courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 16/09/2026

(2006) 05 AHC CK 0166

In the Allahabad High Court

Case No : Writ Petition No. 375 (S/B) of 2004

State of U.P. and Ors. — APPELLANT

Vs

Jagdish Singh Patni & Anr. — RESPONDENT

Date of Decision : 18-05-2006

Acts Referred:

Citation : (2006) 05 AHC CK 0166

Hon'ble Judges : Pradeep Kant, J and Dharam Veer Sharma, J

Final Decision : Dismissed

Judgement

1. Heard the learned Counsel for the petitionerState. Sri Mukund Tiwari and Sri Ramesh Pandey for the private respondent.

2. The State has filed this petition challenging the order dated 1382003 by means of which the claim petition of the respondent has been allowed by issuing a direction to the opposite party in the claim petition, namely the petitioners, to consider the case of the respondent for selection for 1997 course for Reserve Inspector on the basis of the recommendation sent by the DIG, Bareilly range, to DIG Establishment, PHQ, Allahabad dated 1231999. The opposite parties in the claim petition, namely, the petitioners were also directed to provide all consequential benefits as the course mates of the respondent have got regarding pecuniary and service benefits if he is found fit for selection to the training course 1997 for Reserve Inspector and he will also be assigned the seniority of training course 1997 for Reserve Inspector.

3. Making a challenge to the aforesaid order, the learned Counsel for the State has submitted that since an enquiry was pending against the respondent at the time when his name was to be sent/forwarded by the Senior Superintendent of Police and, therefore, the Senior Superintendent of Police did not forward his name and it was only by an interim order issued by the Tribunal that his name has been forwarded/sent to the Police Headquarter, Allahabad by the DIG, Bareilly.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/state-of-up-and-ors-appellant-hash-…

4. The fact of the matter is that the DIG, Bareilly range himself directed the Senior Superintendent of Police to forward the name of the respondent, as per the notification issued by the U.P. Police Headquarters dated 2081997, but the same was not sent and thereafter in pursuance of the interim direction issued by the Tribunal, the name of the respondent was forwarded, as required, but his case for promotion was not considered.

5. The plea of the State that since an enquiry was pending against the respondent, therefore, his name could not have been sent for consideration for promotion as Reserve Inspector Course in the year 1997, has been answered by the Tribunal, after perusing the notification dated 2081997, which says in case of any person against whom an enquiry is pending, his nomination papers will not be withheld, meaning thereby that mere pendency of enquiry would not deprive the person concerned from getting his name forwarded for consideration. That being so, withholding of the name of the respondent from being sent for consideration for promotion in the year 1997, was without any authority and power.

6. Sri Mukund Tiwari lastly urged that even if the name of the respondent was wrongly withheld, the Tribunal could have only directed for consideration of his promotion and in no case the Tribunal could have directed for payment of salary nor could have awarded consequential benefits, except that of seniority. In this regard, he has further submitted that assuming that the case of the respondent had been forwarded to the year 1997, with the enquiry pending, his result would have been kept in seal cover and it would have abide the outcome of the enquiry.

7. The aforesaid plea misses the very legal position that in the case of seal cover, one post/vacancy has to be kept reserved and in case on the out come of the pending disciplinary enquiry, the officer is exonerated or such punishment is awarded which does not effect his promotion, he would be entitled for promotion from the date when all other persons were promoted under the same D.P.C.

8. In this view of the matter if the Tribunal has directed for payment of salary and awarded all consequential benefits, in case the respondent succeeds in the selection, the order of the Tribunal cannot be faulted with.

9. No other point has been pressed. The writ petition is dismissed.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/state-of-up-and-ors-appellant-hash-…