
(2010) 12 UK CK 0173
In the Uttarakhand High Court
Case No : Writ Petition No. 273 of 2004 (S/B)

Jain Ram Tamta

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 01-12-2010

Acts Referred:

Citation : (2010) 12 UK CK 0173

Hon'ble Judges : Barin Ghosh, C.J.;V.K. Bist, J

Bench : Division Bench

Judgement

Barin Ghosh, C.J.—Mr. Manoj Tiwari, learned Senior Counsel assisted by Mr. Manish Basnal, learned Counsel for the Petitioner and Mr. Vinay Kumar, learned Standing Counsel for the State/Respondent Nos. 1 and 2.

2. Before 2nd December, 1987 Petitioner was Cooperative Inspector Group-III. On 2nd December, 1987, he was promoted to the post of Cooperative Inspector Group-II. Post of Cooperative Inspector Group-II is the Feeder post for promotion to the post of Cooperative Inspector Group-I. In order to be eligible for promotion to the post Cooperative Inspector Group-I, a Cooperative Inspector Group-II is required to work for five years as such, is the mandate of the Rules. In 1992 Petitioner, therefore, became eligible for being promoted to the post of Cooperative Inspector Group-I. He was, however, promoted to the post of Cooperative Inspector Group-I on 24.12.2001. In the writ petition, Petitioner is seeking preopening of the said promotion to August, 1995, inasmuch as, according to Petitioner, in August, 1995 there were a number of vacancies in the post of Cooperative Inspector Group-I in which he could be accommodated. Petitioner contends that in the event his promotion to Cooperative Inspector Group-I is proponed to August, 1995, then it must be deemed, though may be notionally, that he worked as Cooperative Inspector Group-I with effect from August, 1995 and accordingly, would also become eligible for being considered for promotion to the post of District Assistant Registrar, Cooperative Societies and since at the relevant time there were enough vacancies available for the said

post, he should also be given such promotion. On this analogy present writ petition has been filed and in particular since this Court directed the Respondents to consider the case of Hari Bilas Upreti for promotion to the post of Cooperative Inspector Group-I and then to the post of Assistant Registrar Cooperative Societies from the date his juniors were promoted, proceedings on the basis that Sri Uperti was entitled to be recognized as Cooperative Inspector Grade-II since 1978. The case dealt with by this Court in the case of Uperti, has no nexus with the case of the Petitioner. In the case of Uperti there was a contention that although Sri Uperti was entitled to count his seniority from 1978 as Cooperative Inspector Group-II, the same was not counted and accordingly, when the cases of his juniors were considered, his case was not considered. No such case has been made out by the Petitioner in the instant case. According to the Petitioner, Rule 15 of the applicable Rules required the appointing authority to ascertain yearly vacancies and to take steps to fill up the same. It is the contention of the Petitioner that in the event, such obligations had been discharged by the appointing authority, Petitioner would have had got an opportunity of being considered for promotion in the month of August, 1995 itself. Assuming the adjudgment made in 2001 that the Petitioner is a suitable candidate for being promoted to the post of Cooperative Inspector Group-I, is proponed to August, 1995 and assuming that there were available vacancies where Petitioner could be accommodated, the clock can only be put back notionally, which would not enure any benefit to the Petitioner, since notional promotion does not attract monetary benefit and since after retirement, Petitioner lost opportunity of being adjudged whether he is suitable to be promoted to the post of District Assistant Registrar, Cooperative Societies. We accordingly, close the matter by disposing of the writ petition.