

(2009) 01 UK CK 0011

In the Uttarakhand High Court

Case No : Writ Petition No. 458 of 2008 (S/S)

Udai Ram Uniyal

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 02-01-2009

Acts Referred:

Citation : (2009) 2 UC 758

Hon'ble Judges : V.K. Bist, J

Bench : Single Bench

Advocate : Rajendra Dobhal, for the Appellant; J.P. Joshi, Chief Standing Counsel, N.P. Sah for Respondents Nos. 1, 2 and 4, Beena Pandey for State of U.P for Respondent No. 3 and Seema Sirohi for Respondent Nos. 5 and 6, for the Respondent

Final Decision : Allowed

Judgement

V.K. Bist, J.—Present writ petition has been filed by the Petitioner for direction to the Respondents to make payment of balance amount of gratuity of Rs. 11,131/- and commutation of pension amounting to Rs. 1,00,290/- alongwith 12% interest per annum to the Petitioner from the date same became due.

2. Brief facts of the case are that the Petitioner was Forester in Tons Forest Division, Purola, District Uttarkashi. On attaining the age of superannuation the Petitioner retired from the service on 31 -10-1998. After retirement the Petitioner was paid 90% of gratuity, G.P.F., group insurance and pension but 10% of the gratuity amounting to Rs. 11,131/- and amount of commutation of pension Rs. 1,00,290/- was withheld in anticipation of the sanction by the competent authorities. On 15-07-1999 a letter was written by Deputy Conservator of Forest, Tons Forest Division, Purola, District Uttarkashi to the Petitioner that Rs. 1,00,290/- as commuted pension, gratuity amount of Rs. 11,131/- and G.P.F. Rs. 6,323/- was received by the department after sanction and Petitioner was directed to present himself in his office to collect the cheque of the said payment. Thereafter, the Petitioner went to the office of Deputy

Conservator of Forest, Tons Forest Division, Purola, District Uttarakashi on 22-07-1999 but due to the absence of the concerned clerk required cheque was not given to the Petitioner and he had to return back to his home. Thereafter, on 24-07-1999 the Department sent another letter to the Petitioner annexing therein a cheque of Rs. 1,17,744/-. The Petitioner submitted the cheque in his account in Kirti Nagar Branch of State Bank of India on same day. But the Petitioner received a communication dated 17-08-1999 from State Bank of India informing that the cheque could not be encashed due to the objection of Treasury Officer, Dehradun. Thereafter, the Petitioner approached the Deputy Conservator of Forest, Tons Forest Division, Purola, District Uttarkashi and informed him about non payment of amount on account of objection of Treasury Officer, Dehradun. After that on 19-05-2000 the Deputy Conservator of Forest, Tons Forest Division, Purola, District Uttarkashi wrote a letter to the Financial Controller in the office of Chief Conservator Officer, Lucknow U.P. requesting him to issue fresh authority letter. Again on 27-07-2000, the Deputy Conservator of Forest Tons Forest Division, Purola, District Uttarkashi wrote to the Financial Contrallor of Chief Conservator Officer, Lucknow to issue fresh pay order because earlier pay order became time barred. One year after of aforesaid communication the Financial Controller of Chief Conservator Officer, Lucknow U.P. issued payment orders on 18-06-2006 for payment of balance amount of gratuity and commutation of pension. On this the Divisional Forest Officer, Tons Forest Division, Uttarkashi wrote a letter to the Petitioner on 16-07-2001 directing him to appear before him on 25-07-2001 so that bill be sent to the Senior Treasury Officer, Uttarkashi. On 25-07-2001 the Petitioner appeared before the Divisional Forest Officer, Tons Forest Division, Purola who asked the Petitioner to approach the Treasury, Uttarkashi. As per direction of Divisional Forest Officer, Purola the Petitioner contacted Treasury Officer, Uttarkashi who refused to make payment on the ground that the Petitioner was getting pension from Treasury of District Tehri Garhwal, therefore cheque cannot be encashed from Treasury of Uttarkashi. Due to this technical objection the Petitioner could not get the balance payment of gratuity and commuted pension. Thereafter, Divisional Forest Officer, Tons Forest, Division, Purola, District Uttarkashi again wrote a letter on 31 -08-2001 to the Financial Controller of Chief Conservator Office, Lucknow U.P. requesting him to modify pay order as drawing and disbursing authority of his office was Divisional Forest Officer, Dehradun and payment was to be made from Senior Treasury Officer, Dehradun. On 21-12-2003 Divisional Forest Officer Tons Division, Purola, wrote to the Financial Controller of Chief Conservator Officer, Lucknow requesting him to send the copy of payment order to him. Thereafter, for last 5 years the Petitioner was repeatedly writing to the Respondents for balance payment of gratuity and commuted pension but same was not paid to him. On 19-09-2007 Senior Treasury Officer, Tehri Garhwal informed Divisional Forest Officer Tons, Forest Division, Purola that revised pay order in respect of Petitioner has not been received by him and as soon as same is received, the same will be sent to the office of Accountant General (Lekha and Hakdari) U.P. Allahabad. Copy of this letter was also sent to the Petitioner. The Senior Account

Officer replied to the letter of Divisional Forest Officer, Tons Forest Division, Purola on 13-02-2008 informing him that payment order was sent to the Treasury Officer, Dehradun for payment through Accountant General, Uttarakhand but no information about the further course of action has been received by the Treasury Accountant General, Uttarakhand.

3. Aforesaid story itself speaks that Petitioner was harassed. He was being denied his own money for some or the other reasons.

4. Heard learned Counsel for the parties.

5. It is not a disputed fact that even after 10 years of sanction, the payment of balance amount of gratuity and commuted pension has not been made to the Petitioner. After hearing learned Counsel for the parties, this Court is of the view that payment of balance amount of gratuity and commuted pension has deliberately been withheld by the Respondents for about 10 years. The Petitioner has spent his precious time of life in serving the Respondents and it is not expected from the Government to treat its retired employee in callous and agitated manner. The amount claimed by the Petitioner is admitted in Respondents' counter affidavit and Petitioner was not at fault for the delay. Infact the Petitioner is lucky to receive his payment in his life time though the Respondents had already made the moves making his hands empty.

6. It is the time of retirement when a person is in dire need of money. This need may be for his urgent and personal work like marriage of daughter, higher education of children, etc. Due to this reason also pension is sold by the employees. The Petitioner must have sold his pension 10 years ago for his personal needs. But payment of commuted pension has not been made to him though admittedly deduction in lieu of the same started 10 years ago. Delay in payment of post retiral dues is frustrating and must be avoided but the facts of the present case clearly say that this is a clear cut example of deliberate delay on the part of Respondents and is not excusable.

7. Since amount claimed by the Petitioner is admitted to the Respondents, no further discussion is required to be given in the judgment. In view of aforesaid discussion, the writ petition is allowed. The Respondents are directed to make payment of the balance amount of gratuity of Rs. 11,131/- and commuted pension amounting to Rs. 1,00,290/- to the Petitioner within a period of six weeks from today. The Respondents are also directed to make payment of 12% interest to the Petitioner till the date of actual payment. Amount of interest will be shared by the State of U.P. as well as by State of Uttarakhand. In addition to this an amount of Rs. 1 lakh shall also be paid to the Petitioner by way of compensation for withholding the commuted pension for more than 10 years and also for harassment and mental agony which Petitioner suffered for 10 years. Fifty percent of this shall be paid by the State of U.P. and balance fifty percent shall be paid by the State of Uttarakhand. This amount shall also be paid within a period of three months from today.

8. This Court also feels that if such treatment is given to the retired person in a welfare State, nothing is left to be sent about the functioning of the State Government in the State. This Court is constrained to issue further direction to the State Government of Uttarakhand to ensure in future that payment of post retiral dues of all its retired employees be made within a period of three months from the date they retire.

9. Copy of this order be also sent to the Chief Secretary of the State of Uttarakhand for necessary action.