



HON'BLE THE ACTING CHIEF JUSTICE SRI MANOJ KUMAR TIWARI
AND
HON'BLE SRI JUSTICE VIVEK BHARTI SHARMA

25TH NOVEMBER, 2024

1



“(i) Issue a writ, order or direction in the nature of mandamus commanding and directing the respondent No. 2 to pay post retiral benefits to the petitioner such as gratuity, last month’s salary of May 2017, Leave Encashment amount of ten months i.e. 300 days, amount of Group Insurance, arrears of Assured Career Progression (ACP) and arrears of Dearness Allowance w.e.f. 01.01.2016 till the retirement of the petitioner i.e. May 2017, along with 18% interest from the date when the aforesaid amount accrued till the date of actual payment.”

3) According to the petitioner, till his retirement, neither any show cause notice, nor any charge sheet was given to him, and one charge sheet was issued to him, after retirement on 01.08.2018. The only charge levelled against the petitioner in the said charge sheet was that he put up a note before a committee of Head of Departments in its meeting held on 16.12.2015 for increasing commission payable to distributors by Rs.50/- per quintal with a view to sell off the stock of wheat seeds before sowing season came to an end. It was alleged that Corporation suffered loss of rupees sixteen crores and petitioner is also responsible for such loss.

4) Learned counsel for the petitioner has drawn attention of this Court to order dated 08.09.2021, passed by Chairman of the Corporation as Disciplinary /



2024:UHC:8715-DB

Appointing Authority. By the said order, petitioner was absolved from the charge levelled vide charge sheet dated 01.08.2018. Learned counsel for the petitioner thus contends that since petitioner has been absolved from whatever charge was levelled against him on 01.08.2018, therefore, there is no reason or justification whatsoever for withholding his gratuity, and other retiral dues.

5) Mr. Pundir, learned counsel appearing for the Corporation has referred to an order dated 24.11.2022, issued by State Government, whereby Vice-Chancellor, Govind Ballabh Pant University of Agriculture and Technology, Pantnagar was asked to hold re-enquiry regarding the loss suffered by Uttarakhand Seeds and Tarai Development Corporation in sale of wheat seeds during the Financial Year 2015-2016. Thus, he submits that since the subject matter is under re-enquiry, by the Vice-Chancellor regarding persons who are responsible for causing financial loss to the Corporation during Financial Year 2015-2016, therefore, contention raised on behalf of petitioner that no enquiry is pending against him, cannot be accepted.

6) The submission made by Mr. Pundir on behalf of the Corporation is bereft of merit.



7) From the aforesaid discussion, it is apparent that a charge sheet was issued to the petitioner, after retirement on 01.08.2018. However, the Disciplinary Authority after considering the report of Enquiry Officer absolved the petitioner vide order dated 08.09.2021. In view of the order passed by Disciplinary Authority, it can safely be inferred that the disciplinary enquiry initiated against petitioner came to an end and, thereafter, no disciplinary enquiry was initiated against him. Reliance by learned counsel appearing for the Corporation on the letter dated 24.11.2022, issued by the State Government, is misplaced. By the said order, a Fact Finding Enquiry has been ordered which is to be held by the Vice-Chancellor, which is different from a disciplinary enquiry. In the Fact Finding Enquiry, the Enquiry Officer has to collect evidence regarding financial loss caused to the employer, the persons who are responsible for such loss, and evidence has to be collected for initiating regular disciplinary enquiry. Merely because a Fact Finding Enquiry has been directed to be initiated by the State Government does not mean that a regular disciplinary enquiry has been initiated against the petitioner, and the disciplinary enquiry would be initiated, only if, sufficient material is found in the preliminary / Fact Finding Enquiry.

8) Petitioner has retired from service on 31.05.2017. Admittedly in the year 2017, there was no provision in the



Service Rules applicable to the officers / employees of the Uttarakhand Seeds and Tarai Development Corporation, enabling the employer to initiate disciplinary proceedings after retirement. Law is well settled that after retirement, the master-servant relationship is severed, and in the absence of an enabling provision in the relevant Service Rules, employer cannot initiate disciplinary enquiry against a retired employee. This aspect has been dealt with by this Court in Writ Petition (S/B) No. 407 of 2021, Rajesh Kumar Nigam Vs State of Uttarakhand & others, decided on 14.06.2024. Petitioner in Writ Petition (S/B) No. 407 of 2021 was also an employee of Uttarakhand Seeds and Tarai Development Corporation.

9) In such view of the matter, reliance made by learned counsel appearing for respondents on Government Order dated 24.11.2022, is misplaced. In respect of State employees also, disciplinary proceedings can be initiated within four years from the date of his / her retirement by virtue of provisions contained in Regulation 351-A of Civil Service Regulations. There is no corresponding provision in the Service Rules applicable to the employees of Uttarakhand Seeds and Tarai Development Corporation. Even, in case of State employees, maximum period, within which disciplinary enquiry has to be initiated, is four years. Even if, there were a provision analogous to Regulation



2024:UHC:8715-DB

351-A in the Service Rules applicable to the petitioner, then also the order issued by State Government would not come in the way of granting relief to the petitioner as it has been passed after four years. Therefore, this Court is of the considered opinion that no disciplinary enquiry can be held against petitioner at this belated stage.

10) Thus, the writ petition is allowed. Respondents are directed to release all admissible dues to the petitioner within six months from the date of production of certified copy of this order. In case, outstanding dues are not released within six months, then petitioner shall be entitled to simple interest at the rate of 7% per annum on such delayed payment.

MANOJ KUMAR TIWARI , A.C.J.

VIVEK BHARTI SHARMA, J.

Dt: 25TH NOVEMBER, 2024
Negi

**HIMA
NSHU
NEGI**

Digitally signed by
HIMANSHU NEGI
DN: c=IN, o=HIGH COURT OF
UTTARAKHAND, ou=HIGH
COURT OF UTTARAKHAND,
2.5.4.20=bb3b60774012c1ef
1dae20d13aaf116e73351fdaf
6878326386908a7f90d5757,
postalCode=263001,
st=UTTARAKHAND,
serialNumber=75BD9D0FB7F
4A80990FC51A722A6BC552
D470EB4FD2F88DDF7C18DB
2A1524A4D, cn=HIMANSHU
NEGI
Date: 2024.11.28 10:43:23
+05'30'