

(2011) 03 UK CK 0101

In the Uttarakhand High Court

Case No : Writ Petition No. 3767 of 2001 (S/S) (Old No. 3109 of 1996)

Augustin Prasad

APPELLANT

Vs

Executive Officer Nagar Palika (Now Municipal Council),
Nagar Palika (Now Municipal Council) and State of U.P.

RESPONDENT

Date of Decision : 05-03-2011

Acts Referred:

Constitution of India, 1950 — Article 226
Uttar Pradesh Reorganisation Act, 2000 — Section 35

Citation : (2011) 03 UK CK 0101

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prafulla C. Pant, J.—Heard learned Counsel for the parties.

2. By means of this writ petition, moved under Article 226 of the Constitution of India, the Petitioner has sought quashing of the order dated 6th January 1996, passed by the Executive Officer, Nagar Palika, Mussoorie, whereby the Petitioner's representation for revised pay scale has been rejected.

3. Brief facts of the case are that the Petitioner joined his service as Laboratory Assistant in Nagar Palika Parishad, Mussoorie, in the year 1963, in the pay scale of Rs. 50 -120. It is pleaded by the writ Petitioner that he continued in the service and his pay scale was revised to Rs. 172 -226, in the year 1966-67. The Petitioner's case is that his pay scale should have been revised to the pay scale of Rs. 176 -250, and as such he was deprived of the consequential benefits. Lastly it is pleaded that the Petitioner was entitled to pay scale of Rs. 1200 -1800, for which he made a representation dated 06.04.1995, but the same was rejected vide order dated 18.07.1995 (copy Annexure -14 to the writ petition). The writ Petitioner filed Writ Petition No. 19122 of 1995, before the Allahabad High Court, in the earlier round of litigation in which an order dated 18.07.1995 was passed, and in compliance of said order, the representation was considered

and rejected. Thereafter, the Petitioner appears to have made another representation dated 25.08.1996 which was rejected vide impugned order (copy Annexure 16/17 to the writ petition). Hence, this writ petition. The writ petition is received by this Court u/s 35 of the U.P. Reorganization Act, 2000 (Central Act No. 29 of 2000), for its disposal.

4. Learned Counsel for the writ Petitioner argued that Petitioner was a qualified Chemist, as such, he was wrongly deprived of the higher pay scale. On the other hand, the impugned order shows that the pay scale of Rs. 150 -345, which was sanctioned by the Central Pay Commission was accepted by the Petitioner himself w.e.f. 01.04.1969. It is further mentioned in the impugned order that the pay scale of Rs. 230 -380 regarding which the Petitioner claimed earlier in his application/representation dated 16.08.1975, the said scale was never sanctioned by the State of Uttar Pradesh. The writ Petitioner's case is that he is entitled to the pay scale of Rs. 176 -250, applicable to the post of Chemist (Water Works). But the counter affidavit shows that said pay scale could not be given to him, as the same was applicable only to the Municipalities of the First Class Category. That is why the representation dated 16.08.1975, moved by the writ Petitioner was rejected on 06.12.1975, and necessary communication was made to the writ Petitioner on 22.01.1976.

5. In the counter affidavit it has been stated on behalf of Respondents No. 1 and 2 that the writ Petitioner has concealed the above fact that his representation was rejected in the year 1975, on the same issue, which was never challenged for a period of twenty years.

6. Having considered submissions of learned Counsel for the parties and after going through the papers on record, this Court does not find any force in this writ petition, which is liable to be dismissed. Accordingly, the writ petition is dismissed. No order as to costs.