

**SUPREME COURT OF INDIA**

Virendra Kumar Singh

Vs.

State of U.P.

(G.B. Pattanaik and U.C. Banerjee JJ.)

21.07.2000

**ORDER**

1. Leave granted.

2. This appeal is directed against the impugned judgment of the High Court of Allahabad. The dispute centers around the question as to from which date the appellant would be entitled to promotion to Group-I from Group -II. The appellant had already been promoted to Group-I since 1979, but he has been claiming that he is entitled to get promotion w.e.f. 1972. In execution before the learned Civil Judge, on interpreting the earlier orders, the Civil Judge came to the positive conclusion that the appellant is entitled to the promotion w.e.f. 1975, the date on which his juniors had been promoted. The appellant not being satisfied with the said order, approached the Additional District Judge. The State never assailed the order of the Civil Judge. Therefore, the conclusion and findings of the Civil Judge that the appellant is entitled to promotion to Class-1 w.e.f. 1975, has become final and cannot be altered.

3. The Addl. Distt. Judge however accepted the contention of the appellant and granted him the relief w.e.f. 1972. When the matter was brought to the High Court at the behest of the State, the High Court has set aside the entire order saying that it has no jurisdiction to grant the relief sought for. The High Court may be fully justified in setting aside the order of the Addl. Distt. Judge granting relief w.e.f. 1972, but the relief that was granted to the appellant by the Civil Judge, i.e., the relief of promotion w.e.f. 1975, could not have been interfered with, the same not having been assailed by the State before the Addl. Distt. Judge. In this view of the matter, we modify the impugned order of the High Court and direct that the appellant is entitled to be promoted to Group-1 w.e.f. 1975 as decided by the Civil Judge in executing the decree. The relief may be granted to the appellant within a period of six months from today.

4. This appeal stands disposed of.