
(2007) 08 UK CK 0006

In the Uttarakhand High Court

Case No : Special Appeal No 10 of 2007

State of Uttarakhand and Others

APPELLANT

Vs

Indrasan Kushwaha and Others

RESPONDENT

Date of Decision : 18-08-2007

Acts Referred:

Citation : (2008) 8 UC 820

Hon'ble Judges : Rajeev Gupta, C.J.;J.C.S.Rawat, J

Bench : Division Bench

Advocate : Ashish Joshi, Brief Holders, for the Appellant; Manoj Tiwari, for the Respondent

Final Decision : Dismissed

Judgement

Rajeev Gupta, C.J.—(sic)

2. The Appellants have filed this Special Appeal under Chapter VIII Rule 5 of the High Court Rules against the impugned judgment dated 30-03-2006 passed in Writ Petition No. 1023 of 2004 (S/S).

3. The Respondents had filed the writ petition for the following relief?s:

A. To issue a writ order or direction in the nature of mandamus declaring the ceiling imposed on the amount of maximum salary payable to Work-Charge employees vide Government Order dated 26-08-1999 as arbitrary and illegal.

A-1. To issue a writ, order or direction in the nature of mandamus commanding the Respondent to forthwith consider claim of the Petitioners for regularisation of their services.

B. Issue a writ, order or direction in the nature of mandamus commanding the Respondents to grant all consequential benefits including arrears of salary to the Petitioners within a time to be specified by this Hon''ble Court.

C. To issue any other writ, order or direction, which this Hon''ble Court may

deem fit and proper in the circumstances of the case.

D. Award the cost of the writ petition in favour of the Petitioners.

4. The Petitioners, thus, in substance, were seeking quashing of the impugned Government Order dated 26-08-1999, whereby a ceiling was imposed on the dearness allowance payable to the work-charge employees.

5. The learned Single Judge, following the Division Bench decision in the case of State of Uttaranchal and Ors. v. Pushkar Bhatt and Ors. reported in (2006) 1 U.D. 587, allowed the writ petition and quashed the Government Order dated 26-08-1999.

6. The decision of the Division Bench dated 04-03-2006 passed in the case of State of Uttaranchal and Ors. v. Pushkar Bhatt and Ors. and other connected appeals was challenged by the State of Uttaranchal by filing petition for Special Leave to Appeal before the Apex Court. The said petition for Special Leave to Appeal Civil No. 4083 of 2007 stands dismissed vide order dated 19-02-2007.

7. The State of Uttaranchal had also filed another petition for Special Leave to Appeal Civil No. 5412 of 2007 against the judgment dated 31-03-2006 passed by the learned Single Judge in Writ Petition No. 36 of 2003 (S/S), wherein similar view was taken while quashing the Government Order dated 26-08-1999. This petition for Special Leave to Appeal Civil No. 5412 of 2007 also stands dismissed vide order dated 08-03-2007.

8. The view taken by the Division Bench in the case of Pushkar Bhatt and others stands affirmed by the Apex Court vide order dated 19-02-2007.

9. On due consideration of the submissions of the learned Counsel for the parties and the reasonings given in the impugned judgment and so also in the judgment dated 04-03-2006 passed by the Division Bench in the case of Pushkar Bhatt and Ors., we do not find any ground for taking a different view than the one taken by the Division Bench of this Court in the case of Pushkar Bhatt and Ors..

10. The Special Appeal, therefore, is liable to be dismissed and is hereby dismissed.

11. Consequently, the interim order dated 13-02-2007 stands vacated automatically.

12. No order as to costs.