

Devi Prasad Rai and anr. Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Aug-06-2002

Reported in : 2002(4)AWC3285

Judge : Rakesh Tiwari, J.

Appeal No. : C.M.W.P. No. 15230 of 1990

Appellant : Devi Prasad Rai and anr.

Respondent : State of U.P. and ors.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Krishna Mohan, ;S.P. Singh, ;Yashrath, ;G.P. Srivastava and ;R.B. Srivastava, Advs.

Judgement :

Rakesh Tiwari, J.

1. Heard the learned counsel for the parties and perused the records.
2. The petitioners were appointed on the post of Junior Clerks by the Selection Committee and joined their services in the Irrigation Department on 6.11.1978 and 27.11.1978. respectively.

3. There is a dispute about the seniority in this petition. A provisional seniority list of the Junior/Senior Clerks was published. It is submitted that the promotions were made according to the seniority list. Due to some bona fide mistake, names of some senior employees to the petitioners had been left out.

4. By letters dated 20th May, 1986 and 22nd May, 1986, objections were invited by the Chief Engineer and the Superintending Engineer respectively to the seniority list. By letter dated 27th October, 1986, the petitioner Devi Prasad Rai, who is in the seniority list at Serial No. 4 has been given the revised pay scale with effect from 1.9.1983.

5. From Annexure-3 the letter dated 11th January, 1990, it appears that after the order dated 27th October, 1986, the seniority list of Junior Clerks was scrutinised and it was found that the names of some Junior Clerks had been inadvertently shown in the seniority list of the Senior Clerks Including the petitioners and some names of the new employees had been left out which were also Incorporated in the list. The objections were disposed off and as such in supersession of the earlier orders, it was provided that the Junior Clerks, who had been shown in the list of Senior Clerks will be entitled to the revised pay scale w.e.f. 24.12.1988 instead of 1.9.1983 i.e.. from the date of issuance of the list and they will not be entitled to the difference of wages in the revised pay scale from 1.9.1983 to 23.12.1988.

6. Thereafter, a corrected list of seniority was published later on after disposal of objections of the aggrieved senior employees.

7. It is submitted that the seniority and suitability is the basic criteria for promotion. In the final seniority list, the petitioners have been placed lower than the other employees senior to them. The final promotion list was prepared after rectifying the defects and deciding the objections.

8. The order dated 11.1.1990 passed by the Engineer-in-chief was communicated by the Superintending Engineer.

9. In pursuance of the order dated 3.3.1990 the charges of the petitioners have been taken over and they have been placed as Junior Clerks, but they are still working in the same pay scale. From the perusal of the orders dated 11.1.1990 and 3.3.1990, it means that the petitioners had been wrongly promoted as Senior Clerks and as such they had been reverted as Junior Clerks by order dated 3.3.1990, wherein it has been provided that no recovery shall be made from their salary for the period 1.4.1983 to 23.12.1988.

10. The petitioners are aggrieved as the impugned order does not provide for stay of recovery for the period 24.12.1988 to the date of their reversion, i.e. 3.3.1990 with effect from 24.12.1988.

11. Since the petitioners have worked on the post of Senior Clerks upto 3.3.1990 and thereafter have been reverted to the post of Junior Clerks as is apparent from Annexures-S.A. 1 and S.A. 2, no recovery shall be made from their salary for the period 24.12.1988 to 3.3.1990.

12. With the aforesaid directions, the writ petition is disposed of finally.

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