
(2022) 09 UK CK 0159

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 373 Of 2022??

B.D. Tiwari

APPELLANT

Vs

State Of Uttarakhand & Another

RESPONDENT

Date of Decision : 27-09-2022

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 409, 420, 467, 468, 471

Citation : (2022) 09 UK CK 0159

Hon'ble Judges : Vipin Sanghi, CJ;Ramesh Chandra Khulbe, J

Bench : Division Bench

Advocate : B.D. Pande, S.S. Chauhan, N.S. Pundir

Final Decision : Disposed Of

Judgement

Vipin Sanghi), CJ

1) The petitioner has preferred the present writ petition to seek a direction to the respondents to pay his post retiral dues, such as gratuity, last month's salary of January 2018, Leave Encashment amount of ten months i.e. 300 days, amount of Group Insurance and arrears of Assured Career Progression (ACP) from November 2011 till 31.01.2018, along with 18% interest from the date when the aforesaid amounts became due till actual payment.

2) The petitioner was serving in the Uttarakhand Seeds and Tarai Development Corporation, wherefrom he retired as Deputy Chief Finance Officer on 31.01.2018. The petitioner was, however, not paid his complete retiral dues on the ground that there were allegations made against him of some wrongdoing. The petitioner was issued a show cause notice, to which he responded and, eventually, the departmental proceedings against him were dropped on 08.08.2021. Still, he was not paid his dues and, accordingly, he preferred the present writ petition.

3) When the petition was taken up by the Court on 08.07.2022, it was informed on behalf of respondent No. 2 that certain criminal investigation was pending. On

05.08.2022, we granted another opportunity to respondent No. 2 to clearly state as to what is the status of the investigation qua the petitioner, and whether any charge-sheet has been filed in any Court, wherein the petitioner has been named. The respondent was also required to disclose – whether charge-sheet has been accepted, or not?

4) The respondent No. 2 has now filed a counter-affidavit. Along with the counter-affidavit, respondent No. 2 has placed on record the communication dated 19.06.2020, which shows that no sanction was granted by the State Government to prosecute the petitioner. Respondent No. 2 has also placed on record the communication dated 21.09.2020 in this regard, which reads as follows:

5) From the aforesaid it is evident that neither any departmental proceedings are pending against the petitioner, nor has he been charge-sheeted, in any case. Consequently, there can be no justification to withhold any part of retiral dues of the petitioner.

6) We, therefore, direct respondent No. 2 to pay to the petitioner all his outstanding retiral dues positively within next eight weeks. In case, the same are not paid, the petitioner shall be entitled to interest at the rate of 6% per annum from 01.12.2022 onwards.

7) The writ petitioner stands disposed of.