
(2011) 05 UK CK 0079

In the Uttarakhand High Court

Case No : Writ Petition No. 109 of 2006 (S/B)

Inder Singh

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 13-05-2011

Acts Referred:

Citation : (2011) 05 UK CK 0079

Hon'ble Judges : Barin Ghosh, C.J.;Serves Kumar Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Barin Ghosh, C.J.—As an employee of U.P. Jal Nigam, Petitioner retired on 31.10.2002. On 7.11.2002, Uttaranchal Pey Jal Nigam was created as a body corporate constituted by and under the same Act, by which U.P. Jal Nigam was constituted, by effecting certain amendments thereto. Petitioner started getting his pension from Uttaranchal Pey Jal Nigam. On 16.10.2003, Uttaranchal Pey Jal Nigam made available certain facilities to its employees, in terms whereof, employees of Uttaranchal Pey Jal Nigam became entitled to career advancements. If the provisions contained in the Scheme for career advancements, as propounded by Uttaranchal Pey Jal Nigam on 16.10.2003, are applied to the Petitioner, Petitioner would be deemed to be entitled to such career advancements before he retired and, accordingly, would become entitled to higher pay than what he received before his retirement and consequentially, his pension will also stand revised. Petitioner made representations for obtaining the same, but was not accorded what he had asked for. That has brought him to this Court through the present writ petition.

2. A look at the Career Advancement Scheme, propounded by Uttaranchal Pey Jal Nigam, would demonstrate that the same was applicable to its the then existing employees and not to employees, who have already retired or otherwise disassociated themselves from Uttaranchal Pey Jal Nigam. That being the situation, provisions contained in the said scheme could not be applied to the

Petitioner and, accordingly, Petitioner cannot be adjudged to have been made entitled to receive any remuneration for more than what he received before his retirement and, accordingly, question of altering his pension does not arise.

3. In the counter affidavit filed by U.P. Jal Nigam, it has been stated that since the Petitioner was a member of Hill Sub Cadre of U.P. Jal Nigam, he was to be and should be deemed to have been allocated to Uttaranchal Pey Jal Nigam and, accordingly, obligation to pay correct pension, payable to the Petitioner, rests with Uttaranchal Pey Jal Nigam. At the same time, on the asking, learned Counsel for U.P. Jal Nigam submitted on the last occasion that similar facilities have also been extended by U.P. Jal Nigam to its employees. We, accordingly, directed production of the scheme. Learned Counsel for U.P. Jal Nigam is absent and U.P. Jal Nigam has also not filed any affidavit to bring on record the scheme, if any, propounded by it, which can be said to be similar to that of the scheme propounded by Uttaranchal Pey Jal Nigam.

4. In the circumstances, we are not in a position to ascertain whether in terms of the scheme, propounded by U.P. Jal Nigam, Petitioner's salary could be altered with effect from a date prior to his retirement, requiring recalculation of his pension.

5. Petitioner has also not claimed alternation of his pension on the basis of any decision of U.P. Jal Nigam.

6. We, accordingly, dispose of this writ petition holding that in view of the Scheme propounded by Uttaranchal Pey Jal Nigam, there is no scope of alteration of pension of the Petitioner and, accordingly, to that extent the writ petition is dismissed. In the event, Petitioner is advised that in view of Scheme propounded by U.P. Jal Nigam, there is a scope of alteration of the pension payable to the Petitioner, it shall be open to the Petitioner to take such recourse to law, including reapproaching this Court by filing a writ petition, as he may be advised.