

Saroj Kumar Tyagi and Others

Vs

State of U.P. and Others

Civil Appeals No. 329 of 1985

(Ranganath Misra, M. M. Dutt JJ)

04.12.1987

ORDER

1. These appeals are by special leave and are directed against the common decision of the Allahabad High Court in regard to claim of promotion from the lower service as Inspector of Supplies in Uttar Pradesh. On 28-1-1985, this Court gave the following direction :

"Special leave is granted in both the matters. Status quo which has been directed to be maintained is vacated. It is directed that the promotions may be made of those who are clamouring for promotions for quite some time, but their promotions will be subject to the result of these appeal. It is also clarified that after exhausting the list dated April 1, 1976, of the Head Clerks by promoting them to the post of Supply Inspectors, if any vacancies are still available, the petitioners or such of them as could be possible, may be accommodated."

2. When the matter was taken up for hearing some time back we had suggested to the counsel for the State of Uttar Pradesh that so far as the appellants are concerned the State should consider retaining them in the post of Supply Inspector as they had already worked for a considerable period continuously in such posts notwithstanding the fact that by their respective seniority in their own right they may not be entitled to promotion. It is not disputed that a list seniority had been drawn up on 1-4-1976 in the lower cadre of Head Clerk out of which promotional opportunity is available to the post of Inspector of Supplies. We agree with the High Court that in their own right these appellants were not entitled to promotion and on the sole consideration that they have been in employment continuously in the higher post for several years, we do not propose to disturb their appointment as Inspectors of Supplies. It may be pointed out that Appellant 1 has, in the meantime, on the basis of his own merit and record, been promoted. Similarly, Prabhu Dayal who is the appellant in Civil Appeal No. 116 of 1986 had once been promoted in 1982 and had later been reverted but on the basis of his own seniority has again been promoted. Therefore, so far as Saroj Kumar in Civil Appeal No. 329 of 1985 and Prabhu Dayal in Civil Appeal No. 116 of 1986 are concerned, they must be taken as having been promoted on regular basis and are not covered by the order which we propose to make in regard to others.

3. So far as the remaining appellants are concerned, they would be entitled to continue as Inspectors of Supplies not on the basis that by their own seniority they had earned such promotion but on the sole consideration that they had been continuing in the promotional posts for quite a long period and we have not considered it appropriate to revert them. Their continuing in the higher posts would not confer any seniority to earn them other service advantages including further promotion until in their own right i.e. on the basis of their seniority they would be entitled to the same.

4. Prabhu Dayal would be entitled to claim his seniority on the basis of promotion with effect from 5-8-1982, whereas Saroj Kumar would be entitled to claim his seniority in the cadre of Inspector of Supplies from the date he has actually been promoted. Our direction not to disturb the appellants is in the peculiar facts of the case and may not be taken as a precedent. Both the appeals are disposed of. No costs.

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