

ITEM NO.43

COURT NO.4

SECTION XI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO(S). 21310/2014  
(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 30/04/2013  
IN CA NO. 24/2006 PASSED BY THE HIGH COURT OF JUDICATURE AT  
ALLAHABAD, LUCKNOW BENCH)

STATE OF U.P.

PETITIONER(S)

VERSUS

SHIVENDRA PRATAP SINGH & ORS.  
(WITH OFFICE REPORT)

RESPONDENT(S)

WITH I.A. NO.2 (APPLN. FOR EXEMPTION FROM FILING O.T.)

Date : 10/03/2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE RANJAN GOGOI  
HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s)

Mr. Ravi Prakash Mehrotra, Adv.  
Mr. Rajeev Kumar Dubey, Adv.

For Respondent(s)

Mr. Sunil Kumar Jain, Adv.  
Mr. Kaushik Choudhury, Adv.  
Mr. Akarsh Garg, Adv.

Mr. D.P. Chaturvedi, Adv.  
Ms. Anuradha Mutatkar, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Exemption from filing O.T. is granted.

Leave granted.

The appeal is allowed in terms of the signed order.

[VINOD LAKHINA]  
COURT MASTER

[ASHA SONI]  
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3900 OF 2017  
[Arising out of Special Leave Petition  
(Civil) No.21310/2014]

STATE OF U.P. . . . APPELLANT

VERSUS

SHIVENDRA PRATAP SINGH  
& ORS. . . . RESPONDENT

ORDER

1. Leave granted.
2. We have heard the learned counsels for the parties.
3. By order dated 11<sup>th</sup> April, 2001 passed in Writ Petition No.315 of 2001 (SS) [Rakesh Chand Upadhyay and others versus State of U.P. and others], the High Court of Allahabad has passed the following order:

"Accordingly, the opposite parties are directed to consider the petitioners' case for promotion to the post of

Sub-ordinate Labour Services Group 4 in accordance with government notification dated 21.2.1977 whereby they are entitled to get promotional avenues to the extent of 25%."

4. As the aforesaid order had not been complied with a contempt petition i.e. Crl. Misc. Case No.1086(C) of 2003 was filed by the contesting respondents herein alleging willful disobedience of the aforesaid order.

5. During the pendency of the aforesaid contempt petition, by an order dated 19<sup>th</sup> January, 2005, on the basis of the recommendation of the Departmental Promotion Committee, the contempt petitioners (contesting respondents herein) were promoted with retrospective effect. In view of the aforesaid development, the contempt petition came to be disposed of by order dated 24<sup>th</sup> January, 2005 as

infructuous, however, by directing payment of the salary/arrears along with annual increments, etc.

6. Aggrieved, Contempt Appeal No.24 of 2006 was filed before the High Court of Allahabad which was dismissed by the Division Bench of the High Court on the ground that the same is not maintainable inasmuch as by the order impugned in the contempt appeal no punishment was imposed. Aggrieved, this appeal has been filed under Article 136 of the Constitution of India.

7. While disposing of the Writ Petition No.315 of 2001 (SS) by order dated 11<sup>th</sup> April, 2001 the High Court had merely directed consideration of the case of the respondents - writ petitioners for promotion. In the contempt petition filed it was not and could not have been

contended that non-payment of arrears had amounted to commission of contempt inasmuch as on the date when the contempt petition was filed the respondents - contempt petitioners were yet to be promoted. The promotion order dated 19<sup>th</sup> January, 2005, though with retrospective effect, is silent with regard to payment of arrears. In such a situation, while disposing of the contempt petition as infructuous it was beyond the powers of the High court in the contempt jurisdiction to order for payment of arrears. At best, the High Court could have left the matter of payment of arrears, etc. to be agitated by the respondents - contempt petitioners in an appropriate manner and in the appropriate forum. In the exercise of contempt jurisdiction it was not open for the High Court to make any such direction as has been done in the present case. We, therefore, interfere with

the order of the High Court dated 24<sup>th</sup> January, 2005 as well as the impugned order dated 30<sup>th</sup> April, 2013 and leave the respondents - contempt petitioners with the remedy of approaching the appropriate forum, if they are so advised.

8. The appeal is allowed in the above terms.

....., J.  
(RANJAN GOGOI)

....., J.  
(NAVIN SINHA)

NEW DELHI  
MARCH 10, 2017