

(2010) 12 UK CK 0098

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 522 of 2002

Lalit Mohan Goyal and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 15-12-2010

Acts Referred:

Citation : (2010) 12 UK CK 0098

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

Bench : Division Bench

Final Decision : Dismissed

Judgement

Barin Ghosh, C.J.—Petitioners are diploma holders. As such diploma holders, they could be and were recruited as Junior Engineers. While diploma holders could be recruited as Junior Engineers, degree holders too could be recruited as Junior Engineers. A certain percentage of posts of Assistant Engineers available for being supplied by promotion from amongst Junior Engineers, the promotional posts thus available were aggregated into two; one reserved for diploma holders and the other for degree holders. Number of diploma holders was more than number of degree holders. As a result, despite a degree holder having joined much after a diploma holder as Junior Engineer, it was possible for him to be promoted to the post of Assistant Engineer through the quota available for degree holders. This anomaly, having been noticed, a protest was raised by the diploma holders as regards creation of such quota. Those were translated into filing of writ petitions before the Hon''ble Allahabad High Court. In the meantime, steps were taken to alter the quotas. Interim orders were passed from time to time to restrain alteration of such quota. Ultimately, in the year 2002, the Hon''ble Court held in favour of the Petitioners and pronounced that the policy of creation of quota and thereby artificially distinguishing members of the same cadre is not permissible in law. The Hon''ble Court thereby quashed the quota division between diploma holders and degree holders and directed re-framing of the Rules by the appropriate authority. The Court made its order expressly

prospective.

2. In the writ petition, the Petitioners are, principally, seeking abolition of the quota system, right from the date when the matter went before the Hon"ble High Court, i.e., in 1994. We do not think that the same is permissible. There appears to be no dispute that after the judgment was rendered by the Hon"ble Allahabad High Court, the State of Uttarakhand framed Rules. In the said Rules, it removed erstwhile distinction between degree holders and diploma holders and made all of them at par. The Rules provided that the seniority, subject to rejection on the ground of unfit, will be the sole criteria for promotion of Junior Engineers to the post of Assistant Engineers. In the writ petition, it was contended that steps are being taken to fill up promotional posts by persons, who should be deemed to have acquired degrees, i.e., who are A.M.I.E. holders. During the pendency of the writ petition, the Petitioners retired on 31st December 2008. Subsequent thereto, Petitioners filed an application and thereby contended that though they have retired, their cases should have been considered for promotion in terms of the Rules made by the State of Uttarakhand on the basis of their seniority. They contended that by an order dated 2nd August 2010, many juniors to the Petitioners have been promoted. There is no dispute that many a juniors to the Petitioners have been promoted by the order dated 2nd August 2010, but the fact remains that though the vacancy of 2001 - 02 was considered, while according such promotion, promotions were given effect from the date the persons promoted taking charge of the promotional posts. It was contended that in view of the order of the Government, in the event a junior has been promoted without considering the case of the senior, the case of the senior should also be considered, and if found fit, to be given notional promotion. The Government order depicts grant of such notional promotion from the date the juniors have been promoted.

3. In the instant case, promotion to the juniors was given by the order dated 2nd August 2010 from the date they would take charge of their promotional posts. In the circumstances, grant of notional promotion to the Petitioners does not arise at all for much prior thereto they have retired.

4. In the circumstances, according to us, no further grievance of the Petitioners survive, which can be redressed by judicial review Court. The writ petition, accordingly, fails and the same is dismissed.