
(2022) 09 UK CK 0088
In the Uttarakhand High Court
Case No : Special Appeal No. 155 Of 2022

Rekha Shrikunj	Vs	APPELLANT
State Of Uttarakhand & Others		RESPONDENT

Date of Decision : 16-09-2022

Acts Referred:

Citation : (2022) 09 UK CK 0088

Hon'ble Judges : Vipin Sanghi, CJ; R.C. Khulbe, J

Bench : Division Bench

Advocate : Abhijay Negi, Anil K. Bisht, Navnish Negi

Final Decision : Dismissed

Judgement

Vipin Sanghi, CJ

Delay Condonation Application (IA No.01 of 2022)

1. The appellant seeks condonation of eleven days delay in preferring the present appeal.
2. For the reasons stated in the affidavit filed in support of the delay condonation application, and since the same is not fairly opposed by the learned counsels for the respondents, we allow the application and condone the delay.

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3. The present Special Appeal is directed against the judgment dated 29.04.2022, rendered by the learned Single Judge, in Writ Petition (S/S) No.375 of 2020, preferred by the appellant, and in Writ Petition (S/S) No.552 of 2020, preferred by Mr. Kunwan Singh.
4. Both the writ petitions were dismissed by a common judgment since common questions of law and similar facts arose for consideration before the learned Single Judge. In both the writ petitions, the respective petitioner challenged their respective compulsory retirement by the same impugned order dated

14.01.2020, issued by respondent no.2 in the writ petition, i.e. the District Judge, District Haridwar. The compulsory retirement was founded upon the report of the Screening Committee dated 13.12.2019, as well as the order of the Administrative Officer dated 24.12.2019, directing compulsory retirement of two writ petitioners aforesaid, including the appellant herein in exercise of inherent powers under Rule 56(C) of the Financial Handbook, Part-II to IV.

5. A perusal of the impugned judgment shows that the learned Single Judge has exhaustively discussed the law on compulsory retirement. It emerges from the precedents taken note of in the impugned judgment, that compulsory retirement is not necessarily punitive. The employer has the right to compulsorily retire an employee who is considered as 'deadwood', or whose work is not found to be upto the mark. An employee who could be compulsorily retired on attaining a certain age, has no vested right to continue to serve beyond that age, in case the employer decides to compulsorily retire the employee after taking into consideration the work and conduct of the employee.

6. Learned counsels for the respondents submit that the Special Appeal preferred by other writ petitioner Mr. Kunwar Singh, against the same impugned judgment, was dismissed by this Court bearing Special Appeal No.164 of 20222, on 21.07.2022.

7. The impugned judgment shows that the appellant was awarded censure entries on the basis of surprise inspection conducted on 23.08.2016. It was also observed that there was no improvement in the conduct of the appellant despite warnings. She was also not found to be putting to use the computer provided to her for discharge of her duties.

8. The appellant did not make any allegations of malafides against any of the members of the Screening Committee, who examined her case along with the cases of others.

9. In our view, the appellant has not made out a case for interference with the impugned judgment, as her compulsory retirement was founded upon consideration of germane aspects relating to her work and conduct. The examination of the same by the Screening Committee was founded upon her conduct as reflected in the records.

10. For the aforesaid reasons, we do not find any merit in this special appeal, and the same is, hereby, dismissed.

11. At this stage, Mr. Abhijay Negi, learned counsel for the appellant, submits that the appellant's retiral dues have not been released till date.

12. If that be so, we direct the respondents to forthwith examine the appellant's claim towards her retiral dues, and the same should be released at the earliest, preferably within next four weeks.