
(1997) 05 AHC CK 0149

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 40495 of 1996

Ravindra Nath Rai and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 28-05-1997

Acts Referred:

Citation : (1997) AWC 182 : (1997) 3 UPLBEC 1640

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : R.C. Srivastava and Shailendra, for the Appellant;

Final Decision : Allowed

Judgement

M. Katju, J.—This writ petition has been filed against the impugned order dated 2-12-1996, Annexure 2 to the writ petition and the decision which is Annexure 3 to the writ petition, and for a mandamus directing respondent No. 1 prepare a waiting list of selected candidates of Sub-Inspector Civil Police Examination of 1991.

2. I have heard learned counsel for petitioners and learned standing counsel.

3. The facts of the case are that 475 posts of Sub-inspector, Civil Police for males and 50 for females were advertised in October, 1991. The petitioners appeared in this examination and they have alleged that they have qualified in the same but since no waiting list was prepared in pursuance of the letter dated 2-12-1996 of the D. I. G. (Karmik), U.P. they were not considered for appointment, The short question is whether there should be any waiting list. This point has been considered by a learned Single Judge in Writ Petition No. 18930 of 1989, Santosh Kumar Singh v. The State of U.P. and Ors., decided on 15-3-1991. A copy of the said judgment is Annexure 4 to the writ petition. This point has also been considered by the Supreme Court in Jai Narain Ram Vs. State of U.P. and others, . In this decision it has been held that a waiting list should have been prepared so that if some of the selected candidates do not join for some reason

then the Person in the waiting list can be considered.

4. Learned standing counsel relied upon the decision of the Supreme Court in Shankarsan Dash Vs. Union of India, and submitted that successful candidates have no indefeasible right to be appointed. However, this decision itself states that although a person may not have an indefeasible right to be appointed yet this does not mean that the State has the licence of acting in an arbitrary manner. It has further been observed by the Supreme Court in that the decision not to fill up the vacancies has to be taken bona fide for appropriate reasons In the present case no proper reason has been given by the respondents as to why a waiting list has not been prepared. Hence in my opinion the action of the respondents is arbitrary. In my opinion there must be a waiting list so that if some of selected candidates do not join then the persons in the waiting list can be considered. This is in accordance with the judgment of the Supreme Court in Jai Narain Ram Vs. State of U.P. and others, and the decision of Hon"ble Mr. Justice Om Prakash in Santosh Kumar Singh v. State of U.P. and others, (Writ Petition No. 18930 of 1989).

5. Following the said decisions, this writ petition is allowed The respondents are directed to prepare a waiting list in the said examination and consider and appoint the persons in the waiting list in accordance with merit to the extent of the number of candidates in the main select list who had not joined.

6. The writ petition is allowed. No order as to costs.