

(2003) 01 AHC CK 0119
In the Allahabad High Court
Case No : C.M.W.P. No. 41390 of 2001

Syed Vequar Ahmad

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 29-01-2003

Acts Referred:

Citation : (2003) 2 AWC 915 : (2003) 1 UPLBEC 677

Hon'ble Judges : Prakash Krishna, J; M. Katju, J

Bench : Division Bench

Advocate : I.N. Singh and Ajay Yadav, for the Appellant;

Final Decision : Allowed

Judgement

M. Katju, J.—Heard counsel for parties.

2. The petitioner has prayed for a writ of mandamus directing that he be considered for promotion to the post of Assistant Excise Commissioner. The petitioner is presently Excise Inspector. He was selected by the U. P. Public Service Commission in 1985 and had been working since then. 12 posts of Assistant Excise Commissioner fell vacant in December, 2000, which were to be filled in by promotion from Excise Inspectors. The petitioner made a representation vide Annexure-3 to the writ petition requesting for promotion. He was awarded special entry for the calendar years 1990-91 and 1991-92.

3. However, he was not considered for promotion because he was awarded adverse entries for the years 1994-95 and 1995-96. Against the adverse entry for the year 1994-95 vide Annexure 4 the petitioner filed a writ petition, being Writ Petition No. 15315 of 1996 which is pending in this Court and the impugned adverse entry has been stayed vide order dated 1.5.1996.

4. As regards the two adverse entries for the year 1995-96. dated 10.10.1996 and 24.12.1996, vide Annexures-5 and 6, one was awarded because he did not participate in the meeting of 19.7.1996, and the other because he did not

participate in the meeting of 14.12.1996 along with the register. The petitioner made representations against these entries vide Annexure-3. The petitioner's representations against those entries have been allowed and those entries have been quashed, vide orders dated 12.5.2001 and 19.6.2001, Annexure-7 to the petition.

5. A counter-affidavit has been filed by the respondents and we have perused the same. It has been admitted in Paragraph 10 of the same that in view of Government Order dated 4.5.1995 if a representation is pending against an adverse entry, the said adverse entry will not come in the way of promotion. It has also been admitted in Paragraph 8 that the entries for 1995-96 have been deleted.

6. Presently, there is no material against the petitioner since the adverse entry for 1994-95 has been stayed by this Court. Hence, we allow the writ petition and direct that the petitioner shall be considered for promotion as Assistant Excise Commissioner when the next D.P.C. meets. However, this order will be subject to the decision in Writ Petition No. 15315 of 1996.