
(2021) 09 UK CK 0306

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 630 Of 2019

Ritu Rana And Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 29-09-2021

Acts Referred:

Citation : (2021) 09 UK CK 0306

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ravindra Maithani, J

1. Petitioners in the instant writ petition are working as Assistant Sub Inspector (M) in the Uttarakhand Police Department. They are aggrieved by the discrimination done by virtue of a Government Order dated 30.11.2015. Petitioners seek that they be also given the benefit of the Government Order dated 30.11.2015.

2. Pursuant to an advertisement, issued by the Police Head Quarter for recruitment to the post of Constable (M), the petitioners responded and appeared in the process. They were declared successful and accordingly, they joined. In the year 2013, they were promoted as Assistant Sub Inspector (M) [for short, "ASI (M)"] in the scale of Rs. 5200 - 20200 with Grade Pay of Rs. 2800/-. Till this stage, the petitioners had no grievance. It so happened that on 30.11.2015, the respondent no.2, Deputy Inspector General Police Personnel (for short, "DIG") issued an order. According to it, such Constables (M)/new name ASI (M), who were appointed under the U.P. Recruitment of Dependants of Government Servants Dying in Harness Rules, 1974 (for short, "Dying-in-Harness Rules") shall be given notional benefit of the service from the date of their appointments, subject to the condition that while counting the service from the date of their initial appointment, they would only be entitled to Selection Pay

Scale/Assured Career Progression (for short, "ACP") and for no other financial benefit.

3. It is the case of the petitioners that subsequent to it, on 01.03.2016, the respondent no.3, Inspector General of Police (Head Quarter) (for short, "IG") conveyed the Government Order dated 30.11.2015 for compliance, which according to the petitioners, has discriminated the petitioners without any reason or logic. The effect of Government Order dated 30.11.2015, according to the petitioners, is that the personnel appointed under Dying-in-Harness Rules would be entitled for first financial upgradation at the Grade Pay of Rs. 4600/-, whereas the petitioners would be entitled to first financial upgradation at Rs. 2800/-. In paragraph no.21, it has further been elaborated by the petitioners that those personnel, who got benefit of the Government Order dated 30.11.2015 would get financial upgradation in the Grade Pay of Rs. 4600/-, Rs. 4800/- and Grade Pay of Rs. 5400/-, whereas the petitioners, who were direct recruit Constable (M) would get three financial upgradation in the Grade Pay of Rs. 2800/-, Rs. 4600/- and Rs. 4800/- respectively. With these and other averments, petitioners seek benefit of the Government Order dated 30.11.2015.

4. The respondent nos.2 and 3 have filed their counter affidavit. Factual aspects are not disputed. But, they had tried to justify their action. According to the counter affidavit, since the personnel appointed under Dying-in-Harness Rules were working as paid apprentice for a long and that period was not counted while granting the benefit of the time scale and ACP, therefore, they made representations. Thereafter, proposal was submitted to the Government. In para no.13 of the counter affidavit, it is stated that by virtue of the Government Order dated 30.11.2015, such Constable (M), who were appointed under Dying-in-Harness Rules were given the benefit of services rendered by them as Constable (M)/paid apprentice and it was a notional benefit.

5. Heard learned counsel for the parties and perused the record.

6. Learned counsel for the petitioners would submit that, in fact, the cadre in the police department is defined and at the lowest level is Constable (M) and the first promotional post is ASI (M). The petitioners have been directly recruited as Constable (M) in the year 2009. Grade Pay of Constable (M) is Rs. 2400/- and ASI (M) is Rs. 2800/-.

7. Learned counsel for the petitioners would submit that by virtue of the Government Order dated 30.11.2015, while counting the services rendered by such Constable (M), who were appointed under Dying-in-Harness Rules, they were given notional benefit of the Grade Pay of ASI (M) and it creates inequalities without any reason.

8. Learned counsel for the petitioners would also submit that, in fact, the Constable (M) appointed under Dying-in-Harness Rules were given pay scales by the judgment of this Court, passed in Special Appeal No.432 of 2012.

9. On the other hand, learned State counsel would submit that Constable (M), who were appointed under Dying-in-Harness Rules were paid fixed salary. They were paid apprentice and their services as paid apprentice were not been counted on their appointment at the substantial post, therefore, they were extended the benefit by the Government Order dated 30.11.2015.

10. Learned State counsel also submits that, in fact, a recommendation has been made by the police department on 28.04.2014 to the State of Uttarakhand to give similar treatment to the personnel like the petitioners, which is Annexure no.4 to the counter affidavit.

11. The petitioners have no objection and no grievance that Constable (M) appointed under Dying-in-Harness Rules may be given the benefit of services rendered by them as paid apprentice. But, the issue is that why they were given notional service benefit of ASI (M) from the date of their initial appointments, whereas the petitioners, who were direct recruits would get that benefit on promotion. In fact, they got promotion on ASI (M) in the 2013. Here is the distinction. The respondents would have given the benefit of service rendered by such Constable (M), who were appointed under Dying-in-Harness Rules, by giving them notional pay scale of Constable (M), from the date of their initial appointment. But, it was not done. They were given the benefit of service of ASI (M) from the date of their initial appointment and, in fact, in paragraph 18 of the counter affidavit, the State had admitted it, which is as hereunder:

"18. That it is submitted that after 2009 the Constable (M), who were appointed in the department through direct recruitment or under Dying in Harness Rules are being paid the regular pay. The personnel, who have been appointed under Dying in Harness Rules are being given the Grade Pay of Rs.4600, 4800 and 5400 after completion of 10, 20 & 30 years services, under the relevant provisions of ACP/MACP schemes, whereas the Constable (M), who have been appointed in the department through direct recruitment are being given the benefit of ACP/MACP scheme, by giving them the Grade Pay of Rs. 2800, 4200 and 4600 after completion of 10, 20 and 30 years. "

12. Why is this distinction? Why the State could not have extended the benefit to Constable (M) to such Constable (M), who were appointed under Dying-in-Harness Rules, who worked as paid apprentice for a long? And if, the State has chosen to give the benefit of service of ASI (M) in terms of Grade Pay to those Constable (M), who were appointed under Dying-in-Harness Rules and worked as paid apprentice, why this benefit has been denied to the petitioners? This differentiation is not reasonable, there is no reason behind it, there is no logic behind it.

13. This Court has held that, in fact, the petitioners have been distinguished by the respondents department without any logic, reason in terms of Grade Pay. They have been denied the benefit of enhanced Grade Pay, as was extended by the respondents department to such Constable (M), who were appointed under

Dying-in-Harness Rules by virtue of the Government Order dated 30.11.2015. The only course open before this Court now, is to allow the writ petition and direct the respondents to extend the benefit of the Government Order dated 30.11.2015 to the petitioners also.

14. The writ petition is allowed accordingly. The benefit of Government Order dated 30.11.2015 shall also be extended to the petitioners.