

(2011) 06 UK CK 0022

In the Uttarakhand High Court

Case No : Writ Petition No. 676 of 2011 (S/S)

Hem Chandra Kabadwal and Others

APPELLANT

Vs

U.P. Co-operative Federation Ltd. and Another

RESPONDENT

Date of Decision : 28-06-2011

Acts Referred:

Citation : (2011) 06 UK CK 0022

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Judgement

Sudhanshu Dhulia, J.—Heard Mr. A.M. Saklani, Advocate for the Petitioners, Mr. Ashish Joshi, Advocate for Respondent No. 1 and Mr. Subhash Upadhyay, Advocate for Respondent No. 2.

2. The Petitioners are employees of erstwhile U.P. Co-operative Federation. Consequent to the re-organisation of the Uttar Pradesh and the creation of the State of Uttarakhand by an Act of Parliament, the new State has its own body known as "Uttarakhand State Cooperative Federation". Some employees of the erstwhile U.P. Cooperative Federation stood transferred to Uttarakhand Federation. Since there was a dispute between those who stood transferred to this new federation known as "Uttarakhand State Cooperative Federation" regarding the liability U.P. Cooperative Federation to pay post retirement dues, some employees had earlier filed a writ petition being Writ Petition No. 1176 of 2005 (S/S). This writ petition was disposed of by a Single Judge of this Court on 20.11.2006, whereby the liability to pay gratuity, leave encashment, arrears of pay to the employees prior to 1.1.2005 was fixed on the U.P. Cooperative Federation. Against the order of the learned Single Judge, U.P. State Cooperative Federation went in Special Appeal (Special Appeal No. 176 of 2006). The Special Appeal was dismissed and the judgment of the learned Single Judge was affirmed. Thereafter, U.P. Cooperative Federation filed an SLP before the Supreme Court which was dismissed and thereafter, the review petition filed against the said order was dismissed. In other words, the matter has now

attained finality.

3. Present Petitioners are such employees who were earlier working in U.P. State Cooperative Federation and stood transferred to the Uttarakhand State Cooperative Federation. All they want is the arrear of 5th Pay Commission prior to 1.1.2005. Since this was being denied to them, they have filed the present writ petition.

4. Learned Counsel for the U.P. State Cooperative Federation states that this writ petition be disposed of in the light of the order dated 15.6.2007 passed by a Division Bench of this Court in U.P. State Cooperative Federation Limited and Anr. v. Anand Swaroop (Special Appeal No. 176 of 2006).

5. As such, in the light of decision of the Division Bench dated 15.6.2007 passed in Special Appeal No. 176 of 2006, the present writ petition is disposed of with the direction that any claim of the Petitioners prior to 1.1.2005 has to be given by the U.P. State Cooperative Federation. In other words, the claim of the Petitioners is liable to be allowed. Respondent No. 1 is therefore directed to pay the entire arrears of salary (as fixed by the 5th Pay Commission) to the Petitioners prior to 1.1.2005. Regarding interest on this amount, Sri Ashish Joshi, Advocate representing U.P. State Cooperative Federation has stated that even the employees of the Federation, who are presently working in the State of U.P. have been paid the arrears of salary only in the year 2010. On the basis of this statement given by learned Counsel for the U.P. State Cooperative Federation, the interest liability is not being fixed on U.P. State Cooperative Federation.

6. No order as to costs.