

(2016) 08 UK CK 0012

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 958 of 2014

Arvind Kumar Chaudhary

APPELLANT

Vs

New India Assurance Company Ltd.

RESPONDENT

Date of Decision : 23-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 3 CLR 1065

Hon'ble Judges : Sudhanshu Dhulia, J.

Bench : Single Bench

Advocate : Mr. H.K. Chaturvedi, learned counsel, for the Petitioner; Mr. I.P. Kohli, Advocate, for the Respondents

Final Decision : Disposed Off

Judgement

Sudhanshu Dhulia, J.(Oral) - The petitioner was the employee of New India Assurance Company Ltd. Present writ petition has been filed by the petitioner seeking a writ or direction in the nature of mandamus commanding the respondents to grant him pensionary benefits under the General Insurance Employees Special Voluntary Retirement Scheme, 2004 (in short "Scheme of 2004").

2. According to the petitioner, since he had opted the Scheme of 2004 within the stipulated period i.e. within sixty days of the issuance of the scheme, therefore, he is liable to get the pensionary benefit. This was denied to the petitioner on the ground that he is actually covered under the 1995 Pension Scheme where the incumbent must have put at least 20 years of mandatory service before he is liable for pensionary benefits.

3. Mr. H.K. Chaturvedi, learned counsel for the petitioner would argue that this matter stands covered by the decision of High Court of Punjab & Haryana in CWP No. 13382 of 2007 (Kripal Singh v. National Insurance Company Ltd. & another decided on 25.01.2008) wherein it has been held that in the absence of any clear

stipulation in the Scheme that pension would be payable on completion of 20 years of qualifying service, the same cannot be made applicable in the case of the petitioner. Subsequently, the National Insurance Company Ltd. preferred an appeal against the said judgment before the Hon''ble Apex Court being Civil Appeal No. 256 of 2014 (National Insurance Company Ltd. & another v. Kripal Singh), which was dismissed vide judgment and order dated 10.01.2014 and it has been held by the Hon''ble Apex Court that Scheme of 2004 was a special scheme and the employees, who opted such scheme, were exempted under the said Scheme and they are liable to be given pension.

4. Mr. I.P. Kohli, learned counsel for the Insurance Company fairly submits that the present matter is squarely covered by the decision of Hon''ble Apex Court (referred above) and the petitioner is also entitled for pensionary benefits, as claimed by him in the present writ petition.

5. In view thereof, in case, the petitioner makes a representation before the Officer in-charge, the same shall be decided, as expeditiously as possible, by passing speaking order, particularly in view of the decision of Hon''ble Apex Court (referred above), within a period of four weeks from the date of production of a certified copy of this order.

6. With the aforesaid direction, the writ petition stands disposed.