
(2019) 08 UK CK 0108

In the Uttarakhand High Court

Case No : Writ Petition No. 3574 Of 2017 (S/S)

Harpal Singh And Others

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 14-08-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 08 UK CK 0108

Hon'ble Judges : Lok Pal Singh, J

Bench : Single Bench

Advocate : B.D. Upadhyaya, Naveen Tewari, N.P. Sah, T.A. Khan, A.K. Arya

Final Decision : Disposed Of

Judgement

Lok Pal Singh, J

1) Petitioners have invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, by way of filing present writ petition, seeking a writ in the nature of mandamus commanding and directing the respondents to allow the benefit of fitment to them as per Government Orders dated 17.01.2004 and 27.08.2016.

2) I have heard the learned counsel for the parties and perused the entire material available on record.

3) Brief facts, as narrated in the writ petition, are that the petitioners were engaged as daily wagers between the period 1992-95 in the Kisan Sahkari Sugar Mills Ltd., Nadehi, District Udham Singh Nagar. The Kisan Sahkari Sugar Mills Ltd. Nadehi is a Sugar factory of cooperative sector running under the control of the State Government. The respondent no. 3 factory, which is governed by the provisions of U.P. sugar Wage Board, 1991 decided to give the fitment status to whose employees, who have worked upto 2003. It was decided that such employees, who are engaged on daily wage basis, will be given the benefit of fitment in terms of Government Order dated 17.01.2004 and subsequent

Government Order dated 27.08.2016.

4) Petitioner no. 1 Harpal Singh continued to work from 01.04.1992 and worked till December 2005 in the respondent no. 3 factory, but did not continue thereafter till December 2007. However, again, he joined the duties as a daily wager. Petitioner no. 2 Hemraj Singh continued to work from 16.04.1992 till April 2006, but between the period April 2006 to December 2006 he did not continue. Again, he was engaged as a daily wager. Petitioner no. 3 Sakir Ali continued to work from 01.12.1995 till March 2005, but did not continue from April 2005 to December 2008. Again, he was engaged as a daily wager. Petitioner no. 4 Dinesh Sharma did the work from 01.03.1992 till January 2006, but did not continue from February 2006 to December 2007. He was again engaged as a daily wager.

5) On 30.12.2013, the State Government framed Regularization Rules 2013 for regularizing the services of employees working on daily wages, work charge, contract, fixed pay, part time and ad-hoc basis. Vide order dated 13.09.2013, the said benefit of regularization was also extended to the employees in Corporation / Public Establishments. The Managing Director of Uttarakhand Cooperative Sugar Mills Federation Ltd. wrote a letter to the Secretary, Cane Development and Sugar Industries, Govt. of Uttarakhand, on 27.07.2016, requesting him to issue orders in respect of extending the benefit of fitment in appointment from the year 1998 to the year 2004 on the vacant posts in the cooperative and public sector Sugar Mills in regard to the daily wagers, who were appointed till the year 2004, so that the case of those daily wagers who were appointed till the year 2004 against the vacant posts be considered for fitment.

6) The Secretary, Government of Uttarakhand wrote a letter dated 27.08.2016 in reply to letter dated 27.07.2016 written by the Managing Director and informed him that in partial modification in Para 6 of the G.O. no. 74/Sa.Ga.A/Cane-Sugar/2004 dated 17.01.2004, after due consideration the benefit of fitment for the marked year 1998 has been extended upto 18.10.2003. The said G.O. shall stand modified to this extent only and the other conditions and restrictions in the said G.O. shall remain intact. Thereafter, another letter was written by the General Manager / Secretary to the Managing Director, Uttarakhand Cooperative Sugar Mills Federation Ltd. in compliance of his directions asking for requisite information in terms of letter of the Apex Body dated 22.09.2016, whereby information in respect of those daily wagers, who were appointed after 18.10.2003 in the sugar mills was sought. Details of daily wagers appointed after the year 2003 was annexed with said letter.

7) Counter affidavit has been filed by respondent nos. 2 to 4, stating therein, that petitioner no. 1 Harpal Singh left the establishment and worked in some other establishment during December 2005 to December 2007. Petitioner no. 3 Sakir Ali disappeared and had gone to the Saudi Arab. However, when he returned back, he was engaged as a daily wager. It is contended that so far as petitioner nos. 1 and 2 are concerned, they have not disclosed where they remained during the break period.

8) Learned Senior Counsel appearing on behalf of the petitioners would submit that the names of the petitioners have not been included for extending the benefit of fitment, as has been provided to other daily wagers engaged even after the year 2003. Learned Senior Counsel has confined his prayer to the extent that the Managing Director of Uttarakhand Cooperative Sugar Mills Federation Ltd. be directed to take decision in view of the letter dated 23.09.2016 (contained as Annexure 3 to the writ petition).

9) Prayer made by learned Senior Counsel for the petitioners is innocuous and is worth accepting.

10) The writ petition is, accordingly, disposed of directing the Managing Director, Uttarakhand Cooperative Sugar Mills Federation Ltd. to take decision on the letter dated 23.09.2016 (contained as Annexure 3 to the writ petition) by passing a reasoned and speaking order, as per rules, within six weeks from the production of certified copy of this order.

11) No order as to costs.