

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1340 OF 2019

(Arising out of S.L.P.(C) No.16942 of 2017)

Secretary, Union Public  
Service Commission

Appellant(s)

Versus

Leela Sharma and Others

Respondent(s)

O R D E R

1. Leave granted.

2. The challenge herein is to the order of the High Court of Himachal Pradesh dated 24<sup>th</sup> May, 2017, by which certain directions have been issued to the Union Public Service Commission so as to ensure full and effective compliance of the judgment of the High Court dated 20<sup>th</sup> May, 2009 passed in writ proceedings registered as C.W.P. No.666 of 2000, as well as the order dated 26<sup>th</sup> May, 2015 passed in the execution petition, being Execution Petition No.133 of 2015. Aggrieved by the directions issued, the Union Public Service Commission is in appeal.

3. We have heard learned counsel for the contesting parties.

4. The facts are long and elaborate, but only the core facts will be noticed hereinafter.

5. One Chunni Lal Sharma (deceased, husband of the respondent No.1, Leela Sharma) was a State Police Service Officer in the Himachal Pradesh cadre. In the year 1981, he filed a writ petition i.e. C.W.P. No.331 of 1981 seeking intervention of the High Court with regard to the date of his regular appointment in the feeder cadre which made him eligible for consideration for promotion to the Indian Police Service. Interim order dated 24<sup>th</sup> December, 1981 was passed by the High Court in the said case which is as follows:-

"The case of the petitioner be considered for inclusion in the select list of IPS, in the next meeting to be held for the purpose. The result, however, be kept in a sealed cover and be declared after the decision of the writ petition, if the same is allowed."

6. What happened pursuant to the interim order will be noticed little later, but to proceed further with

recital of the core facts, what would be required to be noticed is that the writ petition, wherein the aforesaid interim order was passed, was transferred to the State Administrative Tribunal and the proceedings before the Tribunal were dismissed. Aggrieved, Writ Petition No.666 of 2000 was filed by late Chunni Lal Sharma, which was ordered in his favour by directing as follows:-

“Consequently, all the three writ petitions are allowed, impugned orders of the learned Tribunal are set aside and respondent-State, in all the writ petitions, is directed to treat the dates of officiating appointments of the petitioners to the duty posts of DHANIPS/DHANICS, as the dates of the irregular appointment and then to place them in seniority list as required by Rule 29 of DHANIPS/DHANICS Rules, by interposing a direct recruit in between two promotees, as per their inter se seniority. The seniority of all concerned shall be re-fixed in accordance with the aforesaid direction. Thereafter all consequential benefits shall flow.”

7. It is with regard to the non-implementation of the said directions and the order passed to the same effect in the execution petition that was the subject matter raised in the contempt proceedings out of which this appeal has arisen.

8. It will now be necessary to notice what had happened pursuant to the interim order dated 24<sup>th</sup> December, 1981 passed by the High Court in the writ petition filed by late Chunni Lal Sharma, namely, C.W.P. No.331 of 1981. The name of Chunni Lal Sharma was considered by the Public Service Commission in the meeting of the Selection Committee on 29<sup>th</sup> December, 1981. The consideration of Chunni Lal Sharma as ordered by the High Court was kept in a sealed cover. However, it is now accepted that the result of the selection went in favour of late Chunni Lal Sharma and in view of his grading "Very Good", the Selection Committee of the Public Service Commission had recommended that his name be placed below Durga Shankar Amist for promotion to the Indian Police Service.

9. From the materials on record, it also transpires that after judgment dated 20<sup>th</sup> May, 2009 was passed by the High Court in the second round of litigation initiated by Chunni Lal Sharma i.e. W.P. No.666/2000, the State had forwarded the case of the deceased Chunni Lal Sharma to the Public Service Commission by

arranging/rearranging his order of seniority. However, what transpired thereafter was a series of correspondences by and between the State and Public Service Commission with regard to the reconstruction of the service records of late Chunni Lal Sharma so as to enable the Public Service Commission to consider his case for promotion to the Indian Police Service as against the select list of 1976/1977. This was despite order dated 26<sup>th</sup> May, 2015 passed by the High Court in Execution Petition No.133 of 2015 directing the authorities to comply with the directions in the judgment dated 20<sup>th</sup> May, 2009. The unending communications and correspondences exchanged has led to initiation of the contempt proceedings wherein directions have been issued to the Public Service Commission, challenging which the present appeal has been filed.

10. The matter lay within a very short compass. As far back as in the year 1981, late Chunni Lal Sharma was found eligible for promotion to the Indian Police Service and on the basis of his seniority and grading, he was directed by the Public Service Commission to be

placed below Durga Shankar Amist. Naturally, promotion to the Indian Police Service should have been forthcoming with effect from the date/dates on which his promotion was due, but wrongly denied. We are told at the Bar that Shri Durga Shankar Amist was promoted to the Indian Police Service in the year 1977. It is not suggested and stated that late Chunni Lal Sharma was due for promotion subsequently or from a different date. Late Chunni Lal Sharma was, therefore, entitled for promotion to the Indian Police Service from the same date as Durga Shankar Amist was promoted. Instead what had happened is a complete lack of oversight on the part of the State as well as the Public Service Commission in taking note of the fact that the Selection Committee in its meeting dated 29<sup>th</sup> December, 1981, had recommended the case of late Chunni Lal Sharma for promotion to the Indian Police Service and they also fixed his seniority immediately below Durga Shankar Amist.

11. The entire exercise undertaken and the litigations that resulted were wholly avoidable and unnecessary, had due vigilance, care and caution been exercised by the State as well as the Public Service

Commission. Instead Chunni Lal Sharma passed away in the year 2015 without seeing fruits of the litigation that he had initiated and fought for over two decades, leaving his widow, the respondent No.1, to pursue the efforts made in this regard by the deceased.

12. Be that as it may, the order, in the light of the facts stated above which would be justified, is a declaration that late Chunni Lal Sharma was a member of the Indian Police Service of the Himachal Pradesh cadre from the year 1977. The precise date would be determined by the State authority with effect from which date he will be acknowledged to be a member of the Indian Police Service. All consequential reliefs in terms of pay, increments, pension and other retiral benefits that would have come to late Chunni Lal Sharma had he been promoted as a member of the Indian Police Service with effect from the date in question will now be afforded to the respondent No.1. This will be done forthwith and, in any case, within a period of four weeks from today.

13. We have also considered the matter of imposition of costs and have come to the conclusion that equity and justice would require both, the State of Himachal Pradesh and the Union Public Service Commission, to pay to the respondent No.1 costs which is quantified at Rs.5,00,000/- (Rupees five lacs only) each. The cost amount shall also be paid within four weeks from today. The contempt proceedings shall stand disposed of in the above terms.

14. In view of the above, the appeal stands disposed of.

.....CJI.  
[Ranjan Gogoi]

.....J.  
[Deepak Gupta]

.....J.  
[Sanjiv Khanna]

New Delhi  
January 31, 2019.

ITEM NO.2

COURT NO.1

SECTION XIV

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.16942/2017

(Arising out of impugned final judgment and order dated 24-05-2017 in COPC No. 392/2016 passed by the High Court of Himachal Pradesh at Shimla)

SECRETARY UNION PUBLIC SERVICE COMMISSION

Petitioner(s)

VERSUS

LEELA SHARMA & ORS.

Respondent(s)

Date : 31-01-2019 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE DEEPAK GUPTA  
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Mr. Hrishikesh Baruah, AOR  
Ms. Radhika Gupta, Adv.

For Respondent(s) Ms. Rajani Ohri Lal, AOR  
Mr. Himinder Lal, Adv.  
Mr. Yaduinder Lal, Adv.

Mr. Abhinav Mukerji, AOR  
Mrs. Bihu Sharma, Adv.  
Ms. Pratishtha Vij, Adv.

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

Leave granted.

The appeal is disposed of in terms of the signed  
order.

(Chetan Kumar)  
A.R.-cum-P.S.

(Anand Prakash)  
Court Master

(Signed order is placed on the file)