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

**Writ Petition (S/B) No.358 of 2013**

State of U.P. and another .....Petitioners

Vs.

Smt. Sushila Devi .....Respondent

Present :
Shri Gopal K. Verma, learned standing counsel for the State of U.P./petitioners.
Shri M.C. Pant, learned counsel for the respondent.

22nd December, 2020

**Coram : Hon'ble Ravi Malimath, A.C.J.**
**Hon'ble Alok Kumar Verma, J.**

**Alok Kumar Verma, J. (Oral)**

This writ petition has been filed to issue a writ of certiorari to set aside the order dated 28.02.2013 and 04.06.2013, passed by the Public Services Tribunal, Uttarakhand at Dehradun (hereinafter referred to as, "Tribunal") in Execution Case No.02 of 2011, "Smt. Sushila Devi vs. Chief Engineer (Vidyut Parikalpa) and Director, Irrigation Research Institute, Roorkee, Uttarakhand and others.

2. During arguments, the arguments of learned counsel appearing for the petitioners was limited to the extent that the Tribunal has no jurisdiction to pass and direct to the petitioners to make payment of interest upon

interest as directed by the Tribunal on 28.02.2013 and 04.06.2013 in the said Execution Case No.02 of 2011. Learned counsel for the petitioners further submitted that the said direction amounts to travelling beyond the judgment and order passed in the original claim petition.

3. *Per contra,* learned counsel for the respondent refuted the submissions of learned counsel for petitioners and submitted that there is no illegality in the impugned orders, passed by the Tribunal.

4. We have heard rival contentions of learned counsel for the parties through video conferencing and in the light of the submissions, the matter is being considered whether the Tribunal has the requisite jurisdiction to direct to the petitioners to make payment of interest upon interest in a execution case.

5. The facts, to the limited extent necessary, are that late Shri Jai Singh, husband of the respondent, was working in Irrigation Department. He retired on 31.01.1991 from the post of Superintending Engineer. He filed Claim Petition No. 166/T/02 before the Tribunal claiming the remedy with regard to non payment of leave salary on medical ground for 352 days i.e. from 02.08.1988 to 18.07.1989 and to pay leave encashment for 218 days and further, to revise the pension and gratuity after sanction of leave along with interest @ 15% per annum w.e.f. 01.02.1991. Subsequently, due to death of Shri Jai Singh, by the order of the Tribunal dated 13.07.2001, Smt. Sushila Devi, wife of late Shri Jai Singh, was allowed to be substituted.

6. The Tribunal decided the said Claim Petition No.166/T/02 on 13.07.2006 and passed the order:-

> "*Respondents are therefore duty bound and are ordered to pay interest @ 15% per annum i.e. as claimed by the petitioner from 01.02.1991 to 30.05.2000. The calculation memo shall be prepared and accordingly dues be paid to the petitioner within 3 months from the date of this order along with interest @ 15% per annum.*"

7. The State Government had preferred a writ petition against the said judgment and order dated 13.07.2006, which was decided by this High Court on 28.04.2010. The judgment of the Tribunal was modified to the extent that the rate of interest will be 8% in place of 15% and was directed further to release the payment within a period of one month from the date of the receipt of a certified copy of the order. The direction of the High Court and the Tribunal was not complied. Therefore, the respondent filed Execution Case No.02 of 2011 before the Tribunal.

8. The petitioners do not dispute their liability to pay interest. They however contended that the Tribunal has directed to pay interest in the Claim Petition No.166/T/02 only on the principal amount but not on the interest thereon. Therefore, the Tribunal has no authority to direct to pay interest upon the interest in the execution case and the direction to pay interest upon interest amounts to travelling beyond the judgment and order passed by the Tribunal in Claim Petition No.166/T/02.

9. The Interest Act, 1978 is enacted to consolidate and amend the law relating to the allowance of interest in

certain cases and according to Section 2(a) of the said Act, 1978, “court” includes a tribunal and an arbitrator. Section 3 of the Act, 1978 enables the courts and tribunal to award interest. However, sub-section (3)(c) of Section 3 makes it clear that nothing in the Section shall empower the court to award interest upon interest.

10. In Claim Petition No.166/T/02, the Tribunal has directed to pay interest @ 15% per annum i.e. as claimed by the petitioner from 01.02.1991 to 30.05.2000. The Tribunal further directed to prepare calculation memo and accordingly dues be paid to the petitioner within 3 months from the date of the order dated 13.07.2006 along with interest @ 15% per annum. This High Court reduced the rate of interest from 15% to 8%. The word, “as claimed by the petitioner from 01.02.1991 to 30.05.2000” makes it clear that the Tribunal has used the words, “as claimed by the petitioner from 01.02.1991 to 30.05.2000” as referring to the interest on the principal amount. Therefore, what was awarded by the Tribunal was interest on the principal amount and not upon the interest awarded thereon.

11. In view of the above, we allow this writ petition and hold that the respondent was entitled only to interest on the principal amount as claimed by the petitioner and directed by the Tribunal on 13.07.2006 in Claim Petition No.166/T/02. However, the respondent directed to calculate the amount accordingly and pay the remaining amount to the petitioner within four weeks from the date of the production of a certified copy of this order.

12. The writ petition is disposed off in the aforesaid terms. No costs.

**(Alok Kumar Verma, J.)** **(Ravi Malimath)**
**A.C.J.**

JKJ/SK