
(2011) 11 UK CK 0057

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 992 of 2010

Kheem Nath Goswami

APPELLANT

Vs

State of Uttarakhand and others

RESPONDENT

Date of Decision : 15-11-2011

Acts Referred:

Employees Pension Scheme, 1995 — Section 17A

Citation : (2011) 11 UK CK 0057

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Judgement

Hon"ble Sudhanshu Dhulia, J.—Heard Mr. Sanjay Bhatt, Advocate for the petitioner, Mr. N. P. Sah, Standing Counsel for the State of Uttarakhand, Mr. M. C. Pande, Senior Advocate assisted by Mr. Devesh Upreti, Advocate for respondent nos.2 to 4, Mr. Anirudh Bhatt, Advocate for respondent no.5 and Mr. D. S. Patni, Advocate for respondent nos. 6 and 7.

2. The petitioner was an employee in the erstwhile U.P. State Forest Corporation. Consequently, after the creation of new State of Uttarakhand and Forest Development Corporation being created in the new State of Uttarakhand, the services of the petitioner stood transferred/allocated to the Uttarakhand Forest Development Corporation. The petitioner reached the age of superannuation on 31.10.2007. All the same, the petitioner has not been given his pension and gratuity. According to the U.P. Forest Corporation, the amount payable to the petitioner by him has been transferred to the Uttarakhand Forest Development Corporation which in turn admits its liability but states that the amount has been given to the Regional Provident Fund Commissioner, Uttarakhand and the amount is not being disbursed by the authorities. In other words, each of these authorities shifting blame upon the other while not releasing the pensionary benefits of the petitioner. Such a situation in a welfare State is deplorable, to state the least. It is an admitted fact that at the time of retirement of the petitioner the service relationship i.e. master and servant relationship was

between respondent no.3, i.e. Uttarakhand Forest Development Corporation. The liability and the responsibility to pay entire post retirement dues including pension and gratuity (if any) is of the Uttarakhand Forest Development Corporation.

3. The contention of Mr. M. C. Pande, Senior Advocate representing Uttarakhand Forest Development Corporation is that inspite of their repeated letters to the Regional Provident Fund Commissioner, it is not doing the needful, which is required to do in the present case under the provisions of law. He has further relied upon Section 17A of the Employees Pension Scheme, 1995 which reads as under :-

17A. Payment of pension.- The claims, complete in all respects submitted along with the requisite documents shall be settled and benefit amount paid to the beneficiaries within 30 days from the date of its receipt by the Commissioner. If there is any deficiency in the claim, the same shall be recorded in writing and communicated to the applicant within 30 days from the date of receipt of such application. In case, the Commissioner fails without sufficient cause to settle a claim complete in all respects within 30 days, the Commissioner shall be liable for the delay beyond the said period and penal interest at the rate of 12 per cent per annum may be charged on the benefit amount and the same may be deducted from the salary of the Commissioner.

4. Regional Provident Fund Commissioner, which is being represented by Mr. D. S. Patni, Advocate has given a statement before this Court that now he has received the entire amount from Uttarakhand Forest Development Corporation and they shall disburse the pension of the petitioner within a period of four weeks from today.

5. On this statement and what has already been referred above, respondent no. 3 and respondent no. 6 i.e. Secretary, E.P.F. Trust, Uttarakhand Forest Development Corporation, Dehradun and Regional Provident Fund Commissioner, Employees' Provident Fund Organization, Dehradun respectively are hereby directed to release all the pensionary benefits due to the petitioner within four weeks from today.

6. Regarding the gratuity being paid to the petitioner, the petitioner may make a representation to the Managing Director, Uttarakhand Forest Development Corporation/respondent no.2 who shall decide the representation of the petitioner in accordance with law.

7. With the above direction, the writ petition is disposed.

8. No order as to costs.