
(2019) 03 UK CK 0005

In the Uttarakhand High Court

Case No : Writ Petition No. 431, 432, 433, 435, 436 Of 2019 (S Of S)

Lalita Negi

APPELLANT

Vs

State Of Uttarakhand And Anther

RESPONDENT

Date of Decision : 01-03-2019

Acts Referred:

Citation : (2019) 03 UK CK 0005

Hon'ble Judges : Sharad Kumar Sharma, J

Bench : Single Bench

Advocate : Kamal Kishor Harbola, Virendra Singh Rawat, Bhupendra Singh Bisht

Final Decision : Disposed Off

Judgement

Sharad Kumar Sharma, J

1. The petitioner is a widow of the deceased employee, who died in harness on 21.07.2018 while he was working with the respondent No. 2 as 'Senior Administrative Officer'. In the writ petition, the petitioner has prayed for the payment of retiral benefits, pertain to her late husband, as detailed in para 8 of the writ petition.

2. The contention of the learned counsel for the petitioner is that the Gratuity, Leave Encashment and the arrears of 7th Pay Commission, remaining pension plus Dearness Allowance was sanctioned by the respondent on 26.10.2018, despite of the sanction being granted by virtue of the above said order, when the retiral dues were not paid, the petitioner had submitted various representations and the last representation dated 28.12.2018 before the authority concerned, but still, the grievance of the petitioner remained un-redressed, which has resulted into filing of the present Writ petition. Details of post retiral dues, as claimed by the petitioner, have been explained in para 8 of the writ petition, which reads as under:

A

Leave Encashment (300 days)

Rs. 6,77,980/- (approx) (sanctioned but not paid)

B

Gratuity

Rs. 20,00,000/- (approx) (sanctioned but not paid)

C

Remaining pension (w.e.f. 22.07.2018 to 30.09.2018)

Rs. 77,288/- (approx) (sanctioned but not paid)

D

Arrears of 7th Pay Commission (w.e.f. 01.01.2017 to 30.09.2017)

Rs. 74,352/- (approx) (sanctioned but not paid)

E

Arrears of Dearness Allowances (w.e.f. 01.07.2017 to 30.05.2018)

Rs. 7,618/- (approx) (sanctioned but not paid)

F

Arrears of 7th Pay Commission (w.e.f. 01.01.2016 to 31.12.2016)

Total amount

Rs. 28,37,238/-

3. The parity has been claimed by the petitioner from the judgements referred herein below, and the case of the petitioner is that the amount as mentioned in the representation of the petitioner stood sanctioned, are the facts which are not disputed by the learned counsel for the respondent No. 2. Even this Court is of the view that the undisputed amount of sanctioned retiral dues ought not to have been curtailed to be paid to a retired employee, as it acts as a source of survival of the retired employee and his family too who after retirement becomes dependent on the pension and retiral dues to meet their daily requirements. It is not a bounty but rather a right of the retired employee to be paid with its' retiral dues payable and entitled to be received by him under law.

4. For the aforesaid reliefs, the petitioner claims parity based on the judgment rendered in an identical Writ Petition, being Writ Petition No. 112 (S/S) of 2019, Chandrawati Aggarwal Vs. State of Uttarakhand and another as decided by this Court on 10th January, 2019 as well as judgment rendered by the Division Bench in Writ Petition (S/B) No. 494 of 2015, Lalita Prasad Tewari Vs. Uttarakhand Payjal Sansadhan Vikas Evam Nirman Nigam, decided on 30th November, 2015 and also on the judgement rendered by this Court in Writ Petition (S/S) No. 74 of

2019, Rajendra Prasad Thapliyal v. State of Uttarakhand and another on 10th January, 2019 (Annexure No. 4 to the writ petition).

5. In view of the above reasons and considering the ratio laid down in the above cited judgements, and also considering the sanction already granted by the Competent Authority of respondent, a writ of mandamus is issued to the respondent Nigam, directing it to pay the post retiral dues as detailed in para 8 of the writ petition, in the following manner:-

6. The respondent/Nigam is directed to pay the post retiral dues to the petitioner as mentioned in paragraph No. 5 of the judgment within a period as mentioned against each head of dues payable to the petitioner from the date of presentation of the certified copy of the judgment.

7. So far claim for payment of 7th Pay Commission is concerned, the same is to be covered by the directions as issued by the Division Bench in a judgment rendered in Writ Petition (S/B) No. 639 of 2018, Shivraj Verma Vs. State of Uttarakhand and another, as decided on 14th December, 2018.

8. Subject to the above observations, the writ petition stands disposed of.

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