

(2010) 12 UK CK 0028

In the Uttarakhand High Court

Case No : Writ Petition No. 129 (S/B) of 2003

Daya Ram Verma

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 13-12-2010

Acts Referred:

Citation : (2010) 12 UK CK 0028

Hon'ble Judges : Barin Ghosh, C.J;Nirmal Yadav, J

Bench : Division Bench

Judgement

Barin Ghosh, C.J.—After State of Uttarakhand was carved out from State of Uttar Pradesh, Central Government was given the responsibility of allocating employees of State of Uttar Pradesh to work as employees of State of Uttarakhand. State of Uttar Pradesh created Hill Sub Cadres in a number of its departments. People belonging to the Hill Sub Cadre would serve in the hilly areas of State of Uttar Pradesh. That was the object of making Hill Sub Cadres. In terms of Rules made in 1992, an existing member could opt to become a member of Hill Sub Cadre. By a subsequent amendment in respect of some of the departments, the time to exercise option was increased upto the year 1995. Be that as it may, in as much as people in the Hill Sub Cadres were to serve hilly parts of the State of Uttar Pradesh and since hilly parts of the State of Uttar Pradesh were carved out to create State of Uttarakhand, the Central Government decided that whoever was in Hill Sub Cadres would stand allocated to the State of Uttarakhand as its employee.

2. On 17.06.1994 State of Uttar Pradesh issued a notification and thereby invited applications from persons interested for the purpose of obtaining training under National Blindness Eradication Programme. The notification made it clear that candidates completing such training may be appointed. Petitioner responded to the said notification and after completion of training he was appointed. In his appointment letter, it was indicated that he is being appointed in Uttaranchal Sub Cadre, when in fact there was no such sub cadre. After State of Uttarakhand was

created, Petitioner opted for being allocated to the State of Uttar Pradesh. His case has not yet been considered by anyone in as much as in terms of the order of the Central Government all those who belonged to Hill Sub Cadres stand allocated to the State of Uttarakhand. This has forced the Petitioner to approach this Court.

3. In terms of Hill Sub Cadre Rules 1992, an existing employee alone could be allocated to Hill Sub Cadre. On 26.09.1998 when Petitioner was appointed there was no scope for any existing employee of the State of Uttar Pradesh to opt for to become a member of Hill Sub Cadre, in as much as much prior thereto, the time to opt for Hill Sub Cadre had expired. The notification nowhere mentioned that anyone, on completion of training, may be appointed in the Hill Sub Cadre. On 26.09.1998, therefore, Petitioner could not be appointed in Hill Sub Cadre. On that date, however, he could be appointed in district cadre or in Kumaon or Garhwal Division cadre. If Petitioner had been appointed as a member of district cadre or as a member of Garhwal or Kumaon Division Cadre, in terms of order of Government of India, Petitioner would stand allocated to State of Uttarakhand, but the fact remains that the appointment letter of Petitioner was issued by Director General of National Programme for Eradication of Blindness, which suggests that it was a state cadre post in which Petitioner was appointed. In the circumstances, Respondent could not, nor can treat the Petitioner to have been allocated to State of Uttarakhand for no order has yet been passed for allocation of the Petitioner to State of Uttarakhand. It shall be open to the Respondents to consider the matter afresh and to pass appropriate order for allocating the Petitioner to either of the States. In the event, however, such order is not passed within a period of four months from today by the appropriate authority, it shall be deemed that Petitioner has not been allocated to State of Uttarakhand. In such circumstances, Petitioner must be relieved by the State of Uttarakhand in order to enable the Petitioner to join State of Uttar Pradesh.

4. This disposes of the writ petition.