
(2020) 02 UK CK 0009
In the Uttarakhand High Court
Case No : Special Appeal No. 42 Of 2020

Satya Prakash Chauhan

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 11-02-2020

Acts Referred:

Citation : (2020) 02 UK CK 0009

Hon'ble Judges : Ramesh Ranganathan, CJ; R.C. Khulbe, J

Bench : Division Bench

Advocate : Saurabh Pandey, Monika Pant

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. Heard Mr. Saurabh Pandey, learned counsel for the appellant and Ms. Monika Pant, learned Standing Counsel for the Union of India.

2. This appeal is preferred by the appellant in WPSS No.2570 of 2019. WPSS No.2570 of 2019 was filed seeking a writ of certiorari to quash the order dated 22.10.2019 issued by respondent no.3, and a writ of mandamus commanding the respondents to forthwith reinstate the services of the petitioner, and to pay him the withheld salary.

3. Facts, to the limited extent necessary, are that the petitioner was selected as S.I. Grade-II and was appointed to the said post vide proceedings dated 29.07.2019 on a contractual basis for a period of one year. His services were, however, terminated by the impugned order dated 22.10.2019 on the ground that his work was found unsatisfactory. On the petitioner invoking the writ jurisdiction of this Court, an interim order was passed on

21.11.2019 staying the effect and operation of the order dated 22.10.2019 till

the next date of listing. The writ petition was, however, dismissed for non-prosecution vide order dated 19.12.2019.

4. On the petitioner filing an application seeking recall of the said order, the learned Single Judge, by the order under challenge in this appeal, allowed the recall application and recalled the order dated 19.12.2019. While restoring the writ petition, the learned Single Judge expressed his disinclination to extend the interim order as the interim order was in the nature of a final order.

5. Mr. Saurabh Pandey, learned Counsel for the appellant-writ petitioner, would submit that the learned Single Judge was in error in not extending the earlier interim order, since the consequence of the order being recalled would be that the earlier interim order would also revive; and, even otherwise, similar interim orders passed earlier in the other writ petitions continue to remain in force as on date. Learned Counsel for the appellant-writ petitioner would place reliance on the interim orders passed in WPSS No.2670 of 2019, WPSS No.2671 of 2019, WPSS No.2672 of 2019, WPSS No.2673 of 2019 and WPSS No.2674 of 2019, all of them dated 05.12.2019, wherein similar interim orders were passed as those in the appellant's case.

6. The effect of the earlier interim order is that the petitioner's services are required to be continued despite the order terminating his services on the ground of unsatisfactory work. The learned Single Judge was, in our opinion, justified in refusing to extend the interim order on the ground that the interim order was in effect a final order, and a final order cannot, ordinarily, be passed at the interlocutory stage. The petitioner's interest has been adequately safeguarded for, in case the writ petition were to be allowed later, the learned Single Judge would, before doing so, undoubtedly consider whether the petitioner should be paid his salary and other allowances for the period he was kept out of service. The earlier interim order passed on 21.11.2019 was only extended till the next date of listing, and the learned Single Judge has merely refused to extend the earlier interim order on the ground that doing so would amount to granting the final relief itself. The scope of interference in an intra-Court appeal is extremely limited. Save cases where the order under appeal suffers from a patent illegality, no interference is called for. We find no such infirmity in the order under appeal.

7. With regards the contention, urged on behalf of the appellant, that similar interim orders have been passed in other cases, it is necessary to note that

all those interim orders were passed on 05.12.2019 evidently on the basis of the earlier interim order passed in the appellant-writ petitioner's case

on 21.11.2019. Mrs. Monika Pant, learned Counsel appearing on behalf of the Union of India, would submit that necessary steps would be taken, by

the respondent-Union of India, forthwith to file applications seeking vacation of the earlier interim orders, passed in the other cases, relying on the

order under appeal refusing to extend the earlier interim order.

8. In the light of the submission now made by Ms. Monika Pant, it is unnecessary for us to keep the Special Appeal pending on this ground. Recording

her submissions that necessary steps will be taken to vacate the earlier interim order passed in other cases at the earliest, and as the order under

appeal dated 09.01.2020 does not suffer from a patent illegality, the Special Appeal fails and is, accordingly, dismissed. No costs.