

(2018) 07 UK CK 0061

In the Uttarakhand High Court

Case No : Writ Petition No. 1176 (SS) of 2017

Umrao Singh Rawat and others

APPELLANT

Vs

State of Uttarakhand and another

RESPONDENT

Date of Decision : 11-07-2018

Acts Referred:

Citation : (2018) 07 UK CK 0061

Hon'ble Judges : ALOK SINGH, J

Bench : Single Bench

Advocate : Subhash Upadhyay, V.D. Bisen

Final Decision : Allowed

Judgement

ALOK SINGH, J

1. Petitioners were engaged as Seasonal Amin with the respondent Department between 1989 and 1993. Having worked for some years, petitioners

approached Honâ??ble Allahabad High Court for their regularization. Honâ??ble Allahabad High Court vide judgment dated 16.07.1997 allowed the

writ petition and directed the respondents to give same salary, allowance and other benefits and facilities as admissible to other regular Collection

Amins and State Government was further directed to take decision of the recommendation of the District Magistrate, Nainital for creation of posts

expeditiously and till then the service of the petitioners shall be continued without any artificial break in service. Respondents complied with the order

but filed Special Appeal against the judgment dated 16.07.1997. Special Appeal filed by the State was dismissed vide order dated 16.08.2002. In

compliance of the judgment passed by the Honâ??ble Allahabad High Court, State of Uttarakhand created 192 posts of Collection Amins and

petitioners were merged against those posts. Vide order dated 16.12.2011, services of the petitioners were regularized with effect from 09.11.2000.

Respondents also denied the benefit of ACP to the petitioners from the back date. Feeling aggrieved, petitioners have approached this Court.

2. Learned counsel for the petitioners submits that services of the petitioners were already regularized with effect from 1997 and 1998, therefore,

there was no occasion for the respondents to regularize the services of the petitioners again with effect from 9.11.2000. In support of this contention,

he has placed reliance on Annexure Nos. 4 and 5 to the writ petition.

3. Mr. Subhash Upadhyay, learned counsel for the petitioners submits that in the similar circumstances, respondents have granted benefit of ACP to

Collection Peon treating their year of regularization as 1997. In support of his contention he has placed reliance on Annexure No. 1 to the

supplementary affidavit. He has also placed reliance on the judgment passed by Honâ??ble Supreme Court in the case of Habib Khan Vs. State of

Uttarakhand and others, reported in 2018 (1) SCT 283 SC whereby service rendered on work-charge basis was counted for the purposes of granting

pensionary and other retirel benefits. He has further placed reliance on the judgment rendered by Division Bench of this Court in Special Appeal No.

494 of 2017 (State of Uttarakhand Vs. Bhram Pal Singh) and other connected special appeals decided on 26.04.2018.

4. Heard Mr. Subhash Upadhyay, Advocate for the petitioner and Mr. V.D. Bisen, Brief Holder for the State of Uttarakhand and perused the

material available on record.

5. I have gone through Annexure Nos. 4 and 5 to the writ petition wherein year of regularization of the petitioners have been categorically mentioned

as 1997 and 1998. I have also gone through Annexure No. 1 to the supplementary affidavit whereby benefit of ACP was granted to Collection Peons

with effect from 1997, 1998 and 1999.

Â

6. In paragraph 12 of the counter affidavit, respondent no. 2 himself has categorically stated that petitioners have been granted regular appointment

and are being paid entire benefit since 1997. From the perusal of the counter affidavit, it appears that respondent no. 2 has misconstrued the

controversy, he understood the controversy as if petitioners are demanding

promotion on the post of Naib Tehsildar instead of benefit of ACP.

7. From the perusal of the record, it can safely be said that petitioners were regularly appointed between 1997 and 1998. I do not find any rationale or reason behind fixing the date of regularization of petitioners with effect from 09.11.2000. Since petitioners were regularly appointed in 1997 and 1998, therefore, they are entitled for ACP with effect from their initial appointment i.e. 1997 and 1998.

8. Accordingly, writ petition is allowed. Government order dated 16.12.2011 is quashed. Respondents are directed to grant benefit of ACP(s) to the petitioners with effect from 1997 and 1998, if they are otherwise eligible, within three months from the date of receipt of certified copy of this judgment.