

(2018) 06 UK CK 0155

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1527, 1528 Of 2018

**Jagdish Prasad Nautiyal & Others @APPELLANT@Hash State Of
Uttarakhand & Others**

Date of Decision : 14-06-2018

Acts Referred:

Uttar Pradesh Primary Agricultural Cooperative Credit Societies Centralized Service Rules, 1976 — Rule 7, 17, 18, 19, 19(1), 19(3), 30(4)

Citation : (2018) 06 UK CK 0155

Hon'ble Judges : Sharad Kumar Sharma, J

Bench : Single Bench

Advocate : B.M. Pingal, N.P. Shah, Anjali Bhargava, N.S. Pundir

Final Decision : Disposed Off

Judgement

Sharad Kumar Sharma, J

1. In the present Writ Petition, the petitioner who is a retired employee having retired on 31.07.2017 as Member Secretary of District Administrative

Committee has sought the following reliefs:

â??(i) Issue a writ, order or direction in the nature of mandamus commanding and directing the respondent authorities to pay forthwith the leave

encashment, gratuity and other emoluments to the petitioner along with 18 percent interest.

(ii) Issue a writ, order or direction in the nature of mandamus commanding and directing the respondent to pay the arrear of the 5th pay commission,

arrear of the 6th pay commission, arrear of the ACP on completion of 26 years of service in the department alongwith 18 percent interest to the

petitioner which is fallen due and has not been paid to the petitioner till date but are being provided to the other similarly situated retired employees.

(iii) Issue any other writ, order or direction, which this Honâ??ble Court may

deem fit and proper under the facts and circumstances of the case.

(iv) Award the cost of the petition to the petitioner.â??

2. The contention of the petitioner in brief is that he was appointed as a Cadre Secretary with the respondent as back as on 13.12.1978 and, as a

consequence, of the order passed by the Registrar Cooperative Society on 21.01.1993 a regular pay scale was accorded to all the Cadre Secretaries

on the basis of staffing pattern. There chanced some controversy pertaining to the payment of the dearness allowance payable and its freezing for the

Cadre Secretaries. However, that issue may not be attracted at this stage in the present Writ Petition as not directly involved. Though it is an admitted

fact that, on the directions of Registrar Cooperative an order was passed to pay minimum scale and dearness allowances to all Cadre Secretaries as

payable to Government servant, an order to the said effect was passed on 12.08.1999. The Registrar, Cooperative Society revised the scale payable to

the Cadre Secretaries on 03.05.2003 by issuing an appropriate direction to the competent authorities to ensure the payment of the revised pay scale

with the certain conditions attached to it.

3. It is further not in dispute that by the order dated 24.02.2011 the Registrar Cooperative Society issued an order granting the gratuity to the retired

Cadre Secretaries they were held entitled for gratuity. An identical controversy regards to the issue of leave encashment, gratuity, benefits of ACP

and difference of 5th and 6th pay commission were raised in various Writ Petitions, these Writ Petitions were contested by Registrar Cooperative

Society and its Deputy Registrar. Learned Single Judge while taking into consideration the stand of respondents regarding paucity of fund disposed of

the Writ Petition No. 651/2004, which was decided by the coordinate Bench of this Court on 04.12.2012, wherein, direction was issued to consider the

representation and to pass a speaking order.

4. It is furtherance of the direction issued by this Court on 04.12.2012, the Registrar Cooperative Society granted the benefit of the recommendation of

the 5th pay commission to the Cadre Secretaries by its order dated 09.06.2013. In the meantime, the petitioner superannuated from his services w.e.f.

31.07.2017. The petitioner on 18.05.2018 made a representation praying for he may granted the benefit of leave encashment, gratuity and other

emoluments as payable to the Cadre Secretaries and also the arrears of the 5th

and 6th pay commission and ACP, which he claims was otherwise entitled after completion of 26 years of service.

5. The issue of identical nature cropped up before the Division Bench of this Court in a bunch of Special Appeals being leading Special Appeal No.

202/2017, whereby, the State's Appeal was apparently allowed and the judgment rendered by the learned Single Judge was modified.

6. Learned counsel for the petitioner submits that his case is covered by the judgment dated 04.09.2017 rendered by the Division Bench. The matter

was listed yesterday as a fresh case and on the argument as extended by the learned counsel for the petitioner claiming parity of judgment of Division

Bench dated 04.09.2017 the matter was posted today to enable the learned counsel for the respondent to satisfy themselves as to whether the

controversy and the relief sought by the petitioner in the present Writ Petition is covered by the judgment dated 04.09.2017.

7. Today the matter is taken up again and a statement has been made by the learned counsel for respondent nos. 1 & 2 Mrs. Anjali Bhargava and

learned counsel for respondent no. 4 Mr. N.S. Pundir that the relief sought and the controversy agitated in the Writ Petition is squarely covered by the

judgment dated 04.09.2017 as rendered by the Division Bench of this Court. As such, this Writ Petition too would stand disposed of in terms of the

directives as given by the Division Bench in its judgment dated 04.09.2017.

8. Writ Petition is accordingly disposed of.

9. However, there would be no order as to cost.