

Court No.2

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No.3137 of 2001
(Old No. 18812 of 1993)

U.P. State Electricity Board,
Shakti Bhawan, Ashok Marg,
Lucknow and others. Petitioners

Versus

Presiding Officer, Labour court,
U.P. Haldwani, District-Nainital
and others. Respondents

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Sri Sri N.S.Negi, learned counsel for the petitioners.
Sri Gopal Narain, learned Brief Holder for the State/respondent
No.1.

Date: Aug. 11,2008.

Hon'ble P.C.Verma,J.

By means of this petition the petitioners have challenged the award dated May 1992 passed by the Labour Court, contained in Annexure-1 to the writ petition. The said award was published on 24.09.1992.

2. On a dispute raised by the association of five workmen, the dispute was referred for adjudication vide notification dated 22.06.1990 in the following terms:-

Whether the pay fixation of Sri Shambhu Sharan Agarwal S/o Sri Bihari Lal Agrawal on 01.4.1989 by the employers is not correct? If yes, what should be the correct fixation of pay of the concerned workman on the said date and under which details?

3. Shambhu Sharan Agarwal was appointed as a Record Keeper in the Nagar Palika, Haldwani on 12.2.1951. The Electricity Department of Nagar Palika Haldwani was taken over w.e.f. 1st January, 1976 and the

services for the workers employed in the Electricity Department were transferred to the service of the Board. At the time of take over as on 1st Jan. 1976 Shambhu Sharan Agarwal was working as a Clerk in the ex-licensee firm on the pay scale of Rs. 150-345. The Board revised the pay scales of its employees. The workman also opted for the revision in his pay scale and the gave his option form.

4. The parties contested the case before the Labour Court and adduced evidence.

5. None appears on behalf of the respondent Nos. 1 & 2 despite sufficient service of notice.

6. I have heard learned counsel for the petitioner. The learned counsel for the petitioner contended that there is no evidence or document before the Labour Court to support that any dispute was pending on the date of take over between the workman and the erstwhile Nagar Palika. I find no force in the submission of the learned counsel for the petitioners. The Labour Court has held that the workman had given a representation which was pending with the Nagar Palika and the same was also pending before the Board. The Labour Court has recorded its finding on the basis of evidence on record. But considering the facts and circumstances of the case, it is made clear that the workman shall be entitled to get only 50% for the arrears of pay. Rest of the finding of the Labour Court is affirmed.

7. The writ petition is partly allowed accordingly. No order as to costs.

(P.C. Verma,J.)
11.08.2008