

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5598 OF 2007

SURESH CHANDRA

.....APPELLANT(S)

Versus

STATE OF UTTRANCHAL & ORS.

.....RESPONDENT(S)

WITH

CIVIL APPEAL NO.4773 OF 2008

ORDER

This order will dispose of Civil Appeal No.5598/2007 filed by one Suresh Chandra and also an Civil Appeal no.4773/2008 filed by respondent 8 Ravindra Prasad.

2. This is an *inter se* dispute between these two officers who were working as engineers in the State of Uttar Pradesh. While the appellant Suresh Chandra was a directly recruited Assistant Engineer having been appointed on 2.2.1999, the other person namely Ravindra Prasad was, however, appointed as a Junior Engineer in the year 1983 on adhoc basis and was ultimately regularised in the year 1989 as Junior Engineer. Thereafter, he was promoted on 25.5.1995. However, the question is whether this was an adhoc promotion or a substantive promotion. While Shri Ravindra Prasad claims this to be a regular promotion since it was granted after his selection by the Departmental Promotion Committee, the appellant Suresh Chandra, however, claims that this was an

.....2.

ad hoc promotion. Both these officers were allocated to the State of Uttranchal as it then was (now State of Uttarakhand). While Shri Suresh Chandra was allocated in his capacity as Assistant Engineer, however, Ravindra Prasad was allocated in his capacity as Junior Engineer because till then he continued to be in the seniority list of Junior Engineers and was not included in the cadre of Assistant Engineer. Be that as it may.

3. Thereafter, a question came as to in what capacity Ravindra Prasad can be accommodated in the State of Uttranchal. There was lot of correspondence between the newly created State of Uttranchal and Uttar Pradesh and as a result the State of Uttar Pradesh then took up the matter, sent it to the U.P. Public Service Commission which again went into the exercise of examining the records of Ravindra Prasad and also interviewed him and ultimately wrote to the State of Uttranchal that he was liable to be promoted and that he was properly promoted to the post of Assistant Engineer from his post of Junior Engineer. This recommendation of the U.P. Public Service Commission was also granted approval by the Hon'ble Governor of Uttar Pradesh. It is on this basis that the State of Uttranchal in the year 2006 directed Ravindra Prasad to grant the seniority in the post of Assistant Engineer from 25.5.1995. This was challenged by Suresh

.....3.

Chandra. While in another petition, Ravindra Prasad had also challenged exclusion of his name from the list of Assistant Engineers. Both these petitions came to be decided along with some other petitions by the High Court and the High Court dismissed the petition filed by Suresh Chandra and thereby accepted the position that Ravindra Prasad had to be held senior to Suresh Chandra he having been promoted in the year 1995 and his promotion having been regularised and upheld by State of Uttar Pradesh as well as the State of Uttranchal. While Shri Suresh Chandra has challenged this order on various grounds, even Shri Ravindra Prasad has challenged the order on account of an observation made in the said judgment to the effect that Shri Ravindra Prasad was given an adhoc promotion to the post of Assistant Engineer.

4. Shri Sunil Gupta, learned senior counsel urged before us that the very basis of the High Court order was incorrect inasmuch as the High Court went on to apply the rules called Uttranchal (On posts within the purview of the Public Service Commission) Adhoc Appointments Regularisation Rules, 2002. Indeed when we see paragraph 3 of the impugned judgment it is found that those rules are relied upon by the High Court. We have cursorily gone through those rules and are of prima facie opinion that those rules may not apply for the simple reason that the rules did not apply to promotees.

.....4.

5. Further, we are not at all satisfied with the judgment which is extremely sketchy and skeleton like without answering number of issues which could be raised. One of the issues could be as to whether Uttar Pradesh Government and more particularly the U.P. Public Service Commission could have had the jurisdiction to decide upon the nature of promotion awarded to Shri Ravindra Prasad particularly after the State was divided and after the State of Uttar Pradesh was divested of its control over the employees. There are number of other issues arising and we find that the judgment is totally silent about various facts as also the rules including the 1954 Regulations as amended by 13th amendment and 16th amendment. Therefore, the impugned judgment appears to be wanting in all the necessary details and is liable to be set aside. We would expect the High Court to go into all the questions raised by the parties in the light of the applicable rules and give a clear cut finding as regards (i) the nature of promotion granted to Shri Ravindra Prasad, (ii) the legality or propriety of the exercise taken by the U.P. Public Service Commission as also the positions (contradictory) taken by the State of Uttranchal in the matter. We, therefore, request the High Court to dispose of the matter within six months of the writ reaching that Court. Our no expression should be understood as expressing any opinion on the merits of the matter.

.....5.

6. With this, the appeals are disposed of. No order as to costs.

.....J.
(V.S. SIRPURKAR)

New Delhi;
May 25, 2009.

.....J.
(R.M. LODHA)

