

B. K. Chatterjee

Vs

State of U.P. and Others

Civil Appeal No. 8917 of 1994

(G. B. Pattanaik, S. P. Kurdukar JJ)

02.04.1998

ORDER

This appeal is directed against the judgment of the Lucknow Bench of the Allahabad High Court in Writ Petition No. 4801 of 1989. The appellant approached the High Court for quashing Rules 5(3) and 23 of the Uttar Pradesh Geology and Mining Service Rules, 1983 (for short "the Rules") and for issuance of a mandamus commanding the opposite party to prepare a combined seniority list of officers belonging to Class I service on the posts of Geologist and Senior Geo-Chemist (Geology) and then to consider the question of promotion to the post of Deputy Director as provided in Rule 16 of the Rules. So far as the validity of the Rules is concerned, as it appears the appellant did not challenge the same in the High Court. But even otherwise on examining the provisions of the Rules, we see no infirmity therein to be struck down. The High Court then considered the question of eligibility for being promoted to the post of Deputy Director and then came to the conclusion that there is no substance in the argument advanced by the appellant that until and unless the seniority list of officers belonging to Class I service on the post of Geologist and Senior Geo-Chemist (Geology) is determined, no promotion can be given to the post of Deputy Director. With this conclusion the writ petition having been dismissed, the appellant has preferred this appeal. During the pendency of this appeal in this Court, the appellant has already been promoted to the post of Deputy Director and the promotion order indicates that the inter se seniority amongst the persons promoted to the post of Deputy Director, will be drawn later after disposal of this appeal in this Court. The question of inter se seniority of the Deputy Directors, including the appellant, was not the subject-matter of consideration before the High Court. Therefore, we are not required to go into that question in this appeal. Inter se seniority, obviously, has to be determined in accordance with Rule 23 of the Rules which governs the seniority. In the aforesaid premises, we do not find any illegality in the impugned judgment of the High Court so as to be interfered with by this Court. The appeal, accordingly, stands dismissed. No costs.