

(2007) 03 UK CK 0024
In the Uttarakhand High Court

Smt. Shakuntala Devi

APPELLANT

Vs

State of Uttaranchal and State of U.P.

RESPONDENT

Date of Decision : 08-03-2007

Acts Referred:

Citation : (2007) 03 UK CK 0024

Hon'ble Judges : M.M.Ghildiyal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

M.M. Ghildiyal, J.—Heard Sri S.K. Posti, learned Counsel for the petitioner and Sri Subhash Upadhyay, learned Standing Counsel for the State of Uttaranchal/respondent nos. 1 to 3. None is present for respondent No. 4.

2. By means of this writ petition, the petitioner has prayed for a writ, order or direction in the nature of mandamus commanding the respondents to pay family pension to her for the service rendered by her late husband Sri Leela Bahadur, who retired from service from Kishan Inter College, Haridwar.

3. Briefly stated that the petitioner's husband was a class IV employee in Kishan Inter College, Laksar, district Haridwar who retired from his service w.e.f. 31st July 1985. Late Sri Leela Bahadur was getting pension since he was retired till the month of his death, which was occurred in the month of February 1987. After the death of her husband, the petitioner applied for getting family pension, but the respondents did not pay the same hence she preferred a writ petition No. 7228 of 1999 before the Allahabad High Court and the Allahabad High Court on 10th March 1999 directed the respondents to consider the representation of the petitioner.

4. It is contended that in compliance of the order of Allahabad High Court, the District Inspector of Schools, Haridwar while taking decision on the representation of the petitioner rejected the same vide order dated 31.03.2000 on the ground that the family pension can only be granted to the employees,

who were in service on or after 1st January 1989, as such, the husband of the petitioner having been died on 6th March 1987, the same benefit is not available to the petitioner.

5. A counter affidavit has been filed by the respondents, in which the respondents have taken stand that the Govt. Order dated 26th November 1999 is significant which clarifies that those employees who have retired prior to 1st January 1989, will not be benefited by the Govt. Order No. 778/15.8.89/3004 (1)/83 dated 24th February 1989. The cut-off date has been indicated as 1st January 1989.

6. On the other hand learned Counsel for the petitioner contended that the provision of family pension is also applicable to her. Learned Counsel for the parties have submitted that the controversy raised by means of this writ petition is squarely covered by the judgments of Allahabad High Court in the case of Shanti Devi v. State of U.P. and Ors. reported in 2001 (2) UPLBEC 1393 and in the case of Rajmani Devi v. District Inspector of Schools, Ghazipur and Ors. reported in 2002 (92) FLR 191.

7. Consequently, the writ petition is allowed on the same terms and observations made by the Allahabad High Court in the case of Shanti Devi v. State of U.P. and Ors. reported in 2001 (2) UPLBEC 1393 and in the case of Rajmani Devi v. District Inspector of Schools, Ghazipur and Ors. reported in 2002 (92) FLR 191. The respondents are directed to make payment of family pension to the petitioner for the services rendered by her late husband Sri Leela Bahadur in accordance with the aforesaid cited judgment of Allahabad High Court.