

(2019) 08 UK CK 0041

In the Uttarakhand High Court

Case No : CLMA No. 4089, 4858, 7856 Of 2019, In Special Appeal No. 260, 333, 607 Of 2019

State Of Uttarakhand And Others

APPELLANT

Vs

Pravez Alam And Others

RESPONDENT

Date of Decision : 06-08-2019

Acts Referred:

Citation : (2019) 08 UK CK 0041

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : Viaks Pande, Parikshit Saini, Harendra Belwal

Final Decision : Disposed Of

Judgement

Ramesh Ranganathan, CJ

1. The applications, seeking condonation of the delay in preferring these Appeals, are not opposed by Mr. Parikshit Saini and Mr. Harendra Belwal, learned counsel for the respondent, and the delay is, therefore, condoned. Delay Condonation Application Nos.CLMA No.4089 of 2019, CLMA No.4858 of 2019 and CLMA No.7856 of 2019 stand disposed of.

2. SPA No. 260 of 2019 is preferred by the State of Uttarakhand against the order passed by the learned Single Judge in WPSS No.520 of 2018 dated 23.03.2018, SPA No.333 of 2019 is preferred by the State Government against the order passed by the learned Single Judge in WPSS No. 740 of 2018 dated 11.10.2018, and SPA No. 607 of 2019 is preferred against the order passed by the learned Single Judge in WPSS No. 737 of 2018, dated 11.10.2018. Since the order in WPSS No.740 of 2018 and WPSS No. 737 of 2018, both dated 11.10.2018, were passed in terms of the earlier order in WPSS No. 520 of 2018 dated 23.03.2018, it is necessary to examine SPA No.260 of 2019 in the first instance. In the order under appeal therein i.e. in WPSS No. 520 of 2018 dated 23.03.2018 all that the learned Single Judge had observed was as under :

"Respondents are directed to release the grade pay to the petitioners as per the Government Orders dated 16.01.2013 and 20.10.2016 from the due date within a period of ten weeks from today.

In view of the above, the writ petition stands disposed of.

Pending application, if any, also stands disposed of."

3. It does appear that the said order was passed at the stage of admission, even without a counter affidavit being invited from the appellant-respondents. The order under appeal does not disclose why the respondents were directed to release the grade pay, to the petitioner, as per the Government Orders dated 16.01.2018 and 20.10.2018, nor does the said order disclose whether or not these two Government Orders applied to the case of the respondent-writ petitioners. On the short ground that the order under appeal was passed even without giving the appellant- respondent an opportunity of being heard, the said order must be, and is accordingly, set aside. WPSS No. 520 of 2018 is restored to file.

4. Both SPA No. 333 of 2019 and SPA No.607 of 2019 can be disposed of by a common order as, though two separate orders were passed in WPSS No.740 of 2018 and WPSS No.737 of 2018 both dated 11.10.2018, the contents of both these orders are identical. It is evident, from both the orders under appeal, that the learned Single Judge had allowed the writ petitions taking note of the earlier order passed in WPSS No. 520 of 2018 dated 23.03.2018, which order the learned Single Judge held had attained finality. Since the said judgment had not been challenged in appeal, and on the ground that the petitioners in these two writ petitions were similarly placed as that of the petitioner in WPSS No. 520 of 2018 dated 23.03.2018, the learned Single Judge held that failure to extend them the said benefit would amount to discrimination.

5. Even in these two cases, the question whether or not the Government Orders dated 16.01.2013 and 20.10.2016 were applicable to the petitioners has not been examined. Since the order passed in WPSS No. 520 of 2018 dated 23.03.2018 has now been set aside by us, and the orders in both the writ petitions (WPSS No. 740 of 2019 and WPSS No.737 of 2018 dated 11.10.2018) are based on the very same order passed in WPSS No. 520 of 2018 dated 23.03.2018, both these orders under appeal must be, and are accordingly, set aside.

6. WPSS No. 737 of 2018 and WPSS No.740 of 2018 are also restored to file. Both Mr. Parikshit Saini, and Mr. Harendra Belwal, learned counsel for the respondents-writ petitioners, request that all the three writ petitions i.e. WPSS No. 520 of 2018, WPSS No.737 of 2018 and WPSS No.740 of 2018 be clubbed, and be directed to be heard together, since the issues which arise for consideration in all the three writ petitions are admittedly common.

7. We accede to the request of the learned counsel, and direct that all these

three writ petitions be clubbed together, and be listed before the learned Single Judge hearing such matters. While pleadings in WPSS No. 740 of 2018 are complete, the appellants in SPA No.260 of 2019 and SPA No.607 of 2019 were not afforded the opportunity to file counter affidavits in WPSS No. 520 of 2018 and WPSS No.737 of 2018. We consider it appropriate, in such circumstances, to grant the appellants three weeks' time from today to file counter affidavits in WPSS No.520 of 2018 and WPSS No.737 of 2018.

8. It is open to both Mr. Parikshit Saini and Mr. Harendra Belwal, learned counsel for the respondents-writ petitioner, to request the learned Single Judge to take up all these three writ petitions together, any day after three weeks from today.

9. The Special Appeals stand disposed of accordingly.

No costs.