

(2019) 05 UK CK 0152

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 185 Of 2019

Ashutosh Sharan

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 14-05-2019

Acts Referred:

Constitution Of India, 1950 — Article 226
UGC Regulations, 2010 — Regulation 9, 9.4(i)

Citation : (2019) 05 UK CK 0152

Hon'ble Judges : Ramesh Ranganathan, CJ;N.S. Dhanik, J

Bench : Division Bench

Advocate : S.S. Yadav, C.S. Rawat

Final Decision : Disposed Off

Judgement

Ramesh Ranganathan, CJ

1. Heard Sri S.S. Yadav, learned counsel for the petitioner and Sri C.S. Rawat, learned Additional C.S.C. for the State Government and, with their consent, the Writ Petition is disposed of at the stage of admission.

2. The petitioner has invoked the jurisdiction of this Court seeking a writ of mandamus directing respondent nos. 1 & 2 to provide him the benefit of three non-compounded increments as per Clause 9.4 (i) of the UGC Regulations, 2010, which the petitioner claims he is entitled to be paid from 2013 onwards; and for a writ of mandamus directing respondent nos. 1 & 2 to take a decision on the petitioner's representation in tune with the judgment passed by a Division Bench of this Court on 01.01.2013.

3. The petitioner was initially appointed as a Lecturer in History on 20.03.1999. He joined the Government Degree College, Uttarkashi on 17.04.1999, and is presently working as an Associate Professor in the Government Degree College, Laksar of District Haridwar. The petitioner claims to have completed his Ph.D. from Patna University on 06.04.2013.

4. It is the petitioner's case that, on completing his Ph.D, he is entitled for three non-compounded increments in terms of Regulation 9.4 (i) of the U.G.C. Regulations; a Division Bench of this Court, by its order in WPSB No. 137 of 2012 dated 01.01.2013, had granted relief to a similarly situated employee; and he should also be granted a similar benefit. The petitioner claims to have submitted a representation on 09.09.2015 seeking extension of the benefit of three non-compounded increments, which, according to him, has not been considered till date.

5. Regulation 9 of the University Grants Commission (minimum qualifications under the category for appointment of Teachers Staff in Universities and Colleges and other measures for the Maintenance of Education, 2010) Regulations, as notified on 30.06.2010, stipulates that the incentives of PH.D./M.Phil, and other higher qualification, shall take effect from 01.09.2008. Under clause 9.4 (i) teachers, who complete their Ph.D. Degree while in service, shall be entitled to three non-compounded increments if such Ph.D. is in a relevant discipline of the discipline of employment, and has been awarded by a University complying with the process prescribed by the UGC for enrolment, course work, evaluation, etc.

6. The applicability of the said regulations fell for consideration before a Division Bench of this Court in WPSB No. 137 of 2012. Sri S.S. Yadav, learned counsel for the petitioner, would submit that the Division Bench had granted the petitioner therein the benefit of two non-compounded increments, aggrieved by which a review petition was filed in Review Application No. 997 of 2012 in WPSB No. 137 of 2012 and, in its order dated 01.01.2013, the Division Bench noted the submission urged on behalf of the State Government that the question whether or not the UGC Regulation dated 30.06.2010 should be adopted, by the State Government, was still under consideration. The Division Bench, while modifying its earlier order directed the State Government to award three non-compounded increments to the petitioner, made it clear that, in case the State Government does not adopt the Regulation dated 30.06.2010, the petitioner was entitled only for two increments, but, if the State Government adopted the same, the petitioner would be entitled for three non-compounded increments.

7. The question, whether or not the petitioner should be extended the benefit of three non-compounded increments, must be examined by the competent authority in the first instance, before it is examined by this Court in proceedings under Article 226 of the Constitution of India.

8. Since the petitioner claims to have submitted a representation, as early as on 09.09.2015, we consider it appropriate that he be permitted to make a fresh representation to the first respondent. If any such representation, seeking payment of three non-compounded increments, is submitted by the petitioner within three weeks from today, the first respondent shall consider the said representation in accordance with law, pass a reasoned order thereupon, and communicate his decision to the petitioner within three months from the date of receipt of the petitioner's representation. In case, the first respondent is satisfied

that the petitioner is entitled to be extended such increments, the said amount, along with arrears, shall be paid to the petitioner within three months thereafter.

9. The Writ Petition stands disposed of accordingly.

No costs.