

Paramjeet Singh

Vs

State of U. P. and Others

Civil Appeals Nos. 1497-1498 of 1998

(S. C. Agarwal, D. P. Wadhwa JJ)

06.03.1998

ORDER

1. Special leave granted.

2. Paramjeet Singh, appellant herein, was originally working as Assistant Engineer in Minor Irrigation Department of the State of U.P. By order dated 22-7-1997 he was promoted as Executive Engineer in the Hill Cadre on the recommendations of the Departmental Promotion Committee. By order dated 19-8-1997 he was posted as Executive Engineer, Minor Irrigation at Nainital. He took charge of the said post on 21-8-1997. Pradeep K. Srivastava, Respondent 4 who was posted as Executive Engineer, Minor Irrigation at Nainital was transferred from Nainital and was attached to the Superintending Engineer, Pauri. Respondent 4 filed a writ petition (WP No. 28125 of 1997) in the Allahabad High Court wherein he challenged the order for his transfer. In the said writ petition by an interim order passed on 2-9-1997, the operation of the order dated 19-8-1997 relating to the posting of the appellant was stayed. As a result of the said interim order passed by the High Court, the appellant was deprived of the post of Executive Engineer at Nainital by order of the Commissioner, Kumaon Division, dated 11-9-1997 and he was neither given any other posting nor was he paid any salary after he was deprived of the post of Executive Engineer at Nainital on 11-9-1997. The appellant filed a writ petition (WP No. 35616 of 1997) in the Allahabad High Court wherein he prayed for quashing of the order of the Commissioner dated 11-9-1997 and for being posted as Executive Engineer, Minor Irrigation, Nainital in any other workable post of Executive Engineer, Minor Irrigation in the Hill Cadre and for payment of salary and allowances since August 1997. The writ petition filed by Respondent 4 and the appellant were disposed of by the High Court by orders dated 19-1-1998. The writ petition filed by Respondent 4 was dismissed by the High Court on the view that since he did not belong to the Hill Cadre his attachment to the office of Superintending Engineer, Pauri was totally vitiated and it was directed that he be posted on regular line anywhere in the plains. But at the same time it was directed that interim order granted earlier shall lapse after ten weeks. After passing the said order on the writ petition of Respondent 4, the High Court passed the order on the writ petition of the appellant and dismissed the said writ petition as infructuous on the view that since the interim order passed in Writ Petition No. 28125 of 1997 filed by Respondent 4 has been vacated, the writ petition filed by the appellant had lost its efficacy.

3. We are unable to appreciate the order passed by the High Court on the writ petition filed by the appellant. The appellant was deprived of the post of Executive Engineer, Minor Irrigation, on the basis of the interim order dated 2-9-1997 passed by the High Court in the writ petition filed by Respondent 4. After dismissing the writ petition of Respondent 4 it was necessary for the High Court to have given appropriate directions in the writ petition of the appellant with regard to his posting as well as for payment of his salary. The writ petition could not be dismissed as infructuous.

4. The appeals are, therefore, allowed and it is directed that the appellant be given suitable posting as Executive Engineer, Minor Irrigation, in the Hill Cadre and till he is given such posting he should be paid the salary for the period he has not been paid the salary on account of his being deprived of the post of Executive Engineer, Minor Irrigation, Nainital on 11-9-1997. The said amount of salary should be paid within one month. No order as to costs.