f. 01.01.2016 in view of the G.O dated 11.06.2019.</i>



12. In a nutshell, the respondent corporation is obligated to pay retiral dues of the petitioner along with interest on delayed payment notwithstanding the fact that it is suffering from severe financial crunch, pleaded by learned Counsel for KMVN.

13. The Respondent Corporation is, therefore, directed to release retiral dues along with admissible interest on delayed payment of retiral dues, as above, without unreasonable delay, on presentation certified copy of this order. No order as to costs."

5. Learned Counsel for petitioner submits that it was the specific case of petitioner before Tribunal that due to financial crunch, a decision was taken by the Board of Directors of petitioner-Company that benefit of seventh pay commission shall be given to its employees w.e.f. 01.01.2018 and not from 01.01.2016, when such benefit was given to employees of State Government. Thus, it is contended that learned Tribunal erred in law in directing petitioner-Corporation to give benefit of seventh pay revision to respondent w.e.f. 01.01.2016 at par with State employees while respondent was not a State employee. It is further contended that the issue of pay parity and revision of pay scales fall within exclusive domain of employer, and pay revision of large number of employees, that too with retrospective effect, fastens huge financial burden upon the employer, therefore, direction issued by learned Tribunal, to give benefit of pay revision to respondent w.e.f. 01.01.2016, is unsustainable. Reliance is placed on a judgment by Hon'ble Supreme Court in the case of '*Punjab State Co-op. Milk Producers Federation Ltd. v. Balbir Kumar Walia*' reported in AIR 2021 Supreme Court 3316. For ready reference, paragraph no.49 of the said judgment is quoted here-in-below: -

"49. Thus, we find that the decision that the Federation was in financial difficulties is based upon relevant material before the Federation. The process to arrive at such decision can be said to be flawed only on the permissible grounds of illegality, irrationality and procedural impropriety. We find that neither the decision-making process, nor the decision itself suffers from any such vice."



6. Learned Counsel for petitioner, based on instructions, makes a statement that in the Board meeting held on 30.06.2026, it was decided that benefit of seventh pay commission shall now be given to all employees of KMVN, including respondent, w.e.f. 01.01.2017 in place of 01.01.2018, as decided earlier. He further submits that respondent shall be entitled for payment for arrears/difference of salary w.e.f. 01.01.2017.

7. In view of settled legal position that judicial interference in matters of pay revision and the date from which it is payable, has to be minimal, and there being no exceptional case made out by respondent before the Tribunal, direction issued to petitioner to give benefit of pay revision to respondent w.e.f. 01.01.2016, is not justified.

8. Thus, judgment and order dated 20.12.2022 passed by learned Tribunal is set aside. The writ petition is disposed of with direction to petitioner to give benefit of pay revision, including arrears of salary to respondent, w.e.f. 01.01.2017 in terms of decision taken by Board of Directors in its meeting dated 30.06.2026.

9. Pending application, if any, stands disposed of.

(Pankaj Purohit, J.)

(Manoj Kumar Tiwari, J.)

14.08.2026

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