

Dvijendra Singh and Others Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Mar-27-2001

Reported in : 2001LabIC2848; (2001)2UPLBEC1432

Judge : M. Katju and ;S.K. Jain, JJ.

Appeal No. : C.M.W.P. No. 22586 of 2000

Appellant : Dvijendra Singh and Others

Respondent : State of U.P. and Others

Advocate for Def. : S.C. and ;S.K. Singh, Adv.

Advocate for Pet/Ap. : Ashok Khare and ;Aditya Kumar Singh, Advs.

Judgement :

M. Katju and S. K. Jain, JJ.

1. Heard learned counsel for the petitioners and learned standing counsel.
2. Petitioners have prayed that a mandamus should be issued for appointing them as Assistant Prosecuting Officers, it appears that an advertisement was issued on 23.12.1996 for the said post vide Annexure-1. The petitioners appeared in the said examination and they passed in the written test and then they appeared in the interview. The final result was prepared vide Annexure-3 containing the names of

99 persons, who were selected against 99 vacancies.

3. It has been submitted that five of these 99 persons joined their posts but they resigned within one year of the life of the list and hence five persons lower down in the select list should have been offered appointments on those posts. Learned counsel for the petitioners relied on a Division Bench decision of this Court in *Ved Prakash Tripathi v. State of U. P. and others*, C.M.W.P. No. 32077 of 2000. decided on 20.12.2000. In our opinion, the ratio of that decision will apply to the facts of the present case. The only difference between that case and the present case is that in Civil Misc. Writ Petition No. 32077 of 2000 four vacancies remained on account of non-joining of four selected persons, whereas in the present case all the persons selected joined but five persons later resigned within one year of the life of the panel. In our opinion, this distinction will make no difference and hence the ratio of the decision of *Ved Prakash Tripathi's* case will apply to this case also. Hence, we issue a mandamus to the U. P. Public Service Commission, Allahabad to recommend the names of five persons in accordance with merit as per the select list and those persons will be appointed forthwith.

4. The writ petition is. accordingly, allowed.