

[2022] 3 S. C. R. 79

STATE OF UTTARAKHAND & ANR.

v.

MAYAN PAL SINGH VERMA

(Civil Appeal No. 2905 of 2022)

APRIL 19, 2022

[M. R. SHAH AND B. V. NAGARATHNA, JJ.]

Constitution of India, 1950 – Art. 226 – High Court na writ petition ama achum-aran amata yengdana case loisinba amasung Tribunal da shingnariba writ petition bu Tribunal na tariba rai adumak leingakta (state ta) ingadabani haiba wafam – leingakna appeal toubadagi tarakpa rai: High Court na writ petition amabu achum-aran amata thijindana yamna hathu-hathuba mawongda mamingtagi oina yengsillaga loisingkhi, madu tung koina chatnaba yagadaba natte – High Court ki order adu maram chade – Writ petition aduda issue kaya natraga hiram kaya maram chana pallibana High Court na achumba rai pinabagidamak writ adu yamna kupna yengsinfam thoki – Maram aduna High Court ta writ petition adu amuk nouna yengsinnaba thadare – Practice and Procedure.

High Court ta case amuk hantharakpa

Rai: 1. Tribunal na tariba rai asi hiram kayada shingnaningai oigani haibasi writ petition asigi record sing asina takli. Writ petition asida pukhatlakliba hiram kayabu High Court asina achum-aran amata neinadana natraga khannadana wa tupthokkhre. Writ petition da hairakliba hiram amafaoba khanna-neinakhidre. High Court na case asigi achum-aran amafao khannadana yamna taha-tahaba mawongda mamingtagi oina khannaraga wa loisinkhre. Masidi tung koina chatnaba yaroi. Maram aduna High Court na writ petition asi amuk hanna achum-aran munna yengsinduna khannaraba matung rai taba chumagani. [Para 2.1] [81 – G; 82 – B]

2. High Court na writ petition asigi achum-aran karimata khanna-neinadana wa tupthokkhiba asi pukning thougatningai sungoi oide. Writ petition asida issue kaya pallakpa maramna High Court na writ petition asi yamna kupna khanna-neinaraga achumba waroisin pifam thoki. [Para 2.2] [82 – C]

3. High Court ki order asi maram chaba watli. Tongan-tonganba wafam/case ki machak kaya party singna pukhatlakpa maramna High Court na ahanabamaktada case asigi achum-aran pumnamak mari leinaba che-chang pumnamak yengsillaga puthokfam thokpani. Maram aduna case asi High Court ta amuk hanna khannaduna achumbadu puthoknaba thadare. [Paras 3, 4] [83 – D – E]

Vishal Ashwin Patel v. Assistant Commissioner of Income Tax 4 Circle 25(3) & Ors. (Civil Appeal No. 2200/2022); Central Board of Trustees v. Indore Composite Private Limited, (2018) 8 SCC 443; [2018] 7 SCR 1130; and Union Public Service Commission v. Bibhu Prasad Sarangi and Ors., (2021) 4 SCC 516 – relied on.

Case Law Reference

[2018] 7 SCR 1130

Para 2.3

Relied on

[2021] 4 SCC 516

Para 2.4

Relied on

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 2905 of 2022

Uttarakhand High Court na Nainitalda tarik 10.01.2022 da WPSB gi takhiba rai order No. 09 of 2022.

Kaushal Gautam, AAG. Ms. Rachna Gandhi, Ms. Namita Choudhary, Advs., for the Appellants.

Ashok Singh, Shree Pal Singh, Advs., for Respondents.

Court ki rai adu M. R. SHAH, J. na pikhibani.

1. Uttarakhand High Court ki Division Bench na case asigi achum-aranbu fajana yengsindana amasung neinadana tariba rai order No. 09 of 2022 asina mari leinaba loisangbu (department pu) namduna rai asi ingadabani haiba asida Leingakna (State na) pendabaga loinana nouna appeal toubu pammi.
2. Uttarakhand Public Service Tribunal, Dehradun (samna Tribunal) na Claim petition No. 104/DB/2009 da takhiba rai aduda pendabana Uttarakhand State na writ petition asi High Court ta pukhattuna khannaningkhi maramdi case asigi hourakfam applicant oiriba private respondent asigi Chief Engineer Level – 2 da promotion pibagi ACR ACP na ikhatpada mahakki afaba waram kaya chittharamba adu karisu khandanaba Tribunal na Department ta paotak pikhiba asini. Takhiba rai adugi matung inna, High Court ki Division Bench na Leingakta Tribunal na piriba order karigumba amata yengsinba toudana adum innanaba paotak pikhi. Masina maram oiduna Leingakna case asi Court asida pukhatpa pamlakpani. Takhiba rai aduna writ petition aduda Tribunal na pikhiba rai adu kadai faoba chummi nattarga lalli haiba amata fongdoktana High Court ki Division Bench na hannagi rai adumak Leingakta innaba haikhibani, maramadi Tribunal na 15th September 2021 da rai adu takhraba matungdasu review tounaba ACP committee semkhide. Tribunal na tarakpa rai adubu shingnaduna court ta pukhatlakpada High Court na court ta rai adugi merit amafaoba khannakhide. Takhiba rai adugi maroldi:-

“Hearing asi virtual oina toure, (nakan anigi mioising present oidana)

Appellant ki Learned Standing Counsel Mr. Pradeep Joshina haibasing tare,

Case asida, Uttarakhand Public Service Tribunal, Dehradun na opposite party da private respondent ki Chief Engineer Level – 2 da promotion pibagi matangda ACR ikhatpada mahakki Uttam oiba machak kaya ACP na chittharamlabasu Claim Petition No. 104/DB/2009 da madu thawoina loudanaba haikhiba adugi matangda petitioner na yaningde haina yetkhi. Loinana rai aduna Leingakki mari leinaba loisangbu rai asigi certified copy fangba matung tha ahumgi manungda ACP na review committee lingnaba hainasu direction pikhi. Order asi 15th September 2021 da thokpani amadi houjikfaoba ACP gi review committee semdri. Tribunal na takhiba rai adu ngasidagi numit 21 gi manungda chatnahallu.

Asumna writ petition gi application adu wa loisinkhibani.”

2.1 Writ petition asigi puthoknariba che-chang mayam asidagi khangba ngambadi Tribunal na pikhiba order adu hiram kayamukta shingnarakle. Shingnaduna pukhatlakhiba machak amatasu High Court na ningthina khannakhidre. High Court ki Division Bench na writ petition adu maru oina loudana amasung hathu-hathuna mamingtagi oiba mawongda wa tupthokkhi, masi tungda chatnaba yaba oiroi. High Court na writ petition adugi achum-aransing puthoktuna khannabagi mahutta attamnana Tribunal na mari leinaba loisangda 15th September 2021 da rai takhraba matung ngasifaoba ACP gi review committee semmamde haiba adukhaktada yumfam oiraga writ petition asi wa tupthokkhibani. Adum-oinamak, Tribunal na pikhiba order adu shingnaraklabana, High Court na writ petition adugi matangda Tribunal na pikhiba order adugi achum chumda yengsinfam thoki amasung achumbadu puthokfam thoki.

2.2 High Court na writ petition asigi achum aran amata yengdana wa loisinkhiba mawong asidi pukning thougatningai sungoi oide. Case asigi issue/machak kaya ama leiraba matamasida High Court na madu khannaduna achumba judgment pifam thokpani. Ikui kuidringeida thokkhiba **VISHAL ASHWIN PATEL vs ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE (25) 3 & ORS. (Civil Appeal No. 2200/2022)** gi case amada asumna decision loukhi madudi: Constitution na High Court singda kanagumba amabu relief pibagi (kanbibagi) matik-mayai (power) pi. Hairiba matik mayaising adu High Court singna matang chana amasung niyam chumna sijinnagadabani. Karigumbada, High Court singna hairiba matik-mayai asi maram chana amasung niyam chumna sijinnadrabadi makhoina makhoigi mathou ningthina toudre haina loughani. Case asida makha tana khannakhibadi, Constitution of India gi Art. 226 na makhoida piriba matik-mayai asi Tribunal na takhiba amadi shingnarakliba rai adu kadai faoba chummi natraga lalli puthokpada kanagumba amatagi ithil yaodana maning tamna sijinnagadabani haibasini. Case asidadi Tribunal na takhiba order asi chummi haibagi wafam natraga khannakhibagi record amatasu leite. Tribunal na tariba rai aduda High Court ki pukning thingjinduna chumba lanbagi wafam khankhibasu leite. Masidagi High Court na Constitution of India na makhoida Art 226/227gi makhada piriba sakti adu ningthina sijinnakhidre haibasi uba fangi.

2.3 Achumba judgment fanghanba haibasida akanba mityeng thambaga loinana **Central Board Of Trustees Vs. Indore Composite Private Limited, (2018) 8 SCC 443** gi case ta Court asina masimasu puthoknakhi madudi: Case khuding makta Court singna achumba wayel pinabagidamak chatthariba case ki nakan anina puthorakpa achumaba machak yaoba wari khudingmak khannagadabani, case adu chumna waroisin purakpada mateng oigadaba lawgi niti niyamasing amasung nakan anigi learned counsel singna haiba khudingmak ningthina tagadabani. Court aduna masimasu makha tana khannakhi madudi achumbada yumfam oidaba wayelna case adu kanana karamna maithiriribano amasung atoppa aduna karamna mai pakkhibano haibasi khanghannabagi tanja pide.

2.4 Pangkui kuidriba **Union Public Service Commission Vs. Bibhu Prasad Sarangi & Ors., (2021) 4 SCC 516** gi case ta High Court na makhoida Constitution of India na piriba Art. 226 ki sakti asi achumba wayel pibada achumba wafamna khwaidagi maru oina

thamlaga sijinnagadabani haibasi thengnakhi. Judge singna makhoigi wayel pibada achumba toubatana judiciary system asida miyamgi thajaba leihandouribani. Masimasu makha tana khannakhi madudi, case sing palhandaba amasung loisinba haibasi maru oiragasu, case adugi wayel adu magun leiba wayel oihanbana henna maru oi. Makha tana masisu khannakhi madudi art. 226 na piriba sakti asi sijinnabada maning tamna atoppagi ithil changhandana mari leinaba issue khudingmak neinagadabani.

3. Mamangda pankhraba Court singgi decision mayam asi neinaraga Court asina houjik mangda tariba writ petition asigi case asida High Court na writ petition asibu loisinkhiba mawong asidi pumnamakki oiba miyengda yengbada High Court na takhiba rai asi nakan anina pukhatlakpa wafamsing khannakhibagi amasung mari leinaba che-changsing amata record thamdabana achumba maram yaode haina eikhoina loui.
4. Eikhoina asigumba High Court ki order asi yaba ngamdabana amukka nouna yengsin nabagidamak remand thadaba yadaduna thadakhiba adu mathakta puthoktuna khannakhiba decision mayam asi leibanani.
5. Houjik khannariba wafam sing asigi matung inna, eikhoina houjik tourakliba appeal asi Court ta khannaba yare amasung hannagi High Court na takhiba rai adu nakanda thamle amasung writ petition adu aingi miyengda chumna amasung eikhoina puthokkhiba mayam asi mangda maru oina thamduna khannaraga achumba wayel adu puthoknaba High Court ki Division Bench ta remand toure. Adubu matang asida khangjin bigadabadi writ petition asida asina chummi natraga asina lalli haiba eikhoina eikhoigi oiba mot amafaoba pankhide. Maram aduna High Court na houjik eikhoina neinakhiba mayam adu pukningda thamlaga writ petition asi aingi mityengda achumba wayel pibigadabani. Mathakta piriba paotak sing asiga loinana houjikki appeal asi lousille amasung hannagi rai asi nakanda thamle. Wafam asi mamangda haikhibagumna High Court ta amuk thadare. No costs.