

(2024) 02 UK CK 0064
In the Uttarakhand High Court
Case No : Writ Petition (S/B) No. 17 Of 2024

Vinay Anand Bourai

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 26-02-2024

Acts Referred:

Citation : (2024) 02 UK CK 0064

Hon'ble Judges : Manoj Kumar Tiwari, J; Pankaj Purohit, J

Bench : Division Bench

Advocate : Anil Kr. Joshi, Ganga Singh Negi, Dr. K.H. Gupta, Rajendra Dobhal, Shubhang Dobhal, Akshay Pradhan

Final Decision : Disposed Of

Judgement

Manoj Kumar Tiwari, J

1. Heard on the intervention application (IA/2/2024).
2. The Court finds no reasonable ground to permit the applicant –Dr. Sushil Kumar Sharma to intervene in the matter. Accordingly, intervention application is rejected.

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3. Heard learned counsel for the parties.
4. By means of this writ petition, petitioner has substantially sought issuance of a writ in the nature of mandamus commanding the respondents to pay post-retiral dues of petitioner including pension and gratuity along with 18% interest from the date of retirement till the date of actual payment.
5. Facts, in nutshell, are that in the year 1983, petitioner was appointed as Lecturer on ad hoc basis in a college affiliated to H.N.B. Garhwal University. His services, however, were regularized on the post of Lecturer in the year 1985. In the year 2006, he was appointed as Principal of affiliated college, namely, Sri

Guru Ram Rai (SGRR) P.G. College, and he retired as Principal from the said College on 31.08.2002. Since the post-retiral dues, including pension and gratuity, were not released to petitioner even after release of Pension Payment Order (PPO) dated 07.10.2022, therefore, petitioner has filed this writ petition.

6. An order dated 14.07.2023 issued by Additional Secretary, Govt. of Uttarakhand addressed to Director, Higher Education Department, Uttarakhand (Haldwani) is enclosed with writ petition as Annexure No.6, whereby, Director, Higher Education was instructed to take necessary action for release of retiral dues/pension to petitioner. A perusal of said letter indicates that some complaint was made against petitioner that he did not possess requisite qualification for appointment as Principal. However, after enquiry, the allegations, made in complaint, were found to be without any substance, and it was found that petitioner's appointment as Principal is valid. However, the Director, Higher Education, vide letter dated 20.09.2023 (Annexure No.7 to the petition) again referred the matter to the Additional Secretary, High Education, Uttarakhand to dispose of the complaint made against petitioner, due to which, retiral dues could not be released to petitioner.

7. Vide order dated 19.02.2024, this Court took note of letter dated 14.07.2023 issued by the Additional Secretary, Uttarakhand and requested learned State counsel to get instructions as to why matter is again referred by the Director, Higher Education to the State Government vide letter dated 20.09.2023. Today, learned State Counsel, on instructions, submits that since State Government is competent to close the enquiry, pending against petitioner, and by letter dated 14.07.2023, Additional Secretary of Uttarakhand had directed to dispose of the enquiry ongoing against petitioner, therefore, Director, Higher Education, has referred the matter again to State Government for taking a final decision on the pending enquiry.

8. From the stand taken by Director, Higher Education, it appears that although, after enquiry, petitioner has been given clean-chit that he possesses requisite qualification and he was validly appointed as Principal of an affiliated P.G. College, however, as a matter of abundant caution, the Director, Higher Education has referred the matter to State Government so that the enquiry, ongoing against petitioner, may be closed.

9. Be that as it may, since State Government is competent to take final call in respect of pending enquiry, and from the material brought on record, it is revealed that allegations, made against petitioner in complaint, were found to be baseless; petitioner retired from service on 30.08.2022, and nearly eighteen months have gone-by since then, we dispose of this writ petition with a direction to respondent no.1-Secretary, Higher Education, Uttarakhand to take final decision in the matter within one week from today in light of letter dated 20.09.2023 issued by the Director, Higher Education, Uttarakhand (Annexure no.7 to the writ petition). The entire post-retiral dues including pension of petitioner shall be released to him within three weeks thereafter. In the event,

retiral dues are not released to petitioner within the time stipulated by this Court, then the same would also carry interest at the rate of 7% per annum.

10. Pending application, if any, stands disposed of accordingly.