
(2022) 09 UK CK 0012

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 510 Of 2022

Dr. Baldev Prasad Chamoli And Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 01-09-2022

Acts Referred:

Citation : (2022) 09 UK CK 0012

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

Bench : Division Bench

Advocate : Himanshu Pal, K.N. Joshi, Pooja Banga

Final Decision : Dismissed

Judgement

Vipin Sanghi, CJ

1. The petitioners have preferred the present writ-petition to seek a direction to the respondents to release salary of petitioner nos.1, 6, 8, 9, 10 and 11. Learned counsel for the petitioner states that GPF deductions should be made while paying the salary of the said petitioners.
2. Petitioners also seek a mandamus to the respondents to start releasing the pension in respect of petitioner nos.3, 5 and 7, who have already retired and also to grant family pension to petitioner no.4 (wife of the deceased employee) and to release pension to the petitioner no.2, as per the Old Pension Scheme.
3. The petitioners also assail paragraph no.3 of the G.O. dated 09.05.2006, which is coming in the way of grant of pension.
4. So far as the first relief regarding release of salary of petitioner nos.1, 6, 8, 9, 10 and 11 is concerned, there are no particulars disclosed in the petition as to since when the salaries are not being paid.
5. In these circumstances, with regard to the said relief, we permit the petitioners to represent to the respondents specifically on the said aspects within

two weeks.

6. The respondents are directed to examine the same and release the outstanding salaries of the said petitioners, if already not released, within two weeks thereafter.

7. So far as the other reliefs sought by the writ-petitioners are concerned, the respondents have denied the right of the petitioners to receive pension. The case of the respondents is that on 09.05.2006 grant-in-aid was sanctioned in favour of the 'Dehradun Rishikul Vidhyapeeth Brahmcharya Sanskrit Mahavidhalaya, Haridwar' specifically with the condition contained in Clause 3 by which the petitioners are relieved. The said Clause reads as follows:-

"3-विद्यालय हेतु उप निरीक्षक संस्कृत पाठशाला मेरठ मण्डल, क्षेत्र मेरठ तथा निरीक्षक संस्कृत पाठशालायें उ०प्र० इलाहाबाद द्वारा की गई संस्तुति/ निरीक्षण आख्या के समय कार्यरत शिक्षकों/पिक्षणेत्तर कर्मचारियों जिनका विवरण शिक्षा निदेशक, उ०प्र० इलाहाबाद के पत्र संख्या-सामान्य(2) विस्तार/9109/1996-97 दिनांक 11-02-1997 में दिया गया है एवं जिस हेतु शिक्षा निदेशक द्वारा भी सहमति व्यक्त की गई है, द्वारा अनुमोदित स्टाफ/कार्मिकों को ही उक्त लाभ तभी अनुमन्य होगा यदि वे विधिवत/zzzzzzzzzzzzzzzzzzनियमित चयन प्रक्रिया द्वारा चयनित हों तथा वर्तमान में कार्यरत हों। चँकि विद्यालय का अनुदान तात्कालिक प्रभाव से बहाल/अवमुक्त किया जा रहा है, अतः किसी भी कार्मिक के किसी प्रकार के एरियर का कोई दावा स्वीकार नहीं किया जायेगा तथा विद्यालय में विगत वर्षों की सेवा की गणना भविष्य में किसी भी प्रकार के लाभ के लिए नहीं की जायेगी"

8. The case of the petitioners is this that the demand for coverage under the Old Pension Scheme made by the employees was examined by the respondents and an opinion was also rendered in the, inter se, communication that the petitioners should be covered by the Old Pension Scheme. On that premise, the petitioners claimed right to pension under the Old Pension Scheme. It is also argued that some employees are getting the pension under the Old Pension Scheme.

9. The petitioners have placed on record the communication dated 17.06.2022 whereby the petitioners were communicated that there is no question of covering the petitioners and employees of the said Institution under the Old Pension Scheme. This communication, inter alia, states:-

"2. इस सम्बन्ध में मुझे यह कहने का निदेश हुआ है कि विषयांकित प्रकरण पर शासनादेश संख्या:-118/गप्ट-4/2006 दिनांक 09.05.2006 में उल्लिखित व्यवस्था के आलोक में ऋषिकुल विद्यापीठ ब्रह्मचर्याश्रम संस्कृत महाविद्यालय, हरिद्वार के 11 शिक्षक/पिक्षणेत्तर कर्मचारियों को पुरानी पेंषन का लाभ दिये जाने का कोई औचित्य/अवसर नहीं है।"

10. The submissions of the learned counsel for the respondents, who appears on advance notice is that grant-in-aid was sanctioned in favour of the Institution in question on the specific condition that no claim of any kind towards arrears will be accepted and the service of the previous years of the school will not be counted for any benefit in the future.

11. The grant-in-aid was sanctioned on 09.05.2006 consciously after coming into force of the New Pension Scheme.

12. Learned counsel, therefore, submits that the petitioners cannot, at this

stage, turn around and start claiming pension under the Old Pension Scheme when the Institution did not raise any objection to the conditions imposed on the communication dated 09.05.2006 while sanctioning the grant-in-aid.

13. The challenge is now being raised after 16 years of the issuing of the communication dated 09.05.2006.

14. Having heard learned counsel, we are of the view that there is no merit in this petition, so far as the claim of the petitioners for grant of pension under the Old Pension Scheme is concerned.

15. The State is not having unlimited resources. The State took a conscious decision to sanction the grant-in-aid to the Institution in question on the clear understanding as contained in Clause 3 of the said communication. The petitioners now seek to disturb the appropriate part after 16 years.

16. Grant of relief to the petitioners at this stage would derail the resources and finances of the State which they had never bargained for.

17. We are, therefore, of the view that the petitioners are not entitled to relief sought for.

18. Accordingly, the present writ-petition is dismissed.