
(2010) 12 UK CK 0063

In the Uttarakhand High Court

Case No : Writ Petition No. 1016 of 2001 (S/B)

Dr. Virendra Charan

APPELLANT

Vs

Chancellor, University of Roorkee and Others

RESPONDENT

Date of Decision : 02-12-2010

Acts Referred:

Citation : (2010) 12 UK CK 0063

Hon'ble Judges : Barin Ghosh, C.J.;V.K. Bist, J

Bench : Division Bench

Judgement

Barin Ghosh, C.J.—Mr. K.N. Joshi, learned Counsel for the Petitioner and Mr. Vipul Sharma, learned Counsel for Respondent Nos. 1, 2, 3, 5 & 6.

2. In March 1961 Petitioner was appointed as a lecturer by the University of Roorkee. In January, 1992, with the permission of the University of Roorkee, Petitioner took a foreign teaching assignment. In order to complete the said teaching assignment, University of Roorkee granted leave to the Petitioner. Such leave was from time to time extended upto 30th June, 1994. On 13 January, 1995 Petitioner submitted his resignation for personal reasons and at the same time requested for Extra Ordinary Leave from 1st July, 1994 to 16th January, 1995. By the letter Petitioner requested the University of Roorkee to accept his resignation. On 20th February, 1995 Petitioner wrote another letter to the University of Roorkee. The said letter was in continuation of his earlier letter of resignation dated 13th January, 1995. In the letter dated 20th February, 1995 Petitioner made a request for retirement with effect from the date he would be relieved, in order to enable him to obtain all benefits associated with such retirement. By a letter dated 24th March, 1995, the resignation of the Petitioner was accepted by the University of Roorkee with effect from the afternoon of 30th June, 1994. In that letter dated 24th February, 1995 it was indicated that as per U.P. Government Order voluntary retirement is not admissible. Subsequent thereto, Petitioner made certain representations for grant of pension and gratuity by the University of Roorkee. That having been denied, Petitioner filed the

present writ petition in the High Court of Allahabad, which has since been transferred to this Court. During the pendency of the writ petition, University of Roorkee has been converted into a Central Government Institution, namely, Indian Institute of Technology, Roorkee. With the counter affidavit filed by the University of Roorkee, which has been adopted by the Indian Institute of Technology, Roorkee, the order dated 12th September, 1990 of the Government of U.P. has been brought on record. In that it has been provided that in terms of Rule 56 of the Fundamental Rules, employees and officers of the University of Roorkee are entitled to the benefits of voluntary retirement. With that counter affidavit another U.P. Government Order dated 12th July, 1994 was brought on record. In that it has been provided that the facility of voluntary retirement as per Government Order dated 12th September, 1990 is not applicable to teachers. The said two documents were brought on record to justify the stand taken by the University of Roorkee in its order dated 24th March, 1995 that as per U.P. Government Order voluntary retirement is not admissible. Meaning thereby, the Petitioner being a teacher is not entitled to the facility of voluntary retirement.

3. With the counter affidavit, so filed by the University of Roorkee, copy of a letter written by the University of Roorkee to the State of Uttar Pradesh pertaining to the claim of the Petitioner was also annexed. In that, it was stated, amongst others, that in relaxation of the Rules, pursuant to the order of the Government dated 4th December, 1996, another teacher of the University of Roorkee, namely, Smt. Poonam Sagar, was permitted to take the facility of voluntary retirement and accordingly, there is no just reason why the Petitioner should not be allowed the same facility. It was also stated in the said letter that disassociation of the Petitioner with the University of Roorkee was made effective from 30th June, 1994, i.e. before issuance of the Government Order dated 12th July, 1994. It appears that the State of Uttar Pradesh did not react to the said letter. However, a perusal of the said letter would make it clear that the University of Roorkee was in favour of granting the facility of voluntary retirement to the Petitioner, inasmuch as, disassociation of the Petitioner with the University of Roorkee came to be effected on and from 30th June, 1994 and the said clarification of the Government Order dated 12th September, 1990 came only on 12th July, 1994.

4. In that view of the matter and having taken note of the fact that the obligation to pay retiral benefits to ex employees of the University of Roorkee vests in Prasenti upon Indian Institute of Technology, Roorkee, we dispose of this writ petition by requesting the Indian Institute of Technology, Roorkee to act on the basis of the letter dated 5th January, 1999 written by the University of Roorkee to the State of U.P., proceeding on the basis that the State of U.P. has accorded appropriate relaxation to grant the facility of voluntary retirement to the Petitioner too.