

(2021) 11 UK CK 0170

In the Uttarakhand High Court

Case No : Writ Petition No. (S/B) No. 225 Of 2021

Naveen Chandra Joshi

APPELLANT

Vs

Managing Director, Uttarakhand Pey Jal Sansadhan Vikas
Evam Nirman Nigam And Another

RESPONDENT

Date of Decision : 22-11-2021

Acts Referred:

Citation : (2021) 11 UK CK 0170

Hon'ble Judges : Raghvendra Singh Chauhan, CJ; Narayan Singh Dhanik, J

Bench : Division Bench

Advocate : Ganesh Kandpal, D.S. Patni, Bhupendra Singh Bisht

Final Decision : Disposed Of

Judgement

Raghvendra Singh Chauhan, CJ

1. With the consent of both the learned counsel for the parties, this case is being decided at the admission stage itself.

2. The petitioner is aggrieved by the fact that despite his retirement from the service on 31.08.2020, from the post of Chief Administrative Officer, from the Uttarakhand Pey Jal Sansadhan Vikas Evam Nirman Nigam ("the respondent-Nigam", for short), he has not been sanctioned his gratuity, leave encashment, and the arrears of the 7th Pay Commission w.e.f. 01.01.2016 to 31.12.2016. The amount of gratuity owed to the petitioner is Rs.12,93,435/-; the amount of leave encashment (300 days) is Rs.7,83,900/-; the arrears of the 7th Pay Commission w.e.f. 01.01.2016 to 31.12.2016 are yet to be paid. Thus, the respondents are supposed to pay gratuity, leave encashment, and the arrears of the 7th Pay Commission to the petitioner.

3. The learned counsel for the petitioner submits that in identical matter, in the case of Karan Singh Vs Uttarakhand Payjal Sansadhan Vikas Evam Nirman Nigam & another [Writ Petition (S/B) No. 448 of 2021], vide order dated 04th October, 2021, this Court had directed the respondents to pay the leave encashment, the

gratuity, and the balance amount due by way of other benefits, within a period of two months. Therefore, the learned counsel submits that a similar order should be passed even in the present case.

4. Mr. D.S. Patni, the learned Senior Counsel for the respondents, has not challenged the stand taken by the petitioner. His only defence is that the respondent-Nigam could not pay the gratuity, the leave encashment, and the arrears of the 7th Pay Commission w.e.f. 01.01.2016 to 31.12.2016, as the respondent-Nigam is facing a financial crunch. Moreover, the State Government is not granting sufficient funds to the respondent-Nigam to meet its financial liabilities.

5. The position being taken by the learned Senior Counsel is clearly unjustified. For, financial constraint cannot be a reason for denying a retired employee his gratuity and leave encashment.

6. Therefore, this Court directs the respondent No.1 to pay an amount of Rs.12,93,435/- under the category 'gratuity', an amount of Rs. 7,83,900/- under the category 'leave encashment', and the arrears of the 7th Pay Commission w.e.f. 01.01.2016 to 31.12.2016, within a period of two months from the date of submission of the certified copy of this Order.

7. With the direction as above, the writ petition stands disposed of.