

**IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL**

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

SPECIAL APPEAL NO. 124 OF 2021

5th April, 2021

Between:

State of Uttarakhandappellant

and

Smt. Preeti Chand
W/o Late Sri Ramesh Chand Rajwar
R/o House NO. 68, Pachvati,
Tirthpur, Kashipur Road, Udham Singh Nagar
.....Respondent

Counsel for the appellant : Mr. Vikas Pande,
learned Standing Counsel.

Counsel for the respondent : Mr. D.S. Patni, learned
Senior Counsel assisted by
Mr. Mahendra Singh
Rawat, learned counsel.

The Court made the following :

JUDGMENT : (per Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

For the sake of brevity and convenience, the party shall be referred to as arrayed in the writ petition.

2. The petitioner-State has challenged the order dated 05.11.2020, passed by a learned Single Judge, in Writ Petition (S/S) No.590 of 2018, whereby the learned Single Judge has allowed the writ petition, and has directed the State to sanction and grant extraordinary pension in favour of the petitioner, Smt. Preeti Chand, a lady who lost her husband suddenly in call of duty.

3. Briefly stated the facts of the case are that the petitioner's husband, Mr. Ramesh Chand Rajwar, was a Sub-Inspector (Civil Police) in the Police Department. In the year 2013, he was posted at Police Station Dharchula. He was in-charge of the Special Operation Group (for short 'SOG') constituted for controlling typical crimes such as forest smuggling, and poaching. On 25.09.2013 at 8:15 P.M., the Police Station was informed that forest smugglers had entered the forest, and were carrying on their nefarious activities. Therefore, the petitioner's husband went to the scene of crime in Tawaghat Tapovan. In order to show his departure from the police station, relevant entries were made in the General Diary. Unfortunately, while the petitioner's husband was returning from the scene of the crime, his vehicle got trapped in a landslide caused by the heavy rains. A boulder struck the head of the petitioner's

husband; he died on the spot. Due to the death of her husband, the Department granted the family pension to the petitioner. But the extraordinary pension has not been granted to the petitioner. Therefore, the petitioner had filed an application before the Department for seeking the benefit of extraordinary pension. The Superintendent of Police, Pithoragarh submitted his report to the Police Headquarters, Dehradun *"that the petitioner is entitled for receiving extraordinary pension"*. By a letter dated 20.12.2016, in turn, the Police Headquarters recommended to the Office of Accountant General that the petitioner is, indeed, entitled to receive the extraordinary pension. By letter dated 27.02.2017, the office of Accountant General also recommended to the State Government that under the Rule 3, Sub Rule (3) of U.P. Police Extraordinary Pension Rules, 1961 (for short 'the Rules'), petitioner is certainly entitled to receive the extraordinary pension. Furthermore, by letters dated 20.03.2017 & 08.09.2017, the Police Headquarters again recommended to the State Government that the petitioner should be granted extraordinary pension. However, despite the repeated recommendations both by Police Headquarter and by Accountant General, State rejected the petitioner's claim. Left with no other option, the

petitioner approached before this Court by filing the writ petition. By the impugned judgment dated 05.11.2020, the learned Single Judge allowed the writ petition in the terms mentioned hereinabove. Hence, the present appeal before this Court.

4. Mr. Vikas Pande, the learned Standing Counsel appearing for the State, has vehemently contended that Rule 3 of the Rules are applicable to only those police personnel who are engaged against the dacoits, or armed offender, or foreign intruders or "during engagements in other activities". According to the learned counsel, the words "other activities" was further clarified by the Government Order dated 19.08.1988. According to the learned counsel, the said G.O. mentioned the following categories:

firstly, police personnel who have died while fighting the dacoits or other anti-social elements; secondly, those who have died while fighting with the invaders; thirdly, those who have died while fighting with the terrorist; fourthly, those who have died while trying to control the violent crowd; fifthly, those who have died while tackling natural calamities such as flood, landslide, avalanche, earthquake, or while fighting with fire. According to learned counsel, the work assigned to the petitioner's husband does

not fall within any of these categories. Therefore, the petitioner's case is not covered under the Rules. Hence, the Government was justified in rejecting the petitioner's claim for receiving the extraordinary pension. Lastly, according to the learned counsel, the learned Single Judge has failed to notice the Government Order dated 19.08.1988. Hence, the impugned judgment deserves to be set aside by this Court.

5. On the other hand, Mr. D.S. Patni, the learned Senior Counsel appearing for the petitioner, submits that Rule 3 of the Rules has used residuary words, namely, "any other action in which the police personnel is killed". Moreover, these residuary words have been defined by the Government Order dated 19.08.1988. According to the learned counsel, the very first category i.e. "while firing dacoit or any anti-social elements" certainly covers the case of the petitioner's husband. After all, the petitioner's husband was working for SOG, which was a special task force created for tackling the problems created by forest smugglers and poachers. Further, the petitioner's husband was informed that forest smugglers/poachers have entered in the forest to carry on their nefarious activities; they need to be stopped immediately. Since, the petitioner's husband was on duty to tackle the anti-social elements, like forest

smugglers and poachers, the petitioner's case falls under the first category mentioned hereinabove. Therefore, the State has illegally rejected the claim for granting the extraordinary pension to the petitioner. According to the learned Senior Counsel, the learned Single Judge has noticed this point. Moreover, as the impugned orders dated 27.02.2018 and 02.04.2018 were passed without assigning any reasons, since both these impugned orders are cryptic in nature, the learned Single Judge was certainly justified in quashing these two orders and in issuing the directions to the State Government as mentioned hereinabove. Hence, the learned Senior Counsel has supported the impugned judgment.

6. Heard the learned counsel for the parties, and examined the records, submitted by both the parties, and perused the impugned judgment.

7. Admittedly, the petitioner's husband was initially working as a Sub-Inspector in Civil Police. However, in the year 2013, he was reposed with the responsibility of Incharge of the S.O.G.. In fact, S.O.G. was constituted for controlling the crimes committed in the forest either by those who are smuggling forest products, like precious woods, or by the poachers who indulge in killing wild animals for their own personal profits. Undoubtedly, on

25.09.2013, the petitioner's husband was deputed to tackle these anti-social elements who threaten the wildlife, or the environment. Obviously, the petitioner's husband was not discharging his duty simplicitor. In fact he was risking his life in order to tackle the menace caused by the forest smugglers, or poachers. Thus, it was a special duty, a dangerous task, performed by the petitioner's husband.

8. The Government Order dated 19.08.1988, clearly mentions the category of dacoits and anti-social elements. Any police personnel while fighting the dacoits and anti-social elements is covered by these category. Obviously, the forest smugglers and poachers do fall under the category of "anti-social elements". As mentioned above on 25.09.2013, the petitioner's husband was on special duty to control the anti-social elements; while returning from discharging his duties, the petitioners husband met his death. Thus, naturally, the petitioner's claim for receiving extraordinary pension is clearly covered both by Rule 3 of the Rules, and by Government Order dated 19.08.1988.

9. A bare perusal of the orders dated 27.02.2018 and 02.04.2018, clearly reveals that they are cryptic in nature. Therefore, the learned Single Judge was justified in observing that any order that adversely affects the civil and

fundamental rights of a person would have to be a reasoned order. Hence, the learned Single Judge was justified in quashing the impugned orders, and in issuing the necessary directions to the respondents.

10. For the reasons stated above, we do not find any illegality or perversity in the order passed by the learned Single Judge. This appeal, being devoid of any merit is, hereby, dismissed.

11. No order as to costs.

RAGHVENDRA SINGH CHAUHAN, C.J.

ALOK KUMAR VERMA, J.

Dt: 5th April, 2021
Mamta/Neha