

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.285 OF 2017
(Arising out of SLP(C)No.29768/2013)

STATE OF UTTARAKHAND THROUGH
PRINCIPAL SECRETARY, PWD, DEHRADUN & ANR

APPELLANT(S)

VERSUS

KAILASH C.UPRETI & ANR.

RESPONDENT(S)

O R D E R

Leave granted.

The dispute in the instant appeal is regarding the legality of the incumbent of the second appellant's office who wrote the ACRs of Respondent No.1 and 2 and also the legality of the Departmental Promotion Committee (DPC) and its decision for the purpose of considering the case of Respondent No.1 and 2 for promotion to the higher post i.e. the Chief Engineer Level II.

A service dispute should essentially commence its journey from the Administrative Tribunal in view of the law declared by this Court in L. Chandra Kumar vs. Union of India & Ors. 1997 (3) SCC 261. For whatever reasons the respondents did not chose to approach the Administrative Tribunal. We are informed by learned counsel appearing for the State of Uttarakhand that the State has a functioning Administrative Tribunal. However, they (respondents) approached the High Court directly raising some grievances and prayed as follows:

“(i) Issue a writ, order or direction in the nature

of mandamus restraining the respondent no.2 from writing Annual Confidential Reports of the petitioners and persons senior since the post is presently occupied by a person junior to the petitioners and who is also one of the aspirant, contender and candidate coming within the zone of consideration for being considered for promotion to the post of Chief Engineer Level-II, along with petitioners who are also eligible and coming within the zone of consideration for being promoted to the post of Chief Engineer Level-II since the same would amount to making a person judge in his own case, violative of Article 14 and 16 and de hors of Rule of Law.

(ii) Issue a writ, order or direction in the nature of mandamus directing the Government/respondent no.1 to conclude the regular Departmental Promotion Committee exercise, initiated by it and pending since January 2012 wherein reminder were sent to respondent no.2 vide order dated 28-9-2012 and ultimately D.O. letter was issued on 7-1-2012 before the start of next recruitment year.

(iii) Any other suitable writ, order or direction which the Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(iv) Award the cost of petition to the petitioner."

Interestingly, the appellants herein never raised the objection regarding the maintainability of the writ petition. The High Court chose to dispose of the writ petition with two short paragraphs without mentioning the facts clearly nor discussing any

provision of law which is relevant for the purpose of adjudication of the dispute.

In the circumstances, the appeal is allowed. We set aside the judgment under appeal and remit the matter back to the High Court for adjudication afresh after hearing all the parties.

In view of the fact that the litigation is pending for the last four years and in view of the fact that one of the respondent retired during the pendency of the litigation and one of the respondent is going to retire in March, 2017, we request the High Court to dispose of the writ petition expeditiously preferably within a period of two months from the date of receipt of certified copy of this order.

.....J.
[J. CHELAMESWAR]

.....J.
[ABHAY MANOHAR SAPRE]

NEW DELHI
JANUARY 10, 2017

ITEM NO.27

COURT NO.3

SECTION X

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). 29768/2013

(Arising out of impugned final judgment and order dated 01/07/2013 in WPC No. 146/2013 passed by the High Court Of Uttarakhand At Nainital)

STATE OF UTTARAKHAND THR.PR.SEC.PWD& ANR

Petitioner(s)

VERSUS

KAILASH C.UPRETI & ANR.

Respondent(s)

(with appln. (s) for permission to file additional affidavit and permission to file additional documents and interim relief and office report)

WITH

S.L.P. (C)...CC No. 17401/2013

(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

Date : 10/01/2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR

HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Petitioner(s) Ms. Rachana Srivastava,Adv.
Ms. Monika,Adv.
Mr. Sukrit R. Kapoor,Adv.

Mr. Aniruddh Singh,Adv.
Mr. Prashant Kumar,Adv.
M/s. AP & J Chambers,Adv.

For Respondent(s) Mr. B. Adinarayan Rao,Sr.Adv.
Mr. Goli Rama Krishna,Adv.
Mr. Anil Nag,Adv.
Mr. Sunil Kr. Kaundal,Adv.
Mr. Raj Singh Rana,Adv.

Mr. Ardhendumauli Kumar Prasad,Adv.
Mr. Ishit Saharia,Adv.

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

S.L.P.(C) No.29768/2013

Leave granted.

The appeal is allowed, in terms of the signed order.

Pending application (s), if any, stand disposed of.

S.L.P.(C)...CC No. 17401/2013

Permission to file SLP is granted.

It is stated by learned counsel for the petitioner that the petition has become infructuous.

The special leave petition is accordingly dismissed as having become infructuous.

Pending application (s), if any, stand disposed of.

[O.P. SHARMA]
AR-CUM-PS

[RAJINDER KAUR]
COURT MASTER

(Signed order is placed on the file)