

(2018) 01 UK CK 0049
In the Uttarakhand High Court
Case No : 55 (SS) of 2008

Mahesh Tripathi?and another. Vs State of Uttarakhand?and others.

Date of Decision : 10-01-2018

Acts Referred:

Constitution of India, Article 39(d) -
Certain principles of policy to be followed by the State

Citation : (2018) 01 UK CK 0049

Hon'ble Judges : Alok Singh

Bench : Single Bench

Advocate : Tapan Singh, M.S. Bisht, Bhagwat Mehra

Final Decision : Disposed off

Judgement

1. Present writ petition has been filed by the petitioners for following reliefs:-

i. Issue a writ order or direction in the nature of Mandamus commanding/ directing the respondent to issue the directions to provide the modified

pay scale of Rs. 1350-200 to the stenographer grade II of the civil court in the State of Uttarakhand, as the same is available to the Stenographers

of the Collectorate and Revenue Department in the State of Uttarakhand.

ii. Issue a writ order or direction in the nature of Mandamus commanding/ directing the respondent to take decision on the representation made by

the petitioner, contained Annexure No. 5 to this writ petition.

2. Brief facts of the present case are that the petitioner no. 1 is posted as Stenographer at Civil Court Haridwar and petitioner no. 2 is posted as

Stenographer in Civil Court, Nainital. Initially, the pay scale of Stenographer was Rs. 470-735 and revised pay scale was of Rs. 1200-2040.

3. Learned counsel for the petitioners submits that prior to creation of State of Uttarakhand, Writ Petition No. 560 (S/S) of 1992 (Deewani

Nyayalaya Karamchari Sangh UP, Shakha Lucknow and another Vs State of UP) was filed in the High Court of Allahabad seeking relief of

mandamus commanding the opposite party to allow the pay scale of Rs 1350-2200 w.e.f 1.1.1986 to all the Stenographers working in the Civil

Courts, who were earlier getting the pay scale of Rs. 470-735 on or before 1.1.1986, as is being paid to the other Stenographers working in the

Collectorate and other departments. The aforesaid writ petition was allowed by Hon"ble Allahabad High Court, after creation of State of

Uttarakhand, vide its judgment and order dated 14.09.2004.

4. Learned counsel for the petitioners submits that since the issue involved in the present writ petition has already been decided by Hon"ble

Allahabad High Court whereby Allahabad High Court vide its judgment and order dated 14.09.2004 was pleased to grant pay scale of Rs 1350-

2200 to the stenographers Grade II of the Civil Courts in the State of UP, as is being paid to the Stenographers of Collectorate/Revenue

Department, therefore, the petitioners are also entitled for the same pay scale of Rs 1350-2200 as held by Hon"ble Allahabad High Court vide its

judgment and order dated 14.09.2004. He further submitted that a recommendation was also made by the Additional Secretary (Law) to this

effect. The petitioners also made representation dated 14.06.2007 to this effect (Annexure No. 5), however, the respondent had not taken any

decision on the said representation as such, the petitioners are deprived from the modified pay scale of Rs 1350-2200 while on other hand other

similarly situated Stenographers in other department are getting pay scale of 1350-2200. He further contends that since the government by issuing

the different circulars granted pay scale of Rs 1350-2200 to the Stenographers appointed on or before 01.01.1986 therefore, the petitioners who

were appointed before 01.01.1986 are also entitled for the same pay scale on the principle of equal for equal work as guaranteed under Article

39(d) of Constitution of India.

5. Mr. M.S. Bisht, learned Brief Holder contends that judgment passed by Hon"ble Allahabad High Court in Writ Petition No. 560(S/S) of 1992

(Deewani Nyayalaya Karamchari Sangh UP Shakha Lucknow and another Vs State of UP) is not applicable in the present matter, as Hon"ble

Allahabad High Court has decided the case after the appointed day. He further

contends that as per staffing pattern recommended by the Samta

Samiti for Stenographers w.e.f 01.01.1986, the Stenographers were categorized under IV pay scales viz. Rs 1200-2040, Rs 1400-2600, Rs

1640-2900 and Rs 2000-3200 and from staffing pattern, it is clear that the basic pay scale of Stenographer is Rs 1200-2040 and not Rs 1350-

2200, therefore, the Stenographers appointed after 01.01.1986 were being paid revised pay scale of 1200-2040 as such, the pay scale of 1350-

2200 is not applicable in the case of the petitioners however, the same is applicable to the stenographers appointed prior to 01.01.1986.

6. Heard Mr. Tapan Singh, Advocate for the petitioner, Mr. M.S. Bisht, Brief Holder, for State of Uttarakhand/ respondent no. 1 and 2 and Mr.

Bhagwat Mehra, Advocate for respondent no. 3.

7. The contention of Mr. M.S. Bisht, learned Brief Holder that the judgment passed by Hon"ble Allahabad High Court is not applicable in the

present case seems to be not justified because the writ petition was filed prior to creation of State of Uttarakhand by Association of the

Stenographers of the undivided State, therefore, the judgment of Allahabad High Court cannot be overlooked on the ground that it was passed

after the creation of State of Uttarakhand. Therefore, this plea of respondent is not acceptable.

8. Since the respondents have not passed any order on the representation so submitted by the petitioners and the same is still pending before the

respondents, therefore, it would be appropriate to direct the respondents to pass appropriate speaking order on the representation of the

petitioners in the light of the different circulars issued by government time to time as well as judgment dated 14.09.2004 passed by Hon"ble

Allahabad High Court in Writ Petition No. 560 (S/S) of 1992 (Deewani Nyayalaya Karamchari Sangh UP, Shakha Lucknow and another Vs

State of UP) within a period of 3 months from the date of production of the certified copy this order.

9. With the aforesaid direction, the writ petition stands disposed of.