
(2011) 08 UK CK 0061

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 140 of 2011

Smt. Kusumlata Portion

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 30-08-2011

Acts Referred:

Citation : (2011) 08 UK CK 0061

Hon'ble Judges : Barin Ghosh, C.J;V.K. Bist, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Barin Ghosh, C.J.—In the final allocation order, allocating Nurses to the State of Uttarakhand who were employees of the State of Uttar Pradesh and became provisional employees of the State of Uttar Pradesh in view of coming into force the Uttar Pradesh Reorganization Act, 2000, the name of Kusumlata cropped up. This was brought to the notice of this Court by the Central Government in its counter affidavit showing that final allocation of Nurses of the State of Uttar Pradesh stands complete. At that stage, a contention was raised that Petitioner is the same Kusumlata. The State Government was, accordingly, directed to show us that the said Kusumlata is not the Petitioner. The State Government has discharged its obligation and in terms thereof, it appears that Petitioner is not the same Kusumlata, since the person, who has been allocated to the State of Uttarakhand, is Smt. Kusumlata and the Petitioner herein is Smt. Kusumlata Portion.

2. In the writ petition, it was contended that the Petitioner filed two options, first for the State of Uttar Pradesh and second for the State of Uttarakhand. It was contended that the second option was also accepted and according to the Petitioner, second option of the Petitioner ought to have had been considered and decided. The word "option" is such that once recourse is taken thereunder, the right to opt stands extinguished. Therefore, in law, there is No. scope of giving a second option. In the event, first option is not in accordance with law and,

accordingly, the same is liable to be cancelled, only when the same is cancelled, there is scope of giving second option. It is not the contention of the Petitioner that her first option is invalid. There was, thus, No. scope of giving a second option.

3. The Petitioner contends that her family comprising of her and her children are all settled in Uttarakhand and all her properties are situated in Uttarakhand and she has only six years left to reach the age of superannuation. In the circumstances, it would be harsh to send her to Uttar Pradesh. The Petitioner having opted for the State of Uttar Pradesh, there is No. scope of consideration of the difficulties that the Petitioner may face in view of exercise of such option. Further, in view of the provisions contained in the said Act, the Central Government, after having had exercised its jurisdiction to allocate, becomes functus officio and has No. power of reviewing its order. There is, therefore, No. forum available to the Petitioner where she can approach for being re-allocated to the State of Uttarakhand.

4. The writ petition fails and the same is dismissed.