

**(2002) 02 SC CK 0027**

**In the Supreme Court Of India**

**Case No :** Civil Appeal 1322 and 1323 of 2002 and Special Leave Petition (Civil) 21312 and 21313 of 2001

State of U.P. and Another

APPELLANT

Vs

U.P. Rajkiya Nirman Nigam Karamchari Sangharsh Morcha  
and Others

RESPONDENT

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**Date of Decision :** 18-02-2002

**Acts Referred:**

Constitution of India, 1950 — Article 14, 226

**Citation :** (2002) 5 JT 322

**Hon'ble Judges :** Ruma Pal, J;D. P. Mohapatra, J

**Bench :** Division Bench

**Final Decision :** Allowed

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## **Judgement**

1. Leave granted.

2. These appeals have been directed against the interim order dated 24.8.2001 passed by a single judge of the High Court of Allahabad in the writ petition No. 4349 (S/S)/2001 titled State of U.P. and Another Vs. U.P. Rajkiya Nirman Nigam Karamchari Sangharsh Morcha and Others, through its chief secretary, and the interim order dated 31.10.2001 passed by a division bench of the High Court in special appeal No. 341 of 2001 (S/B) titled State of U.P. through its chief secretary v. U.P. Rajkiya Nirman Nigam Karamchari Sangharsh Morcha through its president. The operative portion of the order dated 24.8.2001 reads:

"Having regard to all what has been said above, an interim mandamus is issued commanding the opposite parties No. 2 and 3 to apply the recommendations of the 5th Pay Commission to all the employees of the U.P. Rajkiya Nirman Nigam in accordance with the recommendations of the managing director of the Nigam. However, this order will be subject to the final decision of this Court. The employees may be required to place undertaking on record to the effect that they shall abide with the final judgment of this Court."

3. In the special appeal, the division bench by an interim order passed on 31.10.2001 modified the order of the single judge to the following effect:

"Meanwhile, we modify the order dated 24.8.2001 passed by hon'ble the single judge, only to this extent that the appellants shall pay to the employees of U.P. Rajkiya Nirman Nigam, the emoluments as recommended by the 5th Pay Commission, only with effect from 1.11.2001 subject to the condition imposed by the Hon'ble the single judge."

4. In the writ petition, the petitioners had prayed, inter alia, for issue of a writ/ order/ direction in the nature of mandamus directing the state government to take a decision for the implementation of the recommendations of the 5th Pay Commission and consequential reliefs, taking into consideration the fact that in all other corporations/enigmas and undertakings of the state government the said recommendations have already been implemented including in the sister concern of U.P. Rajkiya Nirman Nigam i.e., U.P. Bridge Corporation.

5. On perusal of the relevant material on record and on consideration of the submissions made by learned counsel for the parties we are of the view that the interim orders passed by the learned single judge as well as by the division bench are unsustainable. In the writ petition the question involved was regarding the claim of the employees of the Rajkiya Nirman Nigam for the benefit of the revised scales of pay as recommended by the 5th Pay Commission. The issue involved heavy financial liability on the part of the corporation. The matter had to be decided by the state government considering the financial position of the corporation and its capacity to bear the additional financial burden. In a case of this nature, the High Court should not have extended the benefit of the revised scale of pay to the employees by passing interim order(s). If the court felt that the matter was urgent it should have taken up the writ petition on priority basis and disposed it off as early as possible instead of passing interim orders.

6. Therefore, the appeals are allowed. The interim order dated 24.8.2001 in the writ petition No. 4349(S/S)/2001 and interim order dated 31.10.2001 in special appeal No. 341 of 2001 (S/B) are set aside. The High Court is requested to decide the case, writ petition No. 4349(S/S)/2001 expeditiously, if possible within a period of 3 months from the date of receipt of this order. In view of this order, the special appeal No. 341 of 2001 (S/ B) becomes infructuous and will be dismissed as such. No costs.