



2025:UHC:7490-DB

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE JUSTICE SHRI RAVINDRA MAITHANI

AND

HON'BLE JUSTICE SHRI ALOK MAHRA

WRIT PETITION (S/B) NO.259 OF 2019

Tarkendra Vaishnav and another Petitioners

Vs.

State of Uttarakhand and another Respondents

Presence:

Mr. Sandeep Kothari, learned counsel for the petitioners.

Mr. P.S. Bisht, learned Addl. C.S.C. for the State.

Judgment reserved on: 19.08.2025

Judgment delivered on: 25.08.2025

(Per: Shri Alok Mahra, J.)

By means of this writ petition, the petitioners seek a mandamus directing the respondent authorities to revise all their post retiral benefits.

2. According to the petitioners, petitioner no.1 was superannuated from the services of I.A.S. on 31.10.2008; while, petitioner no.2 superannuated from the post of Additional Registrar, Cooperative Societies, on 30.11.2010; that, since the petitioners possess all requisite qualification

for being appointed as Member in Uttarakhand Cooperative Tribunal, hence, on 26.10.2010, the petitioner no.1 was appointed as Member in Uttarakhand Cooperative Tribunal, while petitioner no.2 was also appointed on the said post on 07.01.2011; that, petitioners discharged their services and completed their tenure upto the age of 66 years and, as such, petitioner no.1 retired on 30.10.2014 and petitioner no.2 retired on 30.11.2016.

3. The grievance raised by the petitioners in the present petition is that the Members of the Cooperative Tribunal are entitled to pension and gratuity and that the pension, gratuity and other post retiral benefits have to be revised/refixed in accordance with the services as the Member of the Cooperative Tribunal, inasmuch as, the petitioners in capacity of I.A.S. and Additional Registrar respectively have already received the gratuity, pensions and other benefits, but the same was not taken into consideration.

4. Learned counsel for the petitioners has placed reliance upon proviso (ii) of Rule 271 of Uttarakhand Cooperative Societies Rules, 2004, which reads as under:-

(ii) on his retirement from the post of the Chairman or Members in accordance with Rule 273 be entitled to additional pension, gratuity and post-retirement leave encashment which shall be calculated as follows:-

(1) the amounts shall be recalculated according on the date of such to the rules applicable retirement as if he had never retired from his parent extended; service and his service such had stood

(2) the amounts already paid to him under clause (i) on retirement from his parent service, shall be deducted and the difference shall be payable to him.

5. Reference has also been made to proviso (4) of Rule 272 of Uttarakhand Cooperative Societies Rules, 2004, which ordains that every person appointed to the Tribunal as the Chairman or a Member shall be entitled to pension and gratuity as per rules applicable to Group 'A' Officer of the State Government. When the pension of the petitioners was not recalculated after their superannuation as Members of the Cooperative Tribunal, they moved representations to

the Competent Authority. The said representations were forwarded by the Chairman of the Cooperative Tribunal to the State Government with a recommendation to revise the post retiral benefits of the petitioners; that, thereafter, the matter was referred to the Finance Department. The Finance Department, Government of Uttarakhand considered the claim of the petitioners and came to the conclusion that Rules made in this regard in Uttarakhand Cooperative Societies Rules, 2004 are pari-materia to Rule 253/254(4) of the U.P. Cooperative Societies Rules and did not dispute the entitlement of the petitioners, however, the Finance Department has given its opinion that the Rules need to be amended.

6. Learned counsel for the petitioners submitted that the Rules 271, 272 & 273 of the Uttarakhand Cooperative Societies Rules 2004 have not been amended so far. He would further submit that, in the State of Uttar Pradesh, the Members, who superannuated from the Cooperative Tribunal, their pension has been revised as per provisions contained in Rule 253 and 254 of U.P. Cooperative Societies Rules. He would further submit that Rules 253 and 254 (4) of U.P. Cooperative Societies Rules are pari-materia to

Rules 271 and 272 (4) of Uttarakhand Cooperative Societies Rules, 2004.

7. Per contra, learned counsel for the State would submit that Rule 271 of the Uttarakhand Cooperative Societies Rules, 2004 would apply only to those persons, who have not been superannuated and before their superannuation have joined as Member of the Uttarakhand Cooperative Tribunal and would not apply to those Members, who were reappointed after their superannuation from their parent department.

8. On careful perusal of proviso (ii) of Rule 271 and proviso (4) of Rule 272 of Uttarakhand Cooperative Societies Rules, 2004, the grounds taken by the State Counsel cannot be sustained, as proviso (ii) of Rule 271 of Uttarakhand Cooperative Societies Rules, 2004 clearly provides that a person, who retires from the post of Chairman and Member of the Tribunal, is entitled to additional pension, gratuity and post retirement leave encashment, which shall be recalculated as per the proviso (ii) of Rule 271 of Uttarakhand Cooperative Societies Rules, 2004, which have already been averted to in the preceding paragraph.

9. In such view of the matter, this Court is of the considered opinion that the petitioners are entitled to revised pension and the services rendered by them as Members of the Cooperative Tribunal shall be taken into account for recalculating their pension and other retiral benefits, which shall also be recalculated in light of proviso (ii) of Rule 271 of Uttarakhand Cooperative Societies Rules, 2004, within a period of 12 weeks' from the date of production of the certified copy of this order. It is made clear that petitioners' pension and other retiral dues would be recalculated only for the period, for which, they have served as Members of the Uttarakhand Cooperative Tribunal.

10. Writ petition stands ordered accordingly. There shall be no order as to costs.

RAVINDRA MAITHANI, J.

ALOK MAHRA, J.

Dated: 25.08.2025
BS