

(2010) 08 UK CK 0127
In the Uttarakhand High Court

B.S. Mehta and Others

APPELLANT

Vs

Kumon University and Others

RESPONDENT

Date of Decision : 02-08-2010

Acts Referred:

Citation : (2010) 08 UK CK 0127

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J.—Heard Mr. T.S. Rautela, Advocate for the petitioners and Mr. B.D. Upadhyay, Advocate for the Kumaon University.

2. Present petition has been filed by the petitioner for a writ, order or direction in the nature of certiorari to quash the seniority list dated 25.8.1995, which is annexed as Annexure - 8 to the Writ Petition. The petitioners are, admittedly, Senior Assistants in Kumaon University and so are respondent Nos. 3 to 5.

3. Brief facts of the case are as follows:

The petitioners were appointed as a Routine Grade Clerk in the Kumaon University. Some of the petitioners were appointed on the same date as the respondents but some even prior to the respondents. Therefore, it is contended that the subsequent promotion of respondents No. 3 to 5 to the next higher post of Junior Assistant was made in total violation of the rules applicable to such promotion / appointment and as such the inter se seniority list dated 25.8.1995 is not correct as the inter se seniority has to be calculated from the date of initial appointment of the petitioners as well as respondent Nos. 3 to 5.

4. In the counter affidavit filed by the Kumaon University, it has been stated that respondent Nos. 3 to 5 took higher position in the seniority list as they were promoted to the next higher post of Junior Assistants by way of selection held on 16.4.1977. In the selection process, their performance was examined and only

thereafter were they promoted to the posts of Junior Assistant. In this examination, all the petitioners were not found suitable and though the petitioners had also participated in the same selection process, they were not found suitable for promotion to the posts of Junior Assistant at this stage. Moreover, the respondents by now have reached the age of superannuation and have retired from service. The petitioners at present have therefore no cause of action.

5. It is true that in sum and substance the petitioners are challenging the promotion of respondent Nos. 3 to 5 to the next higher post, which was made in the year, 1977 by filing the present writ petition in the year 2001. Therefore, the writ petition itself is highly belated. Yet since the petition is pending since 2001, the Court was inclined to examine the matter on its merits. However, on merits itself, the petitioners do not have any claim, as it has been revealed from the Annexures filed in the Counter affidavit that respondent Nos. 3 to 5 were promoted to the higher post, which was made after taking into consideration the performance of the Routine Grade Clerks, including the petitioners. In case, there was any illegality in the process of promotion, it was liable to be challenged in the year 1977 itself. It is too late in the day to challenge the legality (if any) of promotion made in the year 1977. Moreover the petitioners had also participated in the selection process in the year 1977.

6. For the reasons recorded hereinabove, this Court is not inclined to interfere in the matter. The instant Writ Petition is, therefore, liable to be dismissed and is dismissed as such.

7. No order as to costs.