

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

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).17114-17115/2004

(From the judgement and order dated 01/11/2002 in WP No.139/2002 and order dated 06/12/2003 in RA No.7176/2002 in WP No.139/2002 of The HIGH COURT OF UTTARANCHAL AT NAINITAL)

SANJAY KUMAR SRIVASTAVA

Petitioner(s)

VERSUS

G.B. PANT UNIVERSITY OF A&T & ANR.

Respondent(s)

(With appln(s) for c/delay in filing SLPs, c/delay in refiling SLP, exemption from filing O.T. and office report)

Date: 14/03/2005 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL

HON'BLE MR. JUSTICE P.P. NAOLEKAR

For Petitioner(s)

Mr. Ashok K. Srivastava,Adv.

Mr. Saurabh Trivedi,Adv.

For Respondent(s)

Mr. Manoj Swarup,Adv.

Ms. Niranjana Singh,Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard the learned counsel for the parties.

Exemption allowed.

Delay condoned.

The civil appeals are disposed of.

No costs.

[ T.I. Rajput ]

[ V.P. Tyagi ]

Court Master

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.1752-1753 OF 2005

(Arising out of S.L.P. (C) Nos.17114-17115 of 2004)

Sanjay Kumar Srivastava

...Appellant(s)

Versus

G.B. Pant University of A & T & Anr.

...Respondent(s)

O R D E R

Heard the learned counsel for the parties.

Delay condoned.

Leave granted.

A panel of three candidates was recommended by the Selection Committee for the post of Assistant Economist/Junior Research Officer (Agricultural Economics), which is as under:

- "1) Dr. Anil Kumar
- 2) Dr. Virendra Singh
- 3) Dr. Sanjay Kumar Srivastava"

The As per panel, Dr. Anil Kumar, being at No.1, was appointed. appellant herein, Dr. Sanjay Kumar Srivastava, made a representation to the Chancellor under Rule 23 of the Agriculture and Technology University Act of Uttar Pradesh challenging the appointment of Dr. Anil Kumar, which was decided on 30th August, 2001. The Chancellor came to the conclusion that the representation made by the appellant is liable to be accepted but since Dr. Anil Kumar,

...2/-

- 2 -

candidate at Serial No.1 in the panel, had already taken over the charge, it may not be proper to cancel his appointment. At the same time, the University was directed to appoint the appellant on any other equivalent post. Resultantly, the appellant was appointed.

Writ Petition No.139(S/B) of 2002 was filed by Dr. Virendra Singh before the High Court, inter alia, alleging that candidates placed at Serial Nos.1 and 3 had

been appointed and he was left out though placed at Serial No.2. By impugned

judgement dated 1st November, 2002, Dr. Virendra Singh was appointed. We may

note that the appellant herein was not a party before the High Court. On a review

application having been filed by the appellant, the High Court, while declining to

review the order dated 1st November, 2002, directed that it would be open to the

appellant to raise his grievance regarding seniority by filing a separate writ petition at

a suitable stage.

From the impugned order dated 1st November, 2002, it is evident that

neither the appellant was the party nor the High Court considered the order dated

30th August, 2001 which led to the appointment of the appellant. In this view, the

High Court protected the appellant so that he could raise his grievance regarding

seniority at an appropriate stage. It is contended that though the appellant was

appointed pursuant to the order dated 30th August, 2001, but, at a later stage, a

controversy may arise when the question of seniority is raised that the appointment

has been made in terms of the ranking in the panel wherein the appellant is placed at

Serial No.3.

As already noticed, the High Court did not go into the order of the

Chancellor dated 30th August, 2001 and for the additional reason that Dr. Anil

Kumar is not a party in these proceedings, the question of seniority has to be left

...3/-

to be decided at an appropriate stage when the effect of the order dated 30th August,

2001 can be agitated and gone into. We, however, make it clear that the merits  
or

otherwise of the order dated 30th August, 2001 will be examined in accordance with

law without being influenced by the impugned order dated 1st November, 2002.

The civil appeals are, accordingly, disposed of.

No costs.

.....J.

[Y.K. SABHARWAL]

.....J.

[P.P. NAOLEKAR]

New Delhi,

March 14, 2005.