
(2022) 11 UK CK 0022

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 274, 275, 276 Of 2020

Bhagat Ram Uniyal & Others

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 02-11-2022

Acts Referred:

Citation : (2022) 11 UK CK 0022

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : Amar Shukla, P.C. Bisht

Final Decision : Dismissed

Judgement

Manoj Kumar Tiwari, J

1. Heard learned counsel for the parties.
2. Since common questions of law and fact are involved in these writ petitions, these are being decided together. For brevity, facts of Writ Petition (S/S) No. 274 of 2020 are being referred.
3. On 24.2.1989, petitioner was engaged as Kurk Amin on commission basis in Cooperative Department in District Dehradun for recovery of outstanding dues of cooperative societies. Vide order dated 26.4.2011, petitioner was conferred status of Government Servant after creating supernumerary posts and Service Rules were also framed for regulating their service conditions.
4. Petitioner made a representation on 03.12.2018 to the Secretary, Co-operative Department, claiming parity in the matter of promotion, with the Collection Amins serving in Revenue Department, by contending that since Collection Amins of Revenue Department are promoted as Naib Tehsildar, therefore, he may also be considered for promotion to equivalent post of ADCO/ Co-operative Inspector Group-I in Co-operative Department. Vide order dated 12.4.2019, petitioner's representation was rejected by the Registrar, Cooperative

Societies, Uttarakhand. Thus feeling aggrieved, petitioner has approached this Court challenging the rejection order. Petitioner has also sought a direction to the competent authority to pay promotional pay scale to him.

5. Perusal of the impugned rejection order, which is on record as Annexure-15 to the writ petition, reveals that Registrar has dealt with all contentions raised by petitioner in his representation and has held that earlier Collection Amins of Revenue Department were eligible for promotion to the post of Naib Tehsildar, however by an amendment made in the recruitment rules for the post of Naib Tehsildar, in 2009, promotional avenue available to Collection Amins of Revenue Department has been taken away, therefore, petitioner's claim for parity with Collection Amins of Revenue Department is misconceived. It was further held that under the applicable service rules, there is no channel of promotion available to petitioner, therefore, his claim for promotion to the post of Additional District Cooperative Officer/Cooperative Inspector Group-I is unsustainable. Impugned order further goes on to say that all monetary benefits including benefits ACP Scheme has been granted to petitioner.

6. Learned Counsel for the petitioner contends that the Hon'ble Supreme Court had directed for grant of promotional pay scale to Kurk Amins after taking into account the services rendered by them before their induction into government service, however, Registrar has overlooked the direction issued by Hon'ble Supreme Court.

7. Per contra, Mr. P.C. Bisht, learned State Counsel, submits that all benefits have been granted to petitioner in terms of the order passed by Hon'ble Supreme Court and the impugned order also contains a recital that the benefit of first, second and third pay upgradation in terms of ACP Scheme has been granted to petitioner and other similarly situate persons, who were earlier serving as Kurk Amin on commission basis. He further submits that pursuant to a judicial order, petitioner was inducted into government service against a supernumerary post and, there was no sanctioned post of Kurk Amin in the Cooperative Department earlier. He further points out that there was no promotional avenue available to Kurk Amins before their induction into government service. He further submits that under the service rules framed for Kurk Amins of Cooperative Department in 2011, no channel of promotion was carved out and in the absence of any promotional avenue, petitioner's claim for promotion to the post of Additional District Cooperative Officer/Cooperative Inspector Group-I is unsustainable.

8. This Court finds substance in the contention raised by learned State Counsel. It is settled position in law that there is no vested right of promotion available to a government servant, although he may have a right to be considered for promotion in accordance with relevant service rules. Since the rules applicable to Kurk Amins do not provide for their promotion, therefore, this Court cannot direct the competent authority to promote the petitioner. Thus, there is no scope for interference with the impugned order.

9. In the result, writ petitions fail and are dismissed. However, before parting with the matter, it is made clear that the competent authority shall examine petitioner's claim for promotion pay scale and if he is found entitled to the same, then such benefit shall be given to him within four months from the date a certified copy of this order is produced before the competent authority.