
(2010) 09 UK CK 0108

In the Uttarakhand High Court

Case No : Writ Petition No. 117 of 2010 (S/B)

Suresh Chandra Sharma and Another

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 16-09-2010

Acts Referred:

Citation : (2010) 09 UK CK 0108

Hon'ble Judges : Barin Ghosh, C.J;V.K. Bist, J

Bench : Division Bench

Judgement

Barin Ghosh, C.J.—The writ petitioners are Superintending Engineers. They claim that they have eligibility to be promoted to the post of Chief Engineer Level-II. It is their contention that three posts of Chief Engineers Level-II are lying vacant. According to them, the first of such vacancies cropped up on 1st February, 2009, the second on 1st May, 2009 and the third on 1st May, 2010. It appears that the petitioners made a representation for filling up those vacant posts by promotion. It further appears that the Departmental Promotion Committee was scheduled to sit on 14th May, 2010 for the purpose of selecting Superintending Engineers to be promoted to the posts of Chief Engineer Level-II. It also appears that on 13th May, 2010, the Minister In-Charge wrote a letter and thereby held out that the post of Chief Engineer Level-I, which is a promotional post of Chief Engineers Level-II, is lying vacant since 2004 and, accordingly, the said post is required to be filled in, before steps are taken to fill up the three vacant posts of Chief Engineer Level-II. In view of the said letter of the Minister In-Charge, the Departmental Promotion Committee has deferred its sitting, scheduled to be held on 14th May, 2010, for selecting Superintending Engineers for supplying vacancies in the vacant posts of Chief Engineer Level-II. Petitioners, thus, approached this Court and contended that there was no just reason for deferring the sitting of the Departmental Promotion Committee. After affidavits have been filed, it is now clear that the one and only post of Chief Engineer Level-I, which is at present lying vacant, became vacant on 1st May, 2010 and not in 2004, on the basis whereof the Minister reacted in the manner, he reacted in his letter dated

13th May, 2010. In the circumstances, we hold that there was no impediment on the part of the Departmental Promotion Committee to hold the sitting for selecting Superintending Engineers for promoting them to the post of Chief Engineer Level-II on 14th May, 2010. With the clarification, as above, we dispose of the writ petition, hoping and expecting that the Departmental Promotion Committee would meet soon to conclude the deferred meeting.

2. After we dictated the order, as above, the learned Counsel appearing on behalf of respondent No. 4 submitted that the Minister had also highlighted that consideration of promotion of Superintending Engineers to the posts of Chief Engineer Level-II, before supplying vacancy in the post of Chief Engineer Level-I, would be contrary to law, inasmuch as, by a Memorandum, it has been held out by the State that if a vacancy is likely to crop up in a particular year twice, while filling up the said vacancy at the first instance, the D.P.C. should also take action to fill up the vacancy, which would crop up in the same year, but at a later point of time. We personally feel that the Minister In-Charge should have written this letter at the time when the Chief Engineer Level-I, who retired on 1st May, 2010, was promoted to the post of Chief Engineer Level-I, and not when the D.P.C. was scheduled to be held on 14th May, 2010 for promoting Superintending Engineers to the posts of Chief Engineer Level-II. The said Memorandum had and has no connection whatsoever with the promotion of the Superintending Engineers to the post of Chief Engineer Level-II, which was to be considered on 14th May, 2010, since it is neither the contention of the Minister, nor it is the contention of the respondent No. 4 that any of the vacancies, which were to be supplied, would fall twice in the recruitment year. The writ petition is, thus, disposed of.