

(2005) 03 AHC CK 0193

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 21157 of 1996 Connected with Special Appeal No. 66 of 2003

Ram Swarup Srivastava

APPELLANT

Vs

Allahabad District Cooperative Bank Limited and Branch
Manager, Allahabad District Cooperative Bank

RESPONDENT

Date of Decision : 16-03-2005

Acts Referred:

Industrial Disputes (Central) Rules, 1957 — Rule 58(2)
Uttar Pradesh Co-operative Societies Employees Service Regulations, 1975 — Regulation 24, 24(2)
Uttar Pradesh Industrial Disputes Act, 1947 — Section 10A(3A), 12, 12(3), 18, 18(1)

Citation : (2005) 5 AWC 4835 : (2005) 2 ESC 1215

Hon'ble Judges : S. Rafat Alam, J; Poonam Srivastava, J

Bench : Division Bench

Advocate : R.N. Singh, V.K. Singh, S.N. Singh and G.K. Singh, for the Appellant; Anil Tiwari and S.C., for the Respondent

Final Decision : Disposed Of

Judgement

Poonam Srivastava, J.—Heard Sri R. N. Singh, Senior Advocate, assisted by Sri V.K. Singh learned counsel for the petitioner and Sri Anil Tiwari, learned counsel for the respondent Bank.

2. The petitioner Ram Swamp Srivastava has filed this writ petition challenging the order dated 29.6.1996 whereby he was retired from Allahabad District Cooperative Bank Ltd. Allahabad after completing the age of 58 years in accordance with age of retirement as provided under the Regulation 24 of the U.P. Cooperative Societies Employees Service Regulations, 1975 (hereinafter referred as Service Regulation). The petitioner was initially appointed as Cooperative Supervisor in the year 1959 and was transferred to Aligarh. Later on he was appointed as Clerk-cum-Cashier in the Allahabad District Cooperative Bank Ltd. Allahabad on 16.5.1968. After his joining the petitioner was given basic pay scale and other benefits equivalent to the other employees of the Bank. The

grievance of the petitioner is that he could be retired only after completing age of 60 years and not 58 years, in view of the settlement arrived at between Allahabad District Cooperative Bank Ltd. Allahabad and Uttar Pradesh Bank Employees Union Central Office, Lucknow on 22.2.1966. The memorandum of settlement is annexed as Annexure-3 to the writ petition. A perusal of the memorandum of settlement reveals that a number of dispute existing at the relevant time between the Union and the Bank relating to the service conditions was resolved and a copy of the said memorandum was sent to the Conciliation Officer Uttar Pradesh, Allahabad for further action and to be kept on record for the employees of the Union of Allahabad District Cooperative Bank Ltd. Allahabad.

3. There was yet another dispute which was referred to the Labour Tribunal u/s 4-Ka of the Industrial Disputes Act, 1947 which was finally decided in the year 1971. The Joshi Award was published on 25.6.1971, wherein the age of retirement was fixed as 58 years. However, this fixation of age was applicable to those employees who were not given the benefit of the settlement dated 22.2.1966. The employees who were getting the benefit of the earlier settlement, were not effected by Joshi Award. The age of retirement was in confirmation with the Regulation 24 of the Service Regulations i.e. the age of superannuation of an employee was 58 years. The impugned order has been annexed as Annexure-1 to the writ petition. A perusal of the same shows that the date of appointment of the petitioner is shown with effect from 14.5.1968 and, therefore, the Bank has refrained from extending the benefit of settlement dated 22.2.1966 to the petitioner. The impugned order mentions that the petitioner is retired in pursuance to the Joshi Award dated 25.8.1971. The submission on behalf of the petitioner is that the settlement dated 22.2.1966 is a settlement arrived at between the employer and Union to which the petitioner belongs. The petitioner was extended the benefit of other service conditions as applicable to any other employees on the basis of settlement of 1966 and in the circumstances, the petitioner could not be singled out and retired two years earlier and be denied the benefit of age of superannuation at 60 years as settled between the employer and Union on 22.2.1966. Sri R.N. Singh Senior Advocate submitted that the settlement entered into has been implemented and will be binding on all the parties. This question has been finally decided by this Court in the case of Lalji Srivastava v. Allahabad District Cooperative Bank Ltd. and Anr.1994 1 U.P.L.B.E.C. 297. Copy of the judgment has been annexed as Annexure-4 to the writ petition. The Bank filed Special Appeal No. 732 of 1993 against the judgment dated 28.9.1993 in Writ Petition No. 6786 of 1993, Lalji Srivastava v. Allahabad District Cooperative Bank Ltd. and another. The special appeal was dismissed on 17.5.1994. The Division Bench considered and discussed the Regulation 24(2) of the Service Regulation and held that the age of retirement as provided in the Regulation would not apply in such cases where the age of retirement is governed by a contract. In the year 1983, an amendment was brought about in the Regulation and in place of date of employment it was mentioned "time of appointment". It was also brought to the notice of the

Division Bench that the settlement of 1966 has not been annulled by another settlement as such it was concluded that the age of retirement will be 60 years in respect of such employees who are governed by the settlement of 1966. A review application was also filed by the Bank which was dismissed on 15.11.1995. The Bank had set up a case that the settlement of 1966 stands superseded by Joshi Award of 1991 but the Division Bench rejected the plea of the Bank. The judgment and order rejecting the review application has been annexed as Annexure-6 to the writ petition. A finding was recorded that though the Joshi Award fixes the age of retirement as 58 years but it has saved the existing benefits and emoluments extended to the employee who were members of the Union prior to 1971 as the settlement of 1966 was applicable to them. The argument advanced by the counsel for the petitioner is that since the aforesaid judgments have not been set aside by the superior court, the petitioner is entitled to the same benefits.

4. This writ petition is connected with another Special Appeal No. 66 of 2003- Hari Narain Ojha v. Allahabad District Cooperative Bank Ltd. Allahabad. Shri R.N. Singh is appearing for the appellant as well. The special appeal was filed against the judgment in writ petition No. 28883 of 2002 filed by two employees Suresh Chandra Srivastava and Hari Narain Ojha. Sri Suresh Chandra Srivastava did not prefer any special appeal against the judgment of the learned Single Judge dated 19.12.2002. The learned Single Judge held the age of retirement to be 58 years in view of the Joshi Award and did not agree with the argument of the petitioner on several counts. The first being that the settlement dated 22.2.1966 was not entered into during the conciliation proceedings and as such it would not be binding so far it relates to the workmen who were not parties to it. The detailed interpretation of Sections 6 and 8 of the U.P. Industrial Disputes Act, 1947 was discussed in the judgment challenged in special appeal and it was held that there was no privity of contract between the employer and those who are not parties to the settlement and as such the petitioners can not enforce the settlement. The decision in Lalji Srivastava (Supra) was held by the learned Single Judge not to be applicable to the case of the petitioner and the learned Single Judge concluded that the age of superannuation to be 58 years u/s 24 of Service Regulation. The controversy in the special appeal as well as writ petition being same, it is being decided together.

5. The Senior Manager (Administration) of the Allahabad District Cooperative Bank Ltd. Allahabad has refuted the claim of the petitioner on legal as well as factual aspects by filing the counter affidavit. It has been stated in paragraph 6 of the counter affidavit that the petitioner Ram Swarup Srivastava was appointed as Cooperative Supervisor in Provincial Cooperative Union, Lucknow (PCU in short) in the year 1959 and was transferred from one district to another in the same capacity. In the year 1967 he was transferred to Allahabad and joined the Bank as Cooperative Supervisor. The lien of PCU continued and he was working in the Bank to maintain and supervise. It has further been contended in paragraph 9 of the counter affidavit that the petitioner made a representation on 14.7.1976

for being appointed on deputation in the Bank services as provided under the Service Regulation, 1975 and finally he was appointed on deputation in the Bank services on 14.8.1976. The petitioner joined the Bank in pursuance to the aforesaid letter on 14.8.1976. In the circumstances, the assertion of the respondents is that the petitioner was an employee of the Bank on the date Joshi Award was published. He is not entitled to the settlement pertaining to the year 1966. The petitioner has denied the averments of the counter affidavit. It has been stated that the impugned order clearly mentions that the petitioner was given appointment in the Bank on 16.5.1968 and as per the documents of the respondent Bank he was absorbed in the services in the year 1968 itself. Copies of the orders dated 21.11.1987 and 9.8.1989 of the Registrar District Cooperative has been brought on record along with seniority list which was circulated in the year 1972 and name of the petitioner finds place at serial No. 38. The said list also shows the date of appointment of the petitioner in the Bank as 14.5.1968. A supplementary counter affidavit was filed and it was brought to the notice of the Court that the petitioner has obtained certain favourable orders from the officers of the Bank which reveals that some fraud was practiced by him and a fact finding enquiry was set up who submitted its report on 31.8.2004. The inquiry officer was not able to fix any responsibility upon any officer. The second stand of the respondents is that in case of Suresh Chandra Srivastava v. Allahabad District Cooperative Bank Ltd. Allahabad. The court has refused to grant the benefit of age of retirement of 60 years to Suresh Chandra Srivastava who was also appointed on 1.11.1968 i.e. before the Joshi Award came in existence. The case of the petitioner Ram Swarup Srivastava is identical to Suresh Chandra Srivastava. However Suresh Chandra Srivastava has not approached this Court by filing special appeal, it is Hari Narain Ojha who has come up in special appeal which is being decided simultaneously. It is submitted on behalf of the Bank that the settlement dated 22.2.1966 can not be said to be arrived u/s 18(3) of the Industrial Disputes Act, 1947 (hereinafter referred as the Act).

6. In the writ petition as well as special appeal the main question that arises is interpretation of Section 18(3) of the Act. Section 18 of the Act is quoted below:-

"Persons on whom settlements and awards are binding:

(1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement

(2) {Subject to the provisions of Sub-section (3), an arbitration award} which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.}

(3) A settlement arrived at in the course of conciliation proceedings under this Act {or an arbitration award in a case where a notification has been issued under Sub-section (3-A) of Section 10A} or {an award of a Labour Court, Tribunal or

National Tribunal} which has become enforceable shall be binding on--

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, {arbitrator} {Labour Court, Tribunal or National Tribunal}, as the case may be, records the opinion that they were so summoned without proper cause;

(c) where a party referred to in Clause (a) or Clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in Clause (a) or Clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

7. Section 18(3)(d) of the Act which was brought about by means of amending Act No. 36 of 1956 clearly provides that where a party referred in Clause (a) and Clause (b) is composed of workman, all persons who were employed in the establishment or part of the establishment, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part. It has been argued that Section 18(3)(d) extends the benefit of a "settlement" even to such employees who subsequently become a part of the establishment. Sri R. N. Singh Senior Counsel has contended that the settlement arrived in the year 1966 is in the course of proceedings before the Industrial Tribunal and should be kept at a higher pedestal than a settlement arrived at before the conciliation officer while exercising his duty u/s 12 of the Act. It is also contended that the memorandum of settlement was forwarded to the conciliation officer for his record and proper action. The settlement before the Tribunal definitely stands on a higher footing than a settlement before the conciliation officer. The job of the conciliation officer for getting the settlement arrived at u/s 12(3) of the Act is to ensure that the settlement should be fair and just. In the instant case this duty was performed by the Tribunal itself and settlement was entered after due deliberation between the office bearers of the Union and representatives of the employer Bank. Reliance has been placed on the decision by the Apex Court in the case of *Virudhachalam and Ors. v. Management of Lotus Mills and Anr.*, 1998 (1) UPLBEC Page 68. The Apex Court has emphasized the intention and scheme of the statute. It is enacted for resolving the industrial disputes between the workmen and employer which would have pernicious effect on industrial peace. Under the Act the principal techniques of settlement of dispute are (1) Collective bargaining, (2) Mediation and conciliation, (3) Investigation, (4) Arbitration, and (5) Adjudication. The scheme of the Act shows that adjudication is to be resorted to as the last alternative. As laid down by the Apex Court in *Herbertsons Ltd. v. The Workmen of Herbertsons Ltd. and Ors.* AIR 1977 S.C. 322 any settlement between the

employer and employees is placed on a higher pedestal than an award passed after adjudication. An individual workmen have by themselves scant bargaining power, therefore, their disputes have to be highlighted by their bargaining agents such as Union of representing body of the workmen who have better bargaining power and can enter into a settlement. The Act envisaged two types of settlements between the warring groups of employer and employees.

The settlement has been defined in Section 2(p) which reads as under:-

2(p) "Settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorized in this behalf by the appropriate Government and the conciliation officer".

8. The requirement of the definition of "settlement" is that a settlement arrived otherwise than in the course of conciliation proceedings shall be duly signed by the parties as may be prescribed and a copy thereof has been sent to the appropriate Government and conciliation officer. In the instant case the settlement annexed with the writ petition was arrived at before the Labour Tribunal and was sent to the conciliation officer and appropriate government for further action. In the circumstances, it has been canvassed on behalf of the petitioner that the settlement is a valid settlement and in view of Section 18(3) (d), is applicable to the petitioner/appellant (in special appeal No. 66 of 2003) as well, Another decision of the Apex Court has been placed before us which was not taken into consideration by the learned Single Judge in the special appeal, in *New Standard Engineering Company Ltd. v. N.L. Abhyankar and Ors.* (1978) 2 SC 133. The Apex Court has once again emphasized on the settlement of labour disputes either before the conciliation officer or otherwise. It has been held in paragraph 7 of the said decision which is quoted below:-

"Settlement of labour disputes by direct negotiation or settlement through collective bargaining is always to be preferred for, as is obvious, it is the best guarantee of industrial peace which is the aim of all legislation for the settlement of labour disputes. In order to bring about such a settlement more easily, and to make it more workable and effective, it is no longer necessary, under the law that the settlement should be confined to that arrived at in the course of a conciliation proceeding, but now includes, by virtue of the definition in Section 2(p) of the Act, a written agreement between the employer and the workmen arrived at otherwise than in the course of a conciliation proceeding where such agreement has been signed by the parties in the prescribed manner and a copy thereof has been sent to the authorized officer. Rule 58(2) of the Industrial Disputes (Central) Rules, 1957, prescribes the manner of signing the settlement and it is not in dispute before us that this requirement has been complied with. The other relevant provision is that contained in Section 18(1) of the Act which specifically states that a settlement arrived at by agreement between the

employer and the workmen otherwise than in the course of conciliation proceedings shall be binding on the parties to the agreement. In fact it has clearly been held by this Court in *Sirsilk Ltd. Government of A.P.* that as soon as an agreement is signed in the prescribed manner and a copy of it is sent to the officers concerned, it becomes binding on the parties and comes into operation on the date it is signed, or on the date mentioned in it for its coming into operation. We have therefore to examine the arguments of counsel for the parties with due regard to these provisions of the law."

9. Another decision relied on behalf of the petitioner is *Herbertsons Ltd. v. The Workmen of Herbertsons Ltd. and Ors.* AIR 1977 SC 322. Paragraph 18 of the said judgment is quoted below:-

"When a recognized union negotiates with an employer the workers as individuals do not come into the picture. It is not necessary that each individual worker should know the implications of the settlement since a recognized union, which is expected to protect the legitimate interests of labour, enters into a settlement in the best interests of labour. This would be the normal rule. We cannot altogether rule out exceptional cases where there may be allegations of malafides, fraud or even corruption or other inducements. Nothing of that kind has been suggested against the President of the 3rd respondent in this case. That being the position, *prima facie*, this is a settlement in the course of collective bargaining and, therefore, is entitled to due weight and consideration."

10. The Bank has contended in various affidavits filed in this Court that the petitioner was employed w.e.f. 1978 and as such his employment is subsequent to the implementation of the Joshi Award in the year 1971 and he can not be given benefit of the earlier settlement arrived at in the year 1966. This argument has been refuted by Sri R.N. Singh Senior Advocate. He has submitted that the impugned order of retirement mentions the date of employment of the petitioner as 14.5.1968, also according to gradation list which has been annexed as Annexure-2A to the writ petition and Annexure-RA-I to the rejoinder affidavit, the date of appointment is May 1968. The Bank can not be permitted to take a different stands by filing counter affidavit for the first time during the proceedings in this Court. Reliance has been placed on a decision of the Apex Court in *Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others*, The Apex Court has held that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned in the order itself and can not be supplemented by fresh reasons or new grounds in the shape of affidavit or otherwise. Paragraph 8 of the said judgment is quoted below:-

"The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and can not be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds

later brought out. We may here draw attention to the observations of Commissioner of Police, Bombay Vs. Gordhandas Bhanji, (at p. 18):

"Public orders publicly made, in exercise of a statutory authority can not be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself"

Orders are not like old wine becoming better as they grow older.

A Caveat."

11. Sri Anil Tiwari appearing for the Bank has argued that the interpretation of Section 18(1) and 18(3) of the Act should be interpreted in a manner so that it can be ascertained as to what was the intention of the legislature. Section 18 is divided in two groups and also gives different type of binding effect in the language of the Section itself. It has been submitted on behalf of the respondents that prior to 1956 there was no provision to make settlement outside the conciliation proceedings binding on the parties. It is also emphasized that the definition of the word "settlement" was amended at the relevant time. Previously the settlement could only be arrived during the course of conciliation proceedings. If the argument of Sri Anil Tiwari is accepted that the intention of the legislature should be gathered by simultaneous reading of two amending provisions then it has to be inferred that any settlement arrived at between the parties other than the conciliation proceeding must be held to be binding, in case the said settlement is arrived at in accordance with rules. The stand taken by the Bank before this Court is that the date of appointment of the petitioner is subsequent to the implementation of the Joshi Award and in the circumstances he can not be given benefit of the settlement relating to the year 1966, consequently his age of retirement will be 58 years.

12. The counsel for the respondents has cited three decisions in support of his contention. The first decision of the Apex Court relates to the interpretation of statute in Sri Nasiruddin Vs. State Transport Appellate Tribunal, The said decision deals with unjustness of result, if a statute is interpreted differently. The submission is that the provisions of Section 18(3)(d) if interpreted in a manner as argued by counsel for the petitioner is accepted then it is bound to result in unjustness. We have carefully examined the provisions of Section 18(3)(d) of the Act and its plain reading shows that the settlement otherwise than in a conciliation proceedings will be applicable to all persons who subsequently become employed in that establishment or part. There is no ambiguity and there is no inconvenience whatsoever in its interpretation. In the instant case the words are plain and simple and there is no necessity for this Court to make alteration whatsoever. There is absolutely no ambiguity in the language of

Section 18(3)(d) of the Act, There are two other decisions cited by Sri Anil Tiwari (i) Nelson Motis Vs. Union of India and another, (ii) Bishan Chand Vs. Vth Additional District Judge, Bulandshahr (Uttar Pradesh) and Another, Both these decisions are also on the question of interpretation of statute.

13. After hearing the counsel for the parties and going through the record, the two questions that arises in this writ petition as well as special appeal is (i) whether the petitioner is entitled to avail the benefit of settlement dated 22.2.1966 whereby the age of retirement of the employee is 60 years or should be superannuated at the age of 58 years as provided under Regulation 24 of the Service Regulations. The proviso (II) in Regulation 24 specifically provides that if before coming into operation of the Regulations, the society has entered into contract with an employee on the date of employment whereby he is entitled to continue beyond 58 years, the rule of retirement at the age of 58 years as contained in Clause (i) shall not apply and the age of retirement shall be governed by the contract. In the circumstances, the settlement arrived at on 22.2.1966 could not be changed or altered unilaterally. The settlement as contemplated under the Act is binding on the parties and when it is read with proviso (II) of the Regulation 24 of the Service Regulations, the present petitioner in Writ Petition No, 21157 of 1996 is entitled to the benefit of age of retirement as provided in the settlement i.e. the age of retirement should be 60 years. Another reason why the petitioner should be extended the benefit of age of retirement at 60 years, is that the Industrial Disputes Act, 1947 being special law must necessarily prevail upon the Regulation framed under the provisions of Cooperative Societies Act. Assuming that the petitioner joined Allahabad District Cooperative Bank Ltd. Allahabad in the year 1968 and he became the member of Union, he can not be deprived of the benefit of the settlement pertaining to the year 1966 in view of the provisions of Section 18(3)(d) of the Act.

14. We do not agree with the reasons given by learned Single Judge in Special Appeal No. 66 of 2003 in respect of non acceptance and non applicability of the settlement arrived at in the year 1966 and interpretation of the settlement or agreement in accordance with provisions of Section 2(p) and 12(3) of the Industrial Disputes Act and also Section 18(3)(d) of the said Act. The finding to the effect that the settlement envisaged in Section 18(3) has an extended operation beyond the contracting parties on the principles of collective bargaining and theory can not be extended upon the workmen who are not parties to the settlement, can not be accepted. The learned Single Judge has overlooked the principles and reasons of the Apex Court while coming to a conclusion that Section 18(3)(d) is equally applicable to such employee who had joined subsequently. The findings to the contrary by the learned Single Judge in Special Appeal No. 66 of 2003 are set aside.

15. Now the question of the two employees namely the petitioner Ram Swarup Srivastava and appellant Hari Narain Ojha is to be examined in respect of their respective claim. The date of appointment of the petitioner is 16.5.1968. At the

relevant time, the settlement dated 22.2.1966 was applicable to the employees working in the Bank and the petitioner was also granted same benefits in view of the provisions of Section 18(3)(d). The petitioner, assuming that he had joined the Union in the year 1968 but since he was a member of the Union, he is entitled to the benefits of age of superannuation as 60 years. The Joshi Award was published in the year 1971 and in the circumstances, in view of the proviso to Regulation 24 of the Service Regulation, 1975, the service conditions of the petitioner will be governed by terms of the contract and age of retirement will be 60 years and not 58 years. We are in agreement with the counsel for the petitioner that the stand of the Bank taken in the counter affidavit regarding forgery etc. is a development which has been carved out in the writ petition for the first time and in view of the decision of the Apex Court in Mohinder Singh Gill (Supra) we refrain ourselves from taking into notice any allegations raised for the first time either in the counter affidavit or supplementary counter affidavit. The petitioner is entitled to the benefit of the age of superannuation at the age of 60 years and writ petition stands allowed so far it relates to the petitioner alone. The petitioner was not permitted to function for the period of two years as he was not granted any interim order when the writ petition was filed. In the circumstances, he is entitled to the salary of two year and post retirement benefits shall also be calculated on the last pay received treating his date of retirement as 29. 6.1998 instead of 29.6.1996.

16. The appellant Sri Hari Narain Ojha was one of the two petitioners of the Special Appeal. The two writ petition nos. 28883 of 2002 and 28857 of 2002 were decided by a common judgment. The other petitioner Suresh Chandra Srivastava did not prefer the special appeal though he was appointed in the year 1968 but since he has not approached this Court by filing special appeal, no benefit can be accorded to the petitioner Suresh Chandra Srivastava in Writ Petition No. 28883 of 2002. The appellant Hari Narain Ojha was appointed on 15.7.1972 and this date was admittedly after implementation of the Joshi Award dated 25.6.1971 and as such his service conditions are necessarily to be governed by the said award. The age of superannuation provided is 58 years in the Joshi Award. In the circumstances, he is not entitled to the benefits claimed by him. The appellant in special appeal can not be given the benefit of age of superannuation of 60 years.

17. The Writ Petition No. 21157 of 1996 of Ram Swamp Srivastava is allowed. The Special Appeal No. 66 of 2003 on behalf of Hari Narain Ojha, appellant is dismissed. There shall be no order as to costs.