
(2021) 11 UK CK 0107

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 528 Of 2021

Sunil Kumar Jain

APPELLANT

Vs

State Of Uttarakhand And Another

RESPONDENT

Date of Decision : 22-11-2021

Acts Referred:

Citation : (2021) 11 UK CK 0107

Hon'ble Judges : Raghvendra Singh Chauhan, CJ; Narayan Singh Dhanik, J

Bench : Division Bench

Advocate : K.K. Harbola, J.C. Pande, D.S. Patni, Bhupendra Singh Bisht

Final Decision : Disposed Of

Judgement

Raghvendra Singh Chauhan, CJ

1. With the consent of the learned counsel for the parties, this case is being decided at the admission stage itself.

2. The petitioner is aggrieved by the fact that despite the retirement from his service on 30.06.2020, from the post of Executive Engineer, from the Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam ("the Nigam", for short), he has not been sanctioned his gratuity and his leave encashment. The amount of gratuity owed to the petitioner is Rs.20,00,000/- and the amount of leave encashment (300 days) is Rs.22,52,250/-. Thus, the respondents are supposed to pay a total amount of Rs.42,52,250/-. However, the same is not being paid.

3. The learned counsel for the petitioner submits that in identical matter, in the case of Karan Singh Vs Uttarakhand Payjal Sansadhan Vikas Evam Nirman Nigam & another [Writ Petition (S/B) No. 448 of 2021], vide order dated 04th October, 2021, this Court had directed the respondents to pay the leave encashment, and the gratuity, within a period of two months. Therefore, the learned counsel submits that a similar order should be passed even in the present case.

4. Mr. D.S. Patni, the learned Senior Counsel for the respondent No. 2, has not challenged the stand taken by the petitioner. His only defence is that the respondent No. 2 could not pay the gratuity and the leave encashment as the Nigam is facing a financial crunch. Moreover, the State Government is not granting sufficient funds to the Nigam to meet out its financial liabilities.

5. The position being taken by the learned Senior Counsel is clearly unjustified. For, financial constraint cannot be a reason for denying a retired employee his gratuity and leave encashment.

6. Therefore, this Court directs the respondent No. 2 to pay an amount of Rs.20,00,000/- (rupees twenty lacs only) under the category 'gratuity', and an amount of Rs. 22,52,250/- (rupees twenty two lacs fifty two thousand two hundred and fifty only) under the category 'leave encashment', to the petitioner, within a period of two months from the date of submission of the certified copy of this Order.

7. With the direction as above, the writ petition stands disposed of.