
(2017) 01 UK CK 0024
In the Uttarakhand High Court
Case No : 1473 of 2014

Govind Ram

APPELLANT

Vs

State of Uttarakhand & others

RESPONDENT

Date of Decision : 12-01-2017

Acts Referred:

Citation : (2017) 01 UK CK 0024

Hon'ble Judges : Sudhanshu Dhulia

Bench : Single Bench

Advocate : G.C. Lakhchaura, Vikas Pande

Final Decision : Disposed

Judgement

1. The petitioner was appointed as an Assistant Teacher in Government Primary School on 28.09.1985 and thereafter by direct recruitment, he has competed to the post of Assistant Teacher in Government High School wherein he succeeded and was given appointment as Assistant Teacher (Science) on 14.03.1986. Thereafter on 03.03.2008 the petitioner was promoted to the post of Head Master.

2. The petitioner is aggrieved, inasmuch as respondent No. 5 - Sri Jagannath Goswami, who is junior to the petitioner, is getting a higher pay scale as a Head Master of the Government Junior High School though he is junior to the petitioner but before respondent No. 5 could be promoted to the post of Head Master of the Government Junior High School, he got the promotional pay scale. Evidently before the petitioner could get his promotional pay scale, he had already been promoted to the post of Head Master, and therefore, this promotional pay scale was denied to the petitioner. It is for this reason that a promotional pay scale has been made to the private respondent, he is getting a higher pay scale, though the petitioner admittedly is senior to the private respondent.

3. The State authority by and large accepted this position in its counter affidavit.

The occurrence of such anomalies in service matters is commonplace. There are hence rules, which are presently applicable in the State of Uttarakhand by which such anomalies can be resolved.

Reference hereby is given of paragraph 22-B(2)(i) of the Financial Handbook, which reads as under:-

"22-B (1) (2)(i) If as a result of fixation of initial pay under sub- rule (1) there arises an anomaly, namely, that the rate of pay admissible to a Government servant on the higher post would exceed that of another Government servant senior to him in the lower grade or scale and promoted earlier to another identical post the pay of the latter shall with effect from the date of promotion or appointment of the former be stepped up by the Government to an amount admissible to the former as pay fixed under sub-rule (1) subject, however, to the following conditions: (a) the junior and the senior Government servants belong to the same cadre and the posts to which they have been promoted or appointed are identical and in the same cadre; (b) the time-scale of pay for the lower and higher posts in which the junior and the senior Government servants are entitled to draw their pay is identical; (c) the anomaly referred to above must have arisen as a direct result of the application of sub-rule (1) and not for any other reason;"

4. This position is also reiterated in the Government Order dated 02.01.2009, which is annexure No. 9 to the writ petition, wherein if a junior person on promotion gets a higher pay scale then his senior for this reason that junior has been able to get a promotional pay scale and the senior could not, then from the date the junior has got the higher pay scale, the senior is also liable to be paid the same higher pay scale.

5. Learned counsel for the State has fairly admitted this position.

6. In view thereof, the writ petition stands disposed with a direction that unless there is any other anomaly, the respondents authorities are hereby directed to give the same pay scale to the petitioner, which was given to the private respondent No. 5. The arrear of the petitioner shall also be

given within a period of three months from the date of production of a certified copy of this order.