

**HIGH COURT OF UTTARAKHAND AT NAINITAL****JUSTICE SHRI MANOJ KUMAR TIWARI****AND****JUSTICE SHRI PANKAJ PUROHIT****Writ Petition Service Bench No. 657 of 2022****13 August, 2026**

Jagdish Prasad Bhatt & others

--Petitioners

Versus

State of Uttarakhand & others

--Respondents

Presence:-

Mr. Yogesh Pant, Advocate for the petitioners, through video conferencing.

Mr. S.S. Chaudhary, Standing Counsel for the State of Uttarakhand/respondent no. 1.

Mr. Rajesh Sharma, Advocate for respondent no.2.

JUDGMENT: (per Hon'ble Justice Sri Manoj Kumar Tiwari)**Delay Condonation Application (IA/2/2025)**

1. Delay Condonation Application (IA/2/2025) is allowed. Delay in filing the substitution application is condoned.

Substitution Application (IA/3/2025)

2. Prayer for substitution is not opposed by learned counsel for respondents, therefore, IA/3/2025 is allowed.

3. Amended memo of parties be filed within 48 hours.

4. Petitioners were appointed as Logging Officer in Uttar Pradesh Forest Corporation, which was established under U.P. Forest Corporation Act, 1974. Upon State Reorganisation, effective from 09.11.2000, petitioners became employees of Uttarakhand Forest



Development Corporation. Petitioners, who retired from Uttarakhand Forest Development Corporation have challenged Government Order dated 30.12.2016 insofar as it has fixed a cap regarding the amount payable as gratuity. The said Government Order, which is issued in respect of State employees, provides that maximum amount, which can be paid as death-cum-retirement gratuity, would be Rs. 20 lacs.

5. Petitioners contend that the ceiling imposed by State Government regarding amount of gratuity is unjust and unreasonable. It is further contended that petitioners are protected by proviso to Section 74(1) of U.P. Reorganisation Act, 2000, therefore, their service conditions cannot be altered without previous approval of the Central Government and Central Government has not approved the impugned decision taken by the Uttarakhand Government. It is further contended on behalf of the petitioners that impugned decision taken by the State Government, is violative of Section 69 of U.P. Reorganisation Act also. Section 74(1) and Section 69 of U.P. Reorganisation Act, on which reliance is placed by petitioners' counsel, are reproduced below for ready reference:-

“74. Other provisions relating to services.—(1) *Nothing in this section or in section 73 shall be deemed to affect on or after the appointed day, the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the Union or any State:*

Provided that the conditions of service applicable immediately before the appointed day in the case of any person deemed to have been allocated to the State of Uttar Pradesh or to the State of Uttaranchal under Section 73 shall not be varied to his disadvantage except with the previous approval of the Central Government.



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69. Special provisions relating to retrenchment compensation in certain cases.—Where on account of the reorganisation of the existing State of Uttar Pradesh under this Act, any body corporate constituted under a Central Act, State Act or Provincial Act, any co-operative society registered under any law relating to co-operative societies or any commercial or industrial undertaking of that State is reconstituted or reorganised in any manner whatsoever or is amalgamated with any other body corporate, co-operative society or undertaking, or is dissolved, and in consequence of such reconstitution, reorganisation, amalgamation or dissolution, any workman employed by such body corporate or in any such co-operative society or undertaking, is transferred to, or re-employed by, any other body corporate, or in any other co-operative society or undertaking, then, notwithstanding anything contained in section 25-F or section 25-FF or section 25-FFF of the Industrial Disputes Act, 1947 (14 of 1947), such transfer or re-employment shall not entitle him to any compensation under that section:

Provided that—

(a) the terms and conditions of service applicable to the workman after such transfer or re-employment are not less favourable to the workman than those applicable to him immediately before the transfer or re-employment;

(b) the employer in relation to the body corporate, the co-operative society or the undertaking where the workman transferred or re-employed is, by agreement or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation under section 25-F or section 25-FF or section 25-FFF of the Industrial Disputes Act, 1947 (14 of 1947) on the basis that his service has been continuous and has not been interrupted by the transfer or re-employment.”

6. Learned State Counsel submits that Section 74 is contained in Part-VIII of U.P. Reorganisation Act, 2000, which is applicable only to persons who are serving in connection with the affairs of the Union or any State and whose service conditions are governed by the Rules framed under proviso to Article 309 of the Constitution of India. He submits that petitioners on the other hand, were appointed in a statutory Corporation established under U.P. Forest Corporation Act, 1974 and they retired from a statutory Corporation established under the same Act and they never enjoyed the status of a Government servant, therefore, Section 74(1) of U.P. Reorganisation Act is not applicable to them. He further submits that the



cap fixed by Government Order dated 30.12.2016 does not amount to alteration in the service conditions of the petitioners to their disadvantage, therefore, the challenge to the said Government Order by the petitioners, is without any substance. He further submits that conditions of service can be, said to be varied to the disadvantage of an employee, if he is divested of a benefit, which was assured to be given to him by mentioning in the appointment order or in the Service Rules/Standing Orders. He submits that there is no averment in the entire writ petition regarding any assurance given to petitioners in respect of the amount payable as gratuity. He further submits that the State Government has taken a informed policy decision having regard to various aspects and the policy decision of the Government is interfereble only if it is in violation of any law. He further submits that Section 69 of U.P. Reorganisation Act is also not attracted in the case of the petitioners.

7. Learned counsel appearing for Uttarakhand Forest Development Corporation, by referring to the counter affidavit dated 09.05.2023 filed by Mr. Mahesh Chandra Arya, Regional Manager, Kumaon, submits that it is not the first time that the cap was fixed on the amount payable as gratuity. He submits that earlier the cap was fixed at Rs. 3.5 lacs, which was increased to Rs. 10 lacs *vide* Government Order dated 27.10.2008. He further submits that by the impugned Government Order, cap on the amount payable as gratuity was increased from Rs. 10 lacs to 20 lacs. Thus, he submits that decision taken by the State Government, as contained in Government Order dated 30.12.2016 is beneficial for the employees, as they can get gratuity upto Rs. 20 lacs as against Rs. 10 lacs, which was admissible as per the earlier Government Order. He further submits that cap was always fixed on the amount payable as gratuity; petitioners never challenged the cap fixed by Government Orders issued from time to time and they have challenged



the decision taken by State Government to raise the cap from Rs. 10 lacs to 20 lacs only upon their retirement from service. He also reiterates that protection of Section 74 is available only to persons, who are serving in connection with the affairs of the Union or State.

8. This Court do not find any reason to interfere with the policy decision taken by the State Government, as contained in Government Order dated 30.12.2016. Interference with a policy decision is permissible only if it violates any express provision of law. Since petitioners were not serving in connection with the affairs of Union or the State Government and their service conditions were not governed by rules framed by State Government under proviso to Article 309 of Constitution of India, therefore, reliance upon Section 74 of U.P. Reorganisation Act is clearly misplaced.

9. Even otherwise also, in the absence of any stipulation in the appointment order/service regulations applicable to the petitioners that there will be no cap on the amount, which can be paid as gratuity to them, the decision taken by the State Government does not amount to alteration in conditions of service of the petitioners.

10. The counter affidavit filed by the employer of petitioners reveals that there was always a cap on the maximum amount payable as gratuity to Government servants and by the impugned Government Order, that cap was increased from Rs. 10 lacs to Rs. 20 lacs.

11. This Court finds substance in the contention raised by learned State Counsel that silence on the part of the petitioners all these years, even though Government Orders, earlier issued from time to time provided a ceiling on the amount payable as gratuity, amounts to acquiescence and petitioners cannot now be permitted to turn around to challenge the decision taken by State Government in 2016, whereby maximum limit of gratuity was increased from Rs. 10 lacs to Rs. 20 lacs.



Section 69 of U.P. Reorganisation Act is also not attracted to the case in hand, as petitioners retired from the post of Regional Manager or other equivalent executive positions in Uttarakhand Forest Development Corporation while Section 69 protects only the workman of a body corporate, cooperative society or Government undertaking. Section 69 provides that if on account of Reorganisation of the existing State of Uttar Pradesh, any body corporate, cooperative society or commercial/industrial undertaking of the State is reconstituted/ amalgamated/ dissolved and the workman employed in such body corporate, cooperative society or undertaking is transferred to or re-employed by any other body corporate, then notwithstanding anything contained in relevant provisions of Industrial Disputes Act, 1947, such transfer or reemployment shall not entitle the workman to any compensation.

12. Even otherwise also, Section 69 is meant to deal with different contingency, which was never faced by petitioners and there was no occasion for paying retrenchment compensation to them.

13. This Court is of the considered opinion that the cap fixed by State Government by impugned Government Order does not amount to alteration in conditions of service of the petitioners to their disadvantage as such cap was fixed in Government Orders issued from time to time earlier also. Moreover, benefit of Section 74 is available only to State employees; while, petitioners are not the State employees.

14. Thus, there is no scope for interference in the matter. The writ petition fails and is dismissed.

(Pankaj Purohit, J.)

(Manoj Kumar Tiwari, J.)

13.08.2026

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