

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
Writ Petition (M/S) No. 1334 of 2011

Uttarakhand Jal Sansthan

...Petitioner

Versus

Deputy Labour Commissioner, Garhwal Region,
District Dehradun and others

...Respondents

Present : Mr. Rakesh Thapliyal, Advocate for the petitioner.
Mr. K. C. Tiwari, Brief Holder for the State of
Uttarakhand.
Mr. M. C. Kandpal, Senior Advocate assisted by Mr. S. S.
Chaudhary, Advocate for respondent no.2.

Hon'ble Sudhanshu Dhulia, J. (Oral)

1. Heard Mr. Rakesh Thapliyal, Advocate for the petitioner, Mr. K. C. Tiwari, Brief Holder for the State of Uttarakhand and Mr. M. C. Kandpal, Senior Advocate assisted by Mr. S. S. Chaudhary, Advocate for respondent no. 2.

2. The petitioner has challenged the order dated 23.3.2011 passed by the Deputy Labour Commissioner where an application filed by the workman under Section 6H(1) of the U.P. Industrial Dispute Act, 1947 (from hereinafter referred to as the Act) has been allowed. The said order is admittedly an ex parte order. Employer has not been heard while passing the said order.

3. Learned Senior Counsel Mr. M.C.Kandpal appearing for respondent no.2 contends that notices were sent to the employer. However, inspite of repeated notices sent to the employer, it failed to turn up and therefore no option for the Deputy Labour Commissioner but to proceed ex parte. Since the matter involves appreciation of disputed question of facts inasmuch as what are the actual amount liable to be paid to the workman under Section

6H(1) of the Act, the employer as well as the workman are given an opportunity to show as to what are the claims and liabilities of the respective parties.

4. In view of this, ends of justice would be met if the writ petition is disposed of with a direction that the petitioner i.e. employer and the respondent no.2 i.e. workman shall appear before the concerned Deputy Labour Commissioner on 19.12.2011, as requested by the petitioner. The petitioner shall put in appearance and give reply to the pending application of the workman as to what are the liabilities of the workman against the petitioner-employer.

5. The writ petition is disposed of with a direction to the Deputy Labour Commissioner to decide the matter after hearing both the parties, as expeditiously as possible but definitely within a period of three months to be calculated from the date a certified copy of this order is filed before the concerned authority.

6. Since the matter is remitted to the Deputy Labour Commissioner, the order dated 23.3.2011 is set aside and consequently the recovery citation dated 24.5.2011 issued against the petitioner is also set aside.

7. No order as to costs.

(Sudhanshu Dhulia, J.)
30.11.2011