

(1992) 04 AHC CK 0061

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 5233 of 1989

Rang Nath Shukla

APPELLANT

Vs

State of U.P.& Others

RESPONDENT

Date of Decision : 04-04-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1992) 04 AHC CK 0061

Hon'ble Judges : M.Katju, J

Final Decision : Allowed

Judgement

1. The petitioner was appointed in 1976 as Sub Inspector of police and is holding the charge of Station Officer Incharge since 1988.

In 1988 he was nominated in C.I. List II for promotion from the post of Sub Inspector to the post of Inspector of police. The Board of Selection for promotion to the post of Inspector was constituted by the State Govt. and the selection was to be on merits as laid down in the G.O. dated 5111965 (annexure1 to the writ petition). The petitioner's grievance is that 50% marks were given for the interview in the selection as alleged in paragraph 6 of the writ petition, and accordingly the petitioner has alleged that the said selection was illegal because according to the decision of the Supreme Court in Ashok Kumar Yadava v. State of Haryana and others (AIR 1987 SC 454) which has been followed in several decisions e.g. 1990(4) JT 704, 1991 Vol. 4 JT 160, 1991 AWC 322 etc. not more than 15% marks can be given for interview. The petitioner was not selected in the said selection, and hence he has filed this writ petition.

2. A counter affidavit has been filed in this case and it is not disputed that 50% marks have been given for interview. In my opinion, this itself vitiates the selection in view of the aforesaid decisions, but since the persons already selected and appointed as Inspector of police have not been impleaded, I cannot strike down their selection. However, I direct that the petitioner be considered afresh for promotion as Inspector by the selection committee within one month

of production of a certified copy of this order before the respondent No. 2 and this selection should be done keeping in view the decisions of the Hon''ble Supreme Court mentioned above, in other words not more than 15% marks should be kept for interview. If the petitioner is successful in the selection, he should be promoted retrospectively from the date on which he would have been promoted had the selection been held in accordance with law.

3. With these observations the writ petition is allowed. There is no order as to costs.