
(2012) 03 AHC CK 0182
In the Allahabad High Court
Case No : Service Bench No. 70 of 2012

Chandra Prakash Tripathi

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 12-03-2012

Acts Referred:

Citation : (2012) 03 AHC CK 0182

Hon'ble Judges : Rajiv Sharma, J;Devendra Kumar Arora, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. On 14.2.2012, this Court has passed the following order :

Heard Sri Anil Tiwari, Senior Advocate, duly assisted by Mr. Apoorva Tiwari, Learned Counsel for the petitioner and Mr. Sanjay Bhasin, learned Standing Counsel.

The petitioner, who is in the cadre of Assistant Commissioner has filed a writ petition No. 1741 (SB) of 2009, when his juniors were promoted to the post of Deputy Commissioner. The said writ petition was allowed vide judgment and order dated 29.4.2011 with consequential benefits and a Mandamus was issued directing the opposite parties to proceed afresh to fill-up the vacancy of Deputy Commissioner, Entertainment Tax in light of the judgment of this Court in the case of Dharam Pal Singh Chauhan, followed by Heera Lal (supra) and rules, expeditiously, say within a period of three months from the date of service of a certified copy of the order.

In compliance of this Court's Order dated 29.4.2011, the matter was placed before the State Government and the State Government, after considering the facts and circumstances of the case, passed the impugned order dated 30.11.2011, wherein it has been mentioned that the Hon"ble Apex Court in SLP No. 4030 of 2011 has directed to maintain status quo.

During the course of arguments, Learned Counsel for the petitioner has drawn the attention of this Court towards the order dated 12.12.2011 passed by the Apex Court in SLP (Civil) No. 24483 of 2011, whereby the order of status quo dated 12.9.2011 has been modified. The operative portion of the aforesaid order is as under:-

...In view of the aforesaid, we are inclined to modify the interim order to the extent that the reserved category candidates who were functioning in the promotional posts shall not be reverted and be allowed to continue in the supernumerary posts but the 31 vacancies which are in existence shall be filled up by considering the candidates from the general category exclusively and, accordingly, it is so modified. Needless to emphasize, the legal substantiality and acceptability of the creation of supernumerary posts in the manner it has been done shall be delved into at the time of the final disposal of the Special Leave Petition....

On perusal of the impugned order, it reveals that the sole ground taken by the opposite parties is that on account of the orders passed by the Apex Court for maintaining status quo, they are not in a position to consider the case of the petitioner for promotion. As the said order has already been modified and as such, liberty is granted to the State Government to pass appropriate orders, within a fortnight, from today.

List in the next month. In the meantime, the orders passed by the State Government shall be brought on record by means of supplementary affidavit.

Today when the case called out, Sri Sanjay Bhasin, learned Additional Chief Standing Counsel submits that necessary formal orders could not be passed on account of "Holi" holidays and as such, a week further time may be granted to him.

Time is allowed as prayed.

List the matter on 20.3.2012. In case order dated 14.2.2012 is not complied with, the Principal Secretary, Department of Tax, Government of U.P., Lucknow, shall appear in person along with the records on the date fixed to assist the Court.