

**(2017) 10 UK CK 0005**  
**In the Uttarakhand High Court**  
**Case No : 466 of 2017**

Babita Singh

APPELLANT

Vs

State of Uttarakhand & others

RESPONDENT

**Date of Decision :** 07-10-2017

**Acts Referred:**

[Uttar Pradesh Civil Services \(Extraordinary Pension\) Rules, 1961](#), Rule 3, Rule 5

**Citation :** (2017) 10 UK CK 0005

**Hon'ble Judges :** Manoj K. Tiwari

**Bench :** Single Bench

**Advocate :** Piyush Garg, ?B.P.S. Mer, Brief Holder

**Final Decision :** Disposed

## Judgement

1. Heard Mr. Piyush Garg, learned counsel for the petitioner, Mr. B.P.S. Mer, Brief Holder for the State of Uttarakhand and perused the records.

2. By means of this writ petition, petitioner has sought the following reliefs:-

i) To issue a writ or direction in the nature of quashing the order no. 168/XX-7/2016-1(09)/2016 dated 04.02.2016, whereby the Additional Secretary Home, State of Uttarakhand has rejected the claim of the petitioner for grant of extra ordinary pension on account of death of her husband during duty in accordance with the U.P. Police (Extra Ordinary Pension) Rules, 1961 and is further praying for issuance of a writ, or direction in the nature of mandamus, commanding the respondents to sanction and grant extra ordinary pension and gratuity to the petitioner consequent to the death of her husband on duty in accordance with the provisions of U.P. Police (Extra Ordinary Pension) Rules, 1961.

ii) Or/And pass any other order which Hon"ble court may deem fit and proper under the circumstances of the case.

3. Petitioner is widow of Mr. Ajit Pratap Singh, who was serving as Constable in Uttarakhand Traffic Police in District Haridwar. On 10.08.2014, petitioner's husband died in a road accident while returning from his place of duty to the police station. Petitioner applied for extraordinary pension in terms of U.P. Police (Extraordinary Pension) Rules 1961 (as amended

in the year 1975). According to the petitioner, her case was recommended by the Uttarakhand Police Headquarter on 06.01.2016 as well as by the Accountant General on 21.01.2016. However, the State Government has rejected petitioner's claim vide order dated 04.02.2016. Thus, feeling aggrieved, petitioner filed this writ petition.

4. The Uttar Pradesh (Extraordinary Pension) Rules, 1961 was amended vide notification dated 07.07.1975. English translation of Rule 3 and 5 of the said Rules, as supplied by Mr. Piyush Garg, is being extracted below for ready reference:-

"3. These Rules shall apply to all police officers and personnel (gazetted and non gazetted both) whether permanent or temporary, regulated by the Rules framed by the Governor, who dies or is killed while fighting with dacoits and armed criminals or foreign insurgents or during discharge of any other duty. Provided the family members of such police personnel to whom an award under this rule have been given, they will not be given award under the U.P. Civil Service (Extra Ordinary Pension) Rules and will not be given any family pension/gratuity under U.P. Liberlised Pension Rules, 1961 or under U.P. Retirement Benefit Rules, 1961 nor will they be given Government contribution under U.P. Contributory Pension Provident Fund Rules. 4. .... 5. No award under Rule 3 shall be given in respect of a death occurring for any reason different from the reason mentioned in Rule 3."

5. According to learned counsel for the petitioner, under the original rules i.e. U.P. Police (Extraordinary Pension) Rules, 1961, extraordinary pension was to be given only when death of a police officer is caused while fighting with dacoits, armed criminals or foreign insurgents. However, the said rules were liberalized by an amendment made vide notification dated 07.07.1975 and it was provided that extraordinary pension can be granted even when death of a police personnel is caused during the course of duties. Petitioner had claimed for extraordinary pension in terms of amendment to Rule 3 made

in the year 1975. However, her claim has been rejected by the State government vide order dated 04.02.2016.

6. I have gone through the order dated 04.02.2016, which is impugned in the writ petition. No reason has been indicated in the said order for rejecting petitioner's claim and the only ground stated is that the case is not covered under the Rules. Counter affidavit filed on behalf of respondents is also silent on this aspect of the matter. Since the impugned order dated 04.02.2016 is cryptic and non speaking order, therefore, it cannot be sustained in the eyes of law and

the same is hereby quashed.

7. The State Government is directed to reconsider the claim of the petitioner for extraordinary pension in the light of applicable Rules and pass a reasoned order, in accordance with law, within eight weeks from the date of presentation of certified copy of this order.

8. With the aforesaid direction, the writ petition stands disposed of.