

Bal Ram Prasad Rawat

Vs

State of U.P. others

Ram Asrey Malviya

Vs

State of U.P. and Others

Narender Singh Gangwar

Vs

State of U.P. and Others

Dasrath Tripathi

Vs

State of U.P. and Others

And

Prahlad Singh

Vs

State of U.P. and Others

Rama Shankar Shukla and Others

Vs

State of U.P. and Others

Special Leave Petitions (Civil) Nos. 10026, 10027, 10805 and 11154 of 1980; 596 of 1981 and 10028 of 1980

(Misra, J.)

10.04.1981

JUDGMENT

MISRA, J. –

1. These are six petitions for grant of special leave to appeal. The first five petitions are directed against the order dated November 4, 1980, of the High Court of Allahabad dismissing five writ

petitions on the ground that the petitioners therein have an alternative remedy, while the last petition, that is special leave petition 10028 of 1980, challenges a similar order dated November 17, 1980. All these petitions were ordered to be listed along with Civil Appeal 282 of 1980 arising out of a special leave petition filed by the State of Uttar Pradesh against one Ram Gopal Shukla.

2. Shri Yogeshwar Prasad appearing for some of the petitioners has pointed out that the High Court granted relief to one Har Prashad in a similar case but made invidious distinction in rejecting these petitions on the ground above states. The petitioners seek to challenge the vires of Rules 7-A and 7-B added on July 4, 1972, to the Uttar Pradesh Promotion by Selection in Consultation with Public Service Commission (Procedure) Rules, 1970 which were declared to be ultra vires the Constitution by the High Court of Allahabad in a judgment dated March 29, 1979, in the writ petition filed by the aforesaid Ram Gopal Shukla (Writ Petition 524 of 1975). Against that judgment, the State Government filed an application under Article 136 of the Constitution for special leave to appeal which was granted giving rise to Civil Appeal 282 of 1980. By a separate order of today's date, the appeal filed by the State has been dismissed (State of U.P. v. Ram Gopal Shukla, (1981) 3 SCC 1) and the judgment of the High Court has been confirmed, with the result that the aforesaid Rules 7-A and 7-B stand declared void being violative of Articles 14 and 16 of the Constitution. In view of the judgment in Civil Appeal 282 of 1980 (State of U.P. v. Ram Gopal Shukla, (1981) 3 SCC 1), filed by the State against Ram Gopal Shukla, no useful purpose will be served by directing the petitioners to avail of the alternative remedy by approaching the U.P. Public Service Tribunal, specially when in a similar situation Har Prashad was given the relief under Article 226 of the Constitution by the same High Court. In the circumstances, we granted special leave petitions and treated the same as civil appeals. The notice of these appeals was accepted by the counsel for the State.

3. After hearing the counsel for the appellants, we allow these appeals and quash the orders of the High Court dated November 4, 1980, and November 17, 1980, and declare Rules 7-A and 7-B aforesaid to be ultra vires Articles 14 and 16 of the Constitution. We, however, make no order as to costs.

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