

Devendra Kumar Srivastava and anr. Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Jan-11-1996

Reported in : (1996)IILLJ256All

Judge : P.K. Mukherjee and ;Jagdish Bhalla, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : C.M.W.P. No. 11751/1989

Appellant : Devendra Kumar Srivastava and anr.

Respondent : State of U.P. and ors.

Advocate for Def. : K.M. Sahai, S.C.

Advocate for Pet/Ap. : A. Kumar, Adv.

Disposition : Petition dismissed

Judgement :

P.K. Mukherjee J.

1. In the instant writ petition, the petitioners, have approached this Court, being aggrieved by the promotion of certain junior persons, namely respondents IIInd and IIIrd sets, who have been impleaded in the writ petition from respondents No. 3 to 12.

2. The petitioners pray that a writ, order or direction in the nature of mandamus be issued by this Court directing the respondents to consider the petitioners' candidature and to promote them to the post of Assistant Sales Tax Commissioner with effect from the date when their immediate juniors were promoted as Assistant Sales Tax Commissioner, by the order dated April 12, 1989, contained in Annexure 3 to the Writ Petition.

3. The petitioners further pray to issue directions to the respondents to consider and promote the petitioners to the post of Assistant Sales Tax Commissioner, against the prospective vacancies as and when the same are going to be filled by the respondents.

4. Sri A. Kumar, learned counsel for the petitioners and Sri K.M. Sahai, learned standing counsel appeared and argued the case.

5. Sri K.M. Sahai, learned standing counsel argued that the candidatures of the petitioners were considered by the Departmental Promotion Committee in the year 1979, but the petitioners were not found suitable for regular selection for the post of Assistant Sales Tax Commissioner.

6. On the other hand, Sri A. Kumar, learned counsel for the petitioners submitted that the recommendations of the Departmental Promotion Commissioner were given effect to by the State Government.

7. Heard learned counsel for the parties. The condition precedent for the prayer of mandamus is representation, which has not been admittedly made by the petitioners.

8. Accordingly, we give liberty to the petitioners, if they so choose, to make a representation before the Secretary, Institutional Finance, State of U.P., Lucknow. respondent No. 1, within a period of two weeks, ventilating their grievance.

9. If such a representation is made, the Secretary. Institutional Finance. State of U.P., Lucknow is directed to consider and dispose of the same, within a period of two months from the date of production of a certified copy of this order alongwith formal representation, by taking into consideration the relevant facts as mentioned

by the learned counsel for the petitioners that even juniors to the petitioners from general category have been promoted to the post of Assistant Commissioner Sales Tax with effect from April 12, 1989 but the petitioners have been discriminated.

10. In case the of aforesaid respondent is not in position to accede to the prayer of the petitioners by passing promotional order in favour of the petitioners with effect from April 12, 1989, he is required to give strict reason, in support of his conclusion, so that petitioners could ventilate their grievance before appropriate forum, at a subsequent stage.

With the aforesaid direction, writ petition is disposed of finally.

There shall be no order as to costs.

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