

(2021) 09 UK CK 0075

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1140 Of 2021

Ghanshyam Paliwal

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 08-09-2021

Acts Referred:

Citation : (2021) 09 UK CK 0075

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Harendra Belwal, Anjali Bhargawa

Final Decision : Disposed Of

Judgement

Ravindra Maithani, J

1. By means of the instant writ petition, petitioner seeks the following reliefs:

"i) Issue a writ, order or direction in the nature of mandamus commanding the respondents to threat the services of the petitioner as a confirmed employees appointed under Dying-in-Harness Rules since his date of initial appointment i.e. 11.02.2010.

ii) Issue a writ order or direction in the nature of mandamus commanding the respondents to pay him all consequential benefits.

iii) Issue a writ order or direction in the nature of mandamus commanding the respondents to give him admissible Pay Scale to the petitioner as is being drawn by his other counterpart in the department.

iv) Issue a writ order or direction in the nature of mandamus commanding the respondents to take a decision on the application dated 02.08.2021, moved by the petitioner (Annexure No.7 in this writ petition).

v) To Award the cost of the writ petition to the petitioner."

2. It is the case of the petitioner that after the death of his father on 12.08.2009, petitioner was appointed on 11.02.2010 by the respondents department under the U.P. Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974. The grievance of the petitioner is that instead of making the appointment as a confirmed employee, the petitioner has been appointed on daily rated basis.

3. Heard learned counsel for the parties and perused the record.

4. The Court wanted to know from the learned counsel for the petitioner that since the petitioner has already been appointed and now, seeking the change of category of his appointment, why this writ petition be entertained in view of the availability of alternate efficacious remedy from the State Public Services Tribunal, as constituted under the Uttar Pradesh Public Services (Tribunal) Act, 1976.

5. Learned counsel for the petitioner would submit that, in fact, it is an error which has been committed by the respondents department, petitioner has drawn the attention of authorities by way of representation dated 02.08.2021 (Annexure No.7 to the writ petition), which has yet not been decided.

6. Learned counsel for the petitioner restricts his prayer that the respondents authority may be directed to decide the representation dated 02.08.2021 (Annexure No.7 to the writ petition) within the stipulated time. He would submit that, in fact, the controversy has already been decided by this Court in WPSS No.675 of 2020 and the respondent authority should consider the representation in view of the law laid down in WPSS No.675 of 2020.

7. Learned State counsel would submit that within two months decision will be taken on the representation dated 02.08.2021 (Annexure No.7 to the writ petition).

8. The Court takes on record the statement given by the learned State counsel.

9. The writ petition is disposed of with the directions to the respondents, to decide the representation dated 02.08.2021 (Annexure No.7 to the writ petition), in accordance with law.