
(2019) 03 UK CK 0105

In the Uttarakhand High Court

Case No : Special Appeal No. 143 Of 2019 With Delay Condonation Application
No. 2509 Of 2019

State Of Uttarakhand And Others

APPELLANT

Vs

Rajeev Prasad And Others

RESPONDENT

Date of Decision : 19-03-2019

Acts Referred:

Citation : (2019) 03 UK CK 0105

Hon'ble Judges : Ramesh Ranganathan, CJ;N.S. Dhanik, J

Bench : Division Bench

Advocate : Vikas Pande, Anil Anthwal

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. The application to condone the delay of 40 days in preferring the appeal is not opposed and the delay is, therefore, condoned. Delay condonation application stands disposed of.

2. This appeal is preferred against the order passed by the learned Single Judge in Writ Petition (S/S) No. 4249 of 2018 dated 17.12.2018. The respondents-writ petitioners filed the said writ petition seeking a writ of mandamus directing the respondents to pay them arrears of House Rent Allowance from the date on which it fell due till the month of August, 2016; and for a mandamus directing and commanding the respondents to pay arrears of House Rent Allowance to them from the date of their initial appointment as applicable under the Government Orders.

3. The respondents-writ petitioners, 24 in number, are working as Firemen, Drivers etc. with the State Government. They claim to be residing in barracks and, on the ground that the barracks where they were asked to stay, were equivalent to a government accommodation, they were denied House Rent Allowance.

4. In the order under appeal, the learned Single Judge noted that earlier some other Firemen, Drivers etc. had filed Writ Petition (S/S) No. 1034 of 2014 (Bijendra Singh Vs. State of Uttarakhand & Others); the said writ petition was allowed by order dated 07.01.2015, and a mandamus was issued to the respondents to pay the petitioners therein House Rent Allowance from the date the said amount fell due; and, in the order in Writ Petition (S/S) No. 1034 of 2014 dated 07.01.2015, the learned Single Judge had noted the contents of the counter affidavit filed by the respondents that, since there was not enough government accommodation, all the petitioners therein could not be provided such accommodation, and therefore they were staying in barracks. The learned Single Judge had, thereafter, observed that merely because they were staying in barracks did not mean that they had been allotted government accommodation; a barrack was not a place which could be considered as an official accommodation for the purpose of dispensing with the house rent allowance; it was always open to the officials concerned to ask the employees to search for alternative accommodation outside the barracks; and denial of House Rent Allowance was not justified. A mandamus was issued to the respondents to pay the petitioners, in Writ Petition (S/S) No. 1034 of 2014, house rent allowance from the date it was admissible.

5. The order, now under appeal before us, further records that against the judgment in Writ Petition (S/S) No. 1034 of 2014 dated 07.01.2015, SLP was preferred before the Supreme Court being SLP No. 12155 of 2015 (State Vs. Bijendra Singh), which was dismissed by the Supreme Court on 09.07.2015; a Government Order dated 15.10.2015 had been issued after the judgment of the Supreme Court dated 09.07.2015, questioning which the jurisdiction of this Court had been invoked again resulting in Special Appeal No. 187 of 2015 being dismissed by order dated 29.08.2018.

6. Following the earlier order, the learned Single Judge has, in the order now under appeal before us, issued a mandamus to the respondents to pay the respondents-writ petitioners House Rent Allowance as is payable to them from the date of their initial appointment within a period of six weeks.

7. Mr. Vikas Pande, learned Standing Counsel for the State Government, would draw our attention to a letter addressed by the Director General of Police (Personnel) dated 06.02.2018, wherein reference is made to the Government Order dated 28.10.2016 directing payment of House Rent Allowance to all employees from that date, and for a sum of Rs. 500/- per month to be deducted from each employee towards barrack maintenance. Since the respondents-writ petitioners have not put it in issue, it is unnecessary for us to examine whether such deduction is permissible in law.

8. While the Government Order dated 28.10.2016 requires house rent allowance to be paid to all employees from that date, the claim of the respondents-writ petitioners in this writ petition is for payment of house rent allowance on par with the petitioners in Writ Petition (S/S) No. 1034 of 2014 (Bijendra Singh Vs. State

of Uttarakhand & Others).

9. Since this Court had earlier directed payment of House Rent Allowance, from the date on which the petitioners therein were eligible, till date; and the order of this Court was affirmed by the Supreme Court, we see no reason to take a different view. The learned Single Judge has merely followed the directions issued, with respect to similarly situated persons, earlier by this Court which order was affirmed by the Supreme Court.

10. Interference in an intra-Court appeal would be justified only if the order passed by the learned Single Judge suffers from a patent illegality. We find no such infirmity in the order under appeal. The appeal fails and is, accordingly, dismissed.

11. No costs.