
(2011) 03 UK CK 0118

In the Uttarakhand High Court

Case No : Writ Petition No. 258 (S/B) of 2006

Rajendra Singh Arya

APPELLANT

Vs

State of Uttarakhand and U.P. Public Service Commission

RESPONDENT

Date of Decision : 15-03-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 03 UK CK 0118

Hon'ble Judges : V.K. Bist, J; Prafulla C. Pant, J

Bench : Division Bench

Judgement

Prafulla C. Pant, J.—Heard.

2. By means of this writ petition moved under Article 226 of Constitution of India, the Petitioner has sought writ in the nature of mandamus directing the Respondent to promote the Petitioner w.e.f., the date he was recommended by U.P. Public Service Commission for the post of Forest Ranger against the vacancy of the year 1987-88. A further mandamus was sought that the Petitioner be given of consequential benefits, w.e.f., the date of his retrospective promotion.

3. From the record, it appears that this Court vide its judgment and order dated 19.08.2006, disposed of this writ petition following the judgment delivered by Division Bench of Allahabad High Court (Lucknow Bench) in the case of Suresh Chandra Sharma and Another Vs. State of U.P. and Others, in which the Allahabad High Court granted relief to the similarly situated Petitioner. Further, it appears that the State of Uttarakhand challenged the order dated 19.08.2006, passed by this Court in this writ petition, before the Apex Court by filing Civil Appeal No. 7597 of 2009 (arisen out of SLPC No. 18194 of 2007). The Apex Court vide its judgment and order dated 16.11.2009, set aside the judgment passed by this Court on 19.08.2006 in this petition, on the ground that the judgment of Allahabad High Court followed by this Court was already set aside by the Supreme Court in Uttaranchal Forest Rangers Association (Direct Recruit) v. State of Uttar Pradesh and Ors. 2006 (10) SCC 346 . The Apex Court has

further directed in its order dated 16.11.2009, to this Court to dispose of this writ petition afresh following the judgment of Uttaranchal Forest Rangers Association (Direct Recruits) case (supra).

4. In Uttaranchal Forest Rangers Association (Direct Recruit) and Ors. v. State of Uttar Pradesh and Ors. 2006 (10) SCC 346 , the Apex Court has held that when the direct recruits joined service against substantive post, the promotees were not even born in the cadre and they had not been promoted to the post of Forest Ranger by then, as such, the promotees who were 4 appointed in the year 1991 as Forest Rangers cannot claim seniority over the direct recruits who were appointed prior point of time in 1990. The Apex Court in the operative part of the judgment directed the State Government to revise seniority list of direct recruits in the light of the observation made in Uttaranchal Forest Rangers Association (Direct Recruits) case (supra). However, it protected the retired employees who have already enjoyed fruits of the judgment delivered by the Allahabad High Court, before judgment delivered by the Apex Court.

5. Since, the issue involved in this writ petition is squarely covered by the issue decided by the Apex Court in the aforesaid case of Uttaranchal Forest Rangers Association (Direct Recruits) case (supra), this writ petition is disposed of in the same terms as directed by the Apex Court in aforesaid case. (Uttaranchal Forest Rangers Association v. State of U.P. 2006 (10) SCC 346