

ITEM NO.8

COURT NO.2

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No.29139/2022

(Arising out of impugned final judgment and order dated 02-03-2022 in SPA No.467/2021 passed by the High Court of Uttarakhand at Nainital)

THE STATE OF UTTARAKHAND & ORS.

Petitioner(s)

VERSUS

KEDAR RAM ARYA

Respondent(s)

(With I.R. and IA No.148746/2022-CONDONATION OF DELAY IN FILING and IA No.148747/2022-EXEMPTION FROM FILING O.T.)

Date : 21-10-2022 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s) Mrs. D. Bharathi Reddy, AOR
Mr. Vikas Negi, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

- 1 Counsel appearing on behalf of the petitioner has adverted to the provisions of the Uttarakhand Retirement Benefits Act 2018 of which Section 2 provides as follows:

"This Act shall be applicable on the personnel substantively appointed before the date of 1st October 2005 under the services of State Government in the case of their completion of superannuation age, voluntary retirement and compulsory retirement and in the case of death of any personnel, on the dependents of such personnel;

Provided that the personnel appointed substantively from the date of 1st October 2005 shall be governed by new contributory pension plan;

Provided further that such service of personnel which are:

- (a) Not in full time employment;
- (b) done on contract, work charge, part time, daily wages, adhoc and fixed salary;
- (c) done as extension of service/re-appointment/end of session benefit after completing superannuation age;
- (d) bread in service from one service to another service;
- (e) unauthorized absence except the period of joining/ compulsory waiting period as a result of transfer from one post to another post;
- (f) period of leave without sanction;
- (g) any kind of absence in service, for which the leave is not due;

pension shall not permissible for the services mentioned in the clause (a) to (g) above."

- 2 Section 4 provides that service which has been performed substantially and regularly under the State Government shall be qualifying service for the purpose of pension. The respondent was appointed as an ad-hoc Lecturer on 16 October 1991 and was regularized with effect from 26 December 2001. Hence, it is urged that the ad-hoc service will not count as qualifying service for pension.

- 3 Issue notice, returnable in twelve weeks.
- 4 Dasti, in addition, is permitted.
- 5 Counter affidavit shall be filed within a period of six weeks from the date of service of the notice.
- 6 Pending further orders, there shall be a stay of the operation of the impugned judgment and order of the Division Bench of the High Court of Uttarakhand dated 2 March 2022 and no coercive steps shall be taken against the petitioners on the basis of the judgment of the Single Judge.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar