

Sham Sunder Sharma and Others

Vs

State of U. P. and Others

Writ Petitions Nos. 454 to 461 of 1984

(Syed M. Fazal Ali, A. Varadarajan, Sabyasachi Mukharji JJ)

19.04.1985

ORDER

1. Heard counsel for the parties. Generally the suppositions and propositions given to us by Mr. Gopal Subramaniam, counsel for the State of U. P. are acceptable to all the appellants/petitioners excepting a few contentions which, we feel, are without force. We, therefore, pass the following order :

(1) The respondent State of U. P. has filed an affidavit of Shri R. S. Asthana, Joint Secretary, Department of Home, Government of U. P., Lucknow. In the said affidavit it has been pointed out that a suggestion was made by this Court during the hearing of these appeals, that the State of U. P. may consider the grievances of the petitioners, with particular reference to the recommendations and suggestions made by the Allahabad High Court (Lucknow Bench) vide its judgment and order dated November 17, 1983. The State of U. P. has considered the matter and with a view to solve the problems, arising out of large-scale reversions of officiating Sub-Inspectors approved under paragraph 191 of the Police Office Manual proposed sanction for the creation of 1300 supernumerary posts of Sub-Inspectors of Civil Police.

(2) It is stated in the affidavit of Shri R. S. Asthana, that the said proposal has been duly approved by the Cabinet and consequently G. O. 5481/VIII-10-84-1200(31) /84, dated December 12, 1984 has been issued.

(3) A copy of the said government order has been annexed as Annexure R-1 to the affidavit of Shri R. S. Asthana.

(4) The said government order provides as follows :

(a) That the Governor has been pleased to sanction the creation of 1300 supernumerary posts of civil police in the pay scale of Rs. 515-860.

(b) Appointments on these posts shall be made from amongst all those officiating Sub-Inspectors who are liable to be reverted and have crossed the age of 40 years on September 30, 1984 and whose service records are satisfactory.

(c) Only those officiating Sub-Inspectors will be absorbed on these posts who have officiated on the posts of Sub-Inspector for three years or more till September, 1984.

(d) Selection of the candidates will be done by a committee nominated by the government on the basis of service records of the concerned candidates.

(e) These 1300 supernumerary posts will be personal and the post and term thereof will expire on retirement of incumbent or termination of his service due to any other reason.

(f) No officiating Sub-Inspector promoted under para 191 of the Office Manual falling within the above category whether he has approached the Court or not will be reverted before the decision of Selection Committee. If certain Sub-Inspectors falling within the above category have been reverted they may be promoted on the above posts.

(5) The said Government order dated December 1, 1984 is taken on record and the respondent shall implement the said order immediately.

(6) Insofar as the officiating Head Constables are concerned, they would be reverted to their substantive posts of Constables. The State shall promote the Constables to the posts of Head Constables against the vacancies which may arise on account of the creation of 1300 supernumerary posts, in accordance with the relevant rules.

(7) In view of the abovesaid order the civil appeals which have been filed by officiating Sub-Inspectors covered by the government order dated December 1, 1984 are rendered infructuous.

(8) The appeals and petitions filed by Sub-Inspectors who are below 40 years or who have officiated on the post of Sub-Inspectors for less than 3 years till September 30, 1984 will stand dismissed. The interim order in the said appeals and petitions will stand vacated.

(9) The appeals and petitions which have been preferred by officiating Head Constables, will stand dismissed as a result of this order. The government will make fresh promotions to the post of Constables in accordance with the Rules which provides for promotion on the basis of seniority and performance. All interim orders passed in these appeals and petitions are vacated.

(10) In the appeals and petitions filed by the officiating Sub-Inspectors the government order dated December 1, 1984 clarifies that no officiating Sub-Inspector promoted under para 191 of the Manual covered by the order shall be reverted, till the Selection Committee takes a decision.

2. All the writ petitions, special leave petitions appeals and all connected matters which are not listed, a list of which will be given by the counsel for the parties by Tuesday next, are disposed of in terms of the above order. The promotions shall be made within six months from today. There shall be no order as to costs.

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