

(2010) 06 UK CK 0186
In the Uttarakhand High Court

Yashwant Singh Negi and Another

APPELLANT

Vs

State of Uttarakhand and Another

RESPONDENT

Date of Decision : 25-06-2010

Acts Referred:

Citation : (2010) 06 UK CK 0186

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Tarun Agarwala, J.—Heard Sri Chetan Joshi, the learned Counsel for the petitioners, Sri Paresh Tripathi, the learned Brief Holder for the respondent Nos. 1 to 5 and Sri Subhash Upadhyaya, the learned Counsel for the respondent No. 6.

2. The petitioners have filed the present writ petition praying that they should be given the honorarium as per the Government Orders dated 20th September, 2003 and 24th October, 2003.

3. The brief facts leading to the filing of the writ petition is that the petitioners were appointed as Teachers by the Parent Teachers Association (hereinafter referred to as P.T.A.) in the year 1999 and were being paid the honorarium by the said Association. In paragraph 6 of the writ petition, the petitioners have stated that the petitioner No. 1 is qualified to be appointed as an L.T. Grade Teacher and petitioner No. 2 is qualified to be appointed as a Lecturer in English.

4. It transpires that the State of Uttarakhand issued a Government Order dated 20th September, 2003 directing the Teachers appointed by the P.T.A. who are teaching 6 hours per day would be entitled for a fixed honorarium @ Rs. 4000/- per month by the State Government. Subsequently, by a Government Order dated 24th September, 2003, the earlier Government Order dated 20th September, 2003 was modified and the embargo of holding six periods per day was done away and it was directed that Teachers appointed by the P.T.A. who hold the requisite qualification would be eligible to be paid the honorarium @ Rs.

4000/- per month by the State Government. Subsequently, the Director, School Education issued an order dated 15th September, 2004 directing that the Teachers appointed by the P.T.A. prior to 05th September, 2003 would only be eligible to be paid the honorarium as per the aforesaid Government Order @ Rs. 4000/- per month. The Director clearly indicated that the Teachers appointed by the P.T.A. after 05th September, 2003 would not be eligible for honorarium at the rate fixed by the State Government.

5. The petitioners were appointed in the year 1999 and hold the necessary qualification and consequently contended that they are eligible to be paid the honorarium @ Rs. 4000/- per month, which has not been paid.

6. The counter affidavit of respondent No. 6 reveals that the petitioners hold the requisite qualifications and are eligible to be paid the honorarium as per the Government Orders and information of the petitioners' appointment was sent by the college on 17th February, 2004 which was duly received by the District Education Officer on 09th February, 2004.

7. Respondent Nos. 2 to 4 have also filed their counter affidavit and admitted that the petitioners have been working since the year 1999 i.e. prior to 05th September, 2003 and also admitted in paragraph 7 of the counter affidavit that the petitioners hold the necessary qualifications. The respondents have, however, submitted in paragraph 7 of the counter affidavit that the petitioners are not entitled to receive the honorarium as per the Government Orders due to the inaction and negligent conduct of the management committee of the college and that the authorities did not inform about the working of the petitioners in the college on or before 10th February, 2004 and therefore neither fresh posts could be created nor could it be sanctioned, nor salary nor honorarium could be paid by the State Government and that the liability to pay the honorarium if any now lies with the Committee of Management. This paragraph 7 has been sworn on the basis of record. Nothing has been brought on record to indicate as to how the Management was liable to send the information on or before 10th February, 2004.

8. On the other hand, the Government Orders dated 20th September, 2003 and 24th October, 2003 read with the order of the Director dated 15th September, 2004 does not indicate any such cut off date. The only embargo indicated in the aforesaid Government Order is that a Teacher appointed by the P.T.A., who have been appointed prior to 05th September, 2003, would be eligible to be paid the honorarium from the State exchequer. The petitioners fulfill this eligibility and are consequently entitled to be paid the honorarium as per the Government Orders.

9. Consequently, the writ petition is allowed. A writ of mandamus is issued to the Director of School Education to pay the honorarium to the petitioners w.e.f. 19th February, 2004 i.e. the date when information was received by the respondents from the Principal of the College. Any amount so paid by the P.T.A. would be accordingly adjusted. Necessary information of such payment may be obtained from the educational institution. Arrears would be paid within three months from

the date of the production of a certified copy of this order.