
(2010) 06 UK CK 0035
In the Uttarakhand High Court

State of Uttarakhand and Others

APPELLANT

Vs

Smt. Meera Negi

RESPONDENT

Date of Decision : 14-06-2010

Acts Referred:

Citation : (2010) 06 UK CK 0035

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

Bench : Division Bench

Final Decision : Dismissed

Judgement

J.S. Khehar, C.J.—Mohan Singh Negi was appointed as a Shramik (Worker), on daily wage basis, by the Forest Department on 01.01.1980. He admittedly continued to render service uninterruptedly in the aforesaid capacity till 10.07.2003. On 10.07.2003, the Conservator of Forests issued an order, for regularising the employment of daily wage workers. A list of 20 names was appended to the aforesaid order. The name of the aforesaid Mohan Singh Negi appeared at Serial No. 13 thereof. Column 11 of the list (referred to above) depicted the date, with effect from which, the concerned employees were in continuous service. For the aforesaid Mohan Singh Negi, Column No. 11 depicted the aforesaid date as 01.01.1980. Column 12 mentioned the dates, when the concerned employees became eligible for regularisation. For the aforesaid Mohan Singh Negi, the date mentioned in Column 12 was 05.01.1981.

2. It is not a matter of dispute, that all persons named in the list, appended to the letter of the Conservator of Forests dated 10.07.2003 (Annexure No. 1), were regularised in terms of the recommendation made, except the aforesaid Mohan Singh Negi. The only reason, for not issuing a formal order of regularisation was, that Mohan Singh Negi died on 02.12.2003, by which time, no order of regularisation had been issued. It would also be pertinent to mention, that it is not disputed between the parties, that the communication dated 10.07.2003 (Annexure No. 1) was issued by the Conservator of Forests in furtherance of the directions issued by the Supreme Court in State of U.P. and

Others Vs. Putti Lal, , which was decided on 21.02.2002.

3. After the death of her husband Mohan Singh Negi, the respondent Meera Negi submitted a representation dated 28.02.2004, claiming appointment on compassionate grounds under the Uttar Pradesh Recruitment of Dependents of Government Servants Dying in Harness Rules, 1974 (herein after referred to as the "Dying in Harness Rules"). The Dying in Harness Rules were adopted by the State of Uttarakhand, after its creation. Since the respondent did not receive any response to her representation, she submitted another representation dated 20.05.2004. The instant representation, submitted by the respondent, was rejected by the appellants vide an order dated 04.06.2004.

4. The respondent approached this Court by filing Writ Petition (S/S) No. 729 of 2004, wherein she assailed the order dated 04.06.2004, whereby her claim for appointment on compassionate grounds had been declined. Since the claim had been declined, on account of the fact, that her husband was a daily-wager, whereas appointment on compassionate grounds under the Dying in Harness Rules is extended only to dependents of a regular employee who dies in harness, she also claimed a direction from this Court, that her husband Mohan Singh Negi should be deemed to have been regularised, in view of the order passed by the Conservator of Forests dated 10.07.2003.

5. Writ Petition (S/S) No. 729 of 2004 was allowed by a learned Single Judge of this Court vide an order dated 22.12.2005. The State Government has preferred the instant Special Appeal against the aforesaid order dated 22.12.2005.

6. During the course of submissions advanced by the Learned Counsel for the appellants, the first and foremost contention advanced was, that the respondent was not entitled to appointment on compassionate grounds under the Dying in Harness Rules, since her husband Mohan Singh Negi was not in regular employment at the time of his death on 02.12.2003. The second contention advanced by the Learned Counsel for the appellants is, that Mohan Singh Negi, having died on 02.12.2003 and no order of regularisation having been passed in his favour by that time, he could not be regularised in service.

7. In sum and substance, the only issue that needs to be adjudicated upon by this Court is, whether the respondent's husband Mohan Singh Negi should be treated as having been regularised in service before his death on 02.12.2003. Having given our thoughtful consideration to the issue in hand and having perused the letter of the Conservator of Forests dated 10.07.2003, we have no doubt in our minds whatsoever, that the respondent's husband Mohan Singh Negi was entitled to regularisation, inasmuch as, the 12 workers named above him, from Serial No. 1 to 12, and the 7 workers named after him, from Serial No. 14 to 20 (appended to the letter dated 10.07.2003) were all regularised. The solitary reason, for not regularising Mohan Singh Negi, was that, by a fate of ill-luck, he died on 02.12.2003. Had he not died, he would have, like all others placed in the list appended to the letter dated 10.07.2003, been also regularised

in service. We are, therefore, satisfied that the learned Single Judge was fully justified in arriving at the conclusion, that the respondent's husband Mohan Singh Negi should be treated as having been regularised in service prior to his death on 02.12.2003.

8. Since the only impediment in granting an appointment on compassionate grounds to the respondent under the Dying in Harness Rules was based on the fact, that the respondent's husband Mohan Singh Negi had not been regularised, and since we have hereby affirmed the determination rendered by the learned Single Judge, that he ought to have been treated as regularised when he died on 02.12.2003, we are of the view, that the instant Special Appeal is devoid of any merit and the same deserves to be dismissed. The same is accordingly hereby dismissed.

9. It would be relevant to mention one other submission advanced by the Learned Counsel for the appellants. Learned Counsel for the appellants, during the course of hearing, pointed out that respondent Meera Negi had been appointed on daily-wage basis, after the death of her husband, and that she has continued to render service as a daily-wager after his death. This submission advanced by the Learned Counsel for the appellants shows the apathy at the hands of the appellants in examining claims made under the Dying in Harness Rules. Unfortunately, compassion seems to be totally lacking in consideration. One or the other excuses are invented to deprive appointments even under the Dying in Harness Rules. This attitude at the hands of the appellants, to harass persons belonging to the weakest section of the society, needs to be reprimanded. The appellants should have given effect to the order passed by the learned Single Judge and should have appointed the respondent under the Dying in Harness Rules. Despite that, the respondent has been persuaded to contest the instant Special Appeal. The original writ petition was filed in 2004, the same came to be allowed by a learned Single Judge of this Court in 2005 the instant Special Appeal was preferred in 2006 and it has come up for final disposal in 2010. The respondent has unnecessarily been harassed for six years. One wonders how she pursued the process of litigation keeping in mind the expenses involved. In the background of the letter issued by the Conservator of Forests dated 10.07.2003, so as to give effect to the order passed by the Supreme Court in *State of U.P. and Ors. v. Putti Lal* (supra), the instant Special Appeal is bound to be considered as totally frivolous and a misuse of the process of this Court. In the circumstances, we are satisfied, that exemplary costs should be imposed on the appellants. Accordingly, while dismissing the instant Special Appeal, costs quantified at Rs. 50,000/- are hereby imposed on the appellants. The costs shall be paid to the respondent within three months from today.