
(2011) 01 UK CK 0030
In the Uttarakhand High Court
Case No : Writ Petition No. 437 of 2007

Beena Chamoli

APPELLANT

Vs

Tehri Hydro Development Corporation and Others

RESPONDENT

Date of Decision : 05-01-2011

Acts Referred:

Citation : (2011) 01 UK CK 0030

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Judgement

Sudhanshu Dhulia, J.—Heard Sri M.C. Pant, Advocate for the Petitioner and Sri Shobhit Saharia, Advocate for the Respondents.

2. This petition has been filed by the Petitioner claiming appointment under dying in harness scheme in Tehri Hydro Development Corporation (from hereinafter referred to as "THDC"). THDC is admittedly a Government company. The husband of the Petitioner was an employee of THDC and died while in harness on 3.4.2003. These are all admitted facts. Immediately after the death of her husband, the Petitioner applied for appointment on compassionate grounds, since her husband died during harness. Although there is no specific scheme on which such claim can be made, but from the records available before this Court, it is evident that from time to time such appointment i.e. appointment under dying in harness has been given by the Government company on compassionate grounds. In short counter affidavit, the Government company has now relied upon a scheme known as "Scheme of Financial Package for Dependents of Deceased Employees in lieu of Practice of Giving Employment" (from hereinafter referred to as the "scheme"). This "scheme" admittedly was enforced vide order dated 2.4.2007. Learned Counsel appearing for THDC has relied upon Clause 2 (ii) of this "scheme", which reads as follows:

2. SHORT TITLE AND APPLICABILITY

(i) ...

(ii) This Scheme shall also be applicable to all pending applications of dependents of deceased employees for Compassionate Appointment in THDC.

3. Counsel for THDC contends that the "scheme" does not envisage an appointment under dying in harness to the dependents of the deceased but instead a relief package in the form of monetary benefit is given to the dependents of the deceased, depending upon the number of years of service the deceased had put in. Counsel further states that although the husband of the Petitioner died in the year 2003, in view of the specific Clause 2 (ii), the case of the Petitioner will also be considered under the present "scheme". This argument of the counsel for THDC is absolutely misplaced, firstly for the reason that the "scheme" effectively came into force on 2.4.2007 and the Petitioner was in hardship in the year 2003 and has been pleaded with the Government company for the last several years for appointment, but the appointment has been denied to her for one technicality or the another. Now, reliance has been placed by the counsel for THDC of Clause 2(ii) of the "scheme" saying that the Petitioner's case will be covered by this scheme. This argument of the counsel for THDC is wholly unacceptable. It is admitted that THDC has granted appointment to the dependents of the deceased even before implementation of the "scheme" and the death of the husband of the Petitioner was caused on 3.4.2003 which is much before the implementation of the "scheme".

4. The Petitioner has annexed a list along with Rejoinder Affidavit, which is RA-1, which shows that the dependent of Sri Sunder Singh who died on 14.9.2003 and the dependant of Sri D.C. Sharma, who died on 31.1.2004 i.e. much after the death of the husband of the Petitioner, have been given appointment under dying in harness. Therefore, it is directed that the Managing Director, THDC i.e. Respondent No. 1 shall consider the representation of the Petitioner on settled claims and considerations which are applicable in such matters, namely, the hardship of the family concerned and whether under the similar circumstances at the relevant time or thereafter, such appointments were made by THDC. THDC will not reject the claim of the Petitioner merely because they have come under the new "scheme". It is made clear that the Petitioner's case shall be considered for appointment, on compassionate grounds. The relevant period for consideration of the hardship shall be 2003 and not the present, as the application for appointment was made by the Petitioner well in time i.e. in 2003. Order dated 13.6.2006 (Annexure No. 6 to the writ petition) is hereby set aside. Fresh representation of the Petitioner shall be considered in the light of the observations made in the preceding paragraphs. It is directed that the Managing Director, Tehri Hydro Development Corporation will personally hear the matter and decide the case of the Petitioner with a speaking order as expeditiously as possible but in any case not later than six weeks from the date a certified copy of this order along with representation is presented before him.

5. With these observations, writ petition is disposed of. No order as to costs.