
(2019) 02 UK CK 0060

In the Uttarakhand High Court

Case No : Writ Petition No. 398 (S Of S) Of 2019

Himanchal Verma

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 26-02-2019

Acts Referred:

Citation : (2019) 02 UK CK 0060

Hon'ble Judges : Sharad Kumar Sharma, J

Bench : Single Bench

Advocate : Kailash Chandra Tewari, V.D. Bisen

Final Decision : Disposed Off

Judgement

Sharad Kumar Sharma, J

1. The petitioner has filed the Writ Petition for the following reliefs :-

"i) Issue a writ, order or direction in the nature of mandamus directing the respondents to treat the petitioner's services having been regularized w.e.f. 01.10.1990 in view of the judgment and order passed by this Hon'ble Court dated 03.01.2019.

ii) Issue a suitable writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case, may be passed in favour of the petitioner.

iii) Award the cost of the writ petition to the petitioners."

2. The petitioner claims that his services is to be regularized w.e.f. 1st October, 1990 in view of the ratio as propounded by the Division Bench of this Court vide its judgment dated 3rd January, 2019, rendered in Trivikram Singh Kunwar and others Vs. State of Uttarakhand and another in Writ Petition (S/S) No. 1008 of 2014.

3. The fact, which has been brought on record in the present writ petition is that

in pursuance to the advertisement dated 19th August, 1989, issued by the Director, Education, U.P., Allahabad, inviting application for appointment to the post of Lecturers and Assistant Teachers L.T. Grade on adhoc basis, the petitioner who possessed all the requisite qualification had applied for the same and after undergoing the process of selection prescribed, he was recruited and an appointment letter dated 29.09.1990 was issued in his favour. In pursuance to letter of appointment dated thus issued to him, the petitioner joined his services on 29.09.1990.

4. During the intervening period when petitioner was working in the adhoc capacity, the State Government had issued a Government Order, being Government Order dated 21st November, 1995, whereby, it was provided that all the Lecturers, who have been recruited prior to 1st October, 1990, they would be considered to be regularized w.e.f. 01.10.1990.

5. An issue cropped up for consideration with regard to the extension of the benefit of the Government Order dated 21st November, 1995 in Writ Petition, being Writ Petition No. 162 of 2002 (S/B), Bhuwan Chandra Kandpal Vs. State of Uttarakhand and others, which was allowed by this Court by the judgment dated 28th October, 2004. The said judgment was put to challenge in Special Appeal No. 28 of 2005, before the Division Bench of this Court and the Special Appeal was dismissed by the judgment of the Division Bench dated 23rd February, 2006 and, ultimately, the issue travelled to the Hon'ble Apex Court and the Hon'ble Apex Court had decided the Civil Appeal No. 3396 of 2006, State of Uttaranchal and Others Vs. Bhuwan Chandra Kandpal vide judgment dated 20th April, 2011 and the Special Leave to Appeal was dismissed.

6. Consequently, the ratio as propounded by the learned Single Judge vide its judgment dated 28th October, 2004, granting benefit of regularization w.e.f. 01.10.1990 to all those employees, who have been appointed prior to 1st October, 1990, the petitioner too would be entitled for the benefit of the said Government Order, as he was appointed on 29.09.1990, i.e. prior to the cut off provided.

7. This issue was yet again agitated by one Trivikram Singh Kunwar in Writ Petition (S/S) No. 1008 of 2014, Trivikram Singh Kunwar and others Vs. State of Uttarakhand and another and the said writ petition, while following the ratio as propounded by the Hon'ble Apex Court dismissing the SLP on 20th April, 2011, decided the matter and had issued the following directions :-

"All the writ petitions are disposed of declaring that, in terms of G.O. dated 21.11.1995, as construed by the learned Single Judge of this Court in Civil Writ Petition (S/B) No. 162 of 2002 dated 28.10.2004 and as affirmed by the Supreme Court in Civil Appeal No. 3396 of 2006 dated 20.04.2011, the services of the petitioners herein stood regularized w.e.f.01.10.1990. No costs."

8. This aspect of the controversy since stands covered by the aforesaid judgments rendered by the Court regarding extension of benefit of the G.O.

dated 21st November, 1995, pertaining to the regularization to those recruits who were appointed prior to 1st October, 1990, the controversy and claim as raised by the petitioner in the present Writ Petition is covered by the judgment rendered in Writ Petition No. 1008 of 2014 (S/S), Trivikram Singh Kunwar and others Vs. State of Uttarakhand and another, decided on 3rd January, 2019. The aspect that the matter is covered by the aforesaid judgment is not controverted by the Standing Counsel, who too argues that the matter stands covered by judgment dated 03.01.2019.

9. Accordingly, the Writ Petition would stand decided in terms of the judgment rendered by the learned Division Bench of this Court in the case of Trivikram Singh Kunwar and others Vs. State of Uttarakhand and another in Writ Petition (S/S) No. 1008 of 2014 and other connected matters, decided on 3rd January, 2019.

10. Accordingly, the Writ Petition stands disposed of, subject to the aforesaid terms of the judgment of Division Bench dated 03.01.2019.