
(2021) 09 UK CK 0045

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 379 Of 2021

Mamta Loshali

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 06-09-2021

Acts Referred:

Citation : (2021) 09 UK CK 0045

Hon'ble Judges : Manoj Kumar Tiwari, J;Alok Kumar Verma, J

Bench : Division Bench

Advocate : Dushyant Mainali, Tarun Lakhera

Final Decision : Dismissed

Judgement

Manoj Kumar Tiwari, J

1. Petitioner's husband was holding the post of Additional Assistant Engineer and was posted as In-charge Assistant Engineer at Tharali, District Chamoli, where he suffered brain stroke in 2015 and thereafter, could not render services. His wife has filed this Writ Petition, seeking the following reliefs:-

"i) Issue a writ of certiorari quashing the impugned order dated 07.01.2020 whereby late husband of the petitioner was reverted from In-Charge Assistant Engineer to Additional Assistant Engineer purportedly on disciplinary ground, and also the order dated 29.6.2020 passed by respondent whereby the application/ notice seeking voluntary retirement dated 03.04.2017 made by late husband of the petitioner was rejected and he was granted compulsory retirement contained as Annexure No. 1 to this writ petition).

ii. Issue a writ order or direction in the nature of mandamus directing the respondents to notionally consider and grant the voluntary retirement to the late husband of the petitioner, posthumous from 3.4.2017 and to grant all legitimate retiral benefits for which the late husband of the petitioner was entitled for at the time of such voluntary retirement.

iii) Issue a writ order or direction in the nature of mandamus directing the respondents to grant all pending in-service dues and benefits and all post retiral dues till date along with the complete approved medical reimbursement claim in favour of the late husband of the petitioner along with interest till the date of actual payment."

2. Learned counsel for the petitioner has apprised this Court that husband of the petitioner has passed away on 14.10.2020. He further submits that after death of her husband, petitioner came across the order dated 07.01.2020, whereby her husband was reverted from the post of In-charge Assistant Engineer to Additional Assistant Engineer, which position he was holding for about six years. The copy of the order dated 7.01.2020 is on record as Annexure No.-1 to the Writ Petition. Perusal of the same reveals that husband of the petitioner was reverted by way of punishment under Disciplinary and Appeal Rules, applicable to State employees.

3. Learned counsel for the petitioner submits that petitioner's husband had applied for voluntary retirement in the year 2017, however, his matter was kept pending for three long years and his application was rejected on 29.06.2020 and, subsequently, her husband was compulsorily retired on the same date i.e. 29.06.2020 and due to this reason, the monetary benefits payable to the petitioner, have been significantly reduced.

4. Having regard to the fact that punishment of reversion has been imposed upon petitioner's husband under Disciplinary and Appeal Rules and petitioner has a remedy of filing Departmental Appeal under the said Rules, this Court declines to entertain the Writ Petition at this stage, leaving it open to petitioner, to raise the other grievances before the appropriate forum.

5. The Writ petition is, accordingly, dismissed on the ground of alternative remedy with liberty to petitioner to file Department Appeal against the punishment order dated 07.01.2020. If petitioner files such Appeal within three weeks from today, decision thereupon shall be taken on merit, by ignoring the delay, if any, within six months.