

State of Uttarakhand and anr. Vs. Rajendra Singh Arya and anr.

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Court : Supreme Court of India

Decided On : Nov-16-2009

Reported in : 2010(1)AWC1007(SC); JT2009(14)SC272; 2009(14)SCALE12; 2010(1)SLJ150(SC); 2009AIRSCW7077

Judge : Tarun Chatterjee and; R.M. Lodha, JJ.

Appeal No. : Civil Appeal No. 7597 of 2009 (Arising out of SLP (C) No. 18194 of 2007)

Appellant : State of Uttarakhand and anr.

Respondent : Rajendra Singh Arya and anr.

Advocate for Def. : M.N. Krishnamani, Sr. Adv., ; Avtar Singh and ; Raj Singh Rana

Advocate for Pet/Ap. : Sunil Kumar Singh and; Anuvrat Sharma, Advs

Prior history : From the Judgment and Order dated 19.08.2006 of the High Court of Uttaranchal at Nainital in Writ Petition No. 258 (SB) of 2006

Judgement :

Tarun Chatterjee, J.

1. Leave granted.

2. This appeal by Special Leave arises from the judgment and final order dated 19th of August, 2006 passed by the High Court of Uttarakhand at Nainital in Writ Petition No. 258 (SB) of 2006 whereby the High Court had allowed the Writ Petition of the Respondent No. 1, relying upon the law laid down by the High Court of Allahabad, Lucknow Bench in the case of *In Re: Suresh Chandra Sharma and Anr. v. State of Uttarakhand and Ors.* (2002) 1 UPLBEC 18, in which it was held that an incumbent shall be allowed seniority with all consequential benefits from the year of allotment by the State Public Service Commission.

3. At this stage, be it mentioned that the High Court by its impugned order, allowing the Writ Petition had observed the following:

Following the judgment of the Lucknow Bench, this Court had also disposed of the Writ Petition No. 39(SB)/2005. Keeping in view of the said observations, we are of the opinion that the Respondents should be directed to treat the Petitioner having been promoted substantively as Forest Ranger from the year 1987-88 and to give consequential benefits to him. The Petitioner should be given seniority accordingly.

4. Feeling aggrieved, the State of Uttarakhand has come up in this Court by way of a special leave petition which on grant of leave was heard in the presence of the learned Counsel for the parties.

5. We have heard the learned Counsel for the parties and also examined the impugned order. On a plain reading of the impugned judgment of the High Court, it is crystal clear that the High Court, while allowing the Writ Petition of the Respondent No. 1, had only relied on the decision of the Lucknow Bench, *In Re: Suresh Chandra* (Supra) which had held that an incumbent shall be allowed seniority with all consequential benefits from the year of allotment by the State Public Service Commission.

6. This judgment rendered in *In Re: Suresh Chandra* (supra) was challenged by way of a special leave in *Uttarakhand Forest Rangers Association (Direct Recruits) and Ors. v. State of Uttar Pradesh and Ors.* 2006 (10) SCC 346 and the views expressed in the case of *Suresh Chandra* (supra) was upset by this Court by the

aforesaid decision. While allowing the appeal of the State of Uttarakhand, this Court had set aside the judgment delivered in Suresh Chandra (supra) on which reliance was placed by the High Court in the impugned judgment.

7. That being the position and in view of the fact that the decision on the basis of which the High Court had delivered its judgment has already been overruled, we have no other alternative but to set aside the order and to send the matter on remand to the High Court to decide the same in accordance with law. While deciding the writ petition after remand, it is expected that the High Court will take into consideration the law laid down by this Court in the case of Uttaranchal Forest Rangers Association (supra).

8. The impugned order is, therefore, set aside. The High Court is requested to decide the matter keeping in mind the views expressed by this Court in the case of Uttaranchal Forest Association (supra) within three months from the date of production of a copy of this order to it.

9. For the reasons aforementioned, this appeal is allowed to the extent indicated above. There shall be no order as to costs.