
(2010) 02 UK CK 0012
In the Uttarakhand High Court

Sri Kedar Datt Bhardwaj

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 22-02-2010

Acts Referred:

Citation : (2010) 02 UK CK 0012

Hon'ble Judges : J.S. Khehar, C.J.;Sudhanshu Dhulia, J

Bench : Division Bench

Final Decision : Allowed

Judgement

J.S. Khehar, C.J.—The petitioner was appointed as a teacher in 1968. In the year 2002, he was promoted as Principal of Sri Guru Ram Rai Inter College, Nehru Gram, Dehradun. It is not a matter of dispute, that the aforesaid college is a recognized private college, receiving grant-in-aid from the State Government. In the year 2005, the petitioner was awarded the State award for his contribution in the field of education. Based on the aforesaid recognition bestowed on the petitioner, the Governor of Uttarakhand was pleased to grant the petitioner extension of service for a period of two years. During the period of his extension in service, the petitioner was wrongfully granted one increment. By an order dated 30.03.2009, the State Government has chosen to effect recovery from the petitioner, based on the fact, that he was wrongfully granted one increment during the period of his extension in service.

2. During the course of hearing, learned Counsel for respondent Nos. 1, 2 & 3, could not dispute the fact, that the fixation of the petitioner's pay during the period of his extended service, was not based on any misrepresentation at the hands of the petitioner. Accordingly, relying upon the Judgment rendered by Supreme Court in Sahib Ram v. State of Haryana and Ors. 1995 Supp. (1) Supreme Court Cases 18, it is the vehement contention of the learned Counsel for the petitioner, that it is now not open to the respondents to effect recovery from the petitioner.

3. We have considered the totality of the facts and circumstances brought to our notice by the learned Counsel for the petitioner. We have also considered the Judgment rendered by the Supreme Court in the case of Sahib Ram v. State of Haryana and Ors. wherein in para-5 it has, inter alia, been held as under:

5. Admittedly the appellant does not possess the required educational qualifications. Under the circumstances the appellant would not be entitled to the relaxation. The Principal erred in granting him the relaxation. Since the date of relaxation the appellant had been paid his salary on the revised scale. However, it is not on account of any misrepresentation made by the appellant that the benefit of the higher pay scale was given to him but by wrong construction made by the Principal for which the appellant cannot be held to be at fault. Under the circumstances the amount paid till date may not be recovered from the appellant. ...

4. In view of the aforesaid declared position of law and in the background of the fact, that the respondents have not disputed, that the grant of one increment to the petitioner during his extended employment was not based on any misrepresentation at his hands, we are satisfied, that the instant petition has to be allowed and the impugned order dated 30.03.2009, seeking to recover the amount paid to the petitioner, as a consequence of grant of one increment to him, deserves to be set aside.

5. The same is hereby set aside. The writ petition stands allowed in the aforesaid terms.