

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.12100/1999

(From the judgement and order dated 11/05/1999 in CMWP 24576/98  
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

U.P.PUBLIC SERVICE COMMN.

Petitioner (s)

VERSUS

RAM KRISHNA PANDEY &amp; ANR

Respondent (s)

( With Appln(s). for permission to place addl. documents on record )

( With prayer for interim relief )

With

SLP(C)No.12200-12204/1999, SLP(C)No.12765/1999, SLP(C)No.13840/1999,  
SLP(C)No.14515/1999, SLP(C)No.14760/1999( With appln.(s) for permission to place addl.documents on record and  
dismissal of SLP (C) No. 12200/99 on behalf of R.No. 2 being  
infructuous and exem. from filing O.T. and with prayer for interim relief )

Date : 03/11/2000 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE

HON'BLE MR. JUSTICE N. SANTOSH HEGDE

For Petitioner (s) Mr. AB Rohtagi, Sr.Adv.  
Mr. R.B. Misra, Adv.  
Ms. Sangeeta Sharma, Adv.  
Mr. Kamendra Misra, Adv.For Respondent (s) Mr. Rakesh Dwivedi, Sr.Adv.  
Mr. Vishwajit Singh, Adv.  
  
Mr. RC Srivastava, Sr.Adv.  
Ms. Rachna Srivastava, Adv.  
Ms. Rani Chhabra, Adv.  
  
Mr. Yatish Mohan, Adv.  
Mr. Pankaj Kumar Singh, Adv.  
Mr. KL Janjani, Adv.UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

The appeals are allowed. There shall be  
no order as to costs.

.SP1

(Alka Dudeja)  
Court Master(S. Krishnan)  
Court Master

Signed order is placed on the file.

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6164 OF 2000  
(Arising out of SLP@ No. 12100 of 1999)

U.P. Public Service Commission .. Appellant

-versus-

Ram Krishna Pandey and another .. Respondents

(with CA Nos. 6165-6169, 6170, 6172, 6173, 6171/2000 (Arising out of SLP@ Nos. 12200-12204/1999, 12765/1999, 13840/1999, 14515/1999 and 14760/1999)

O R D E R

.....L.....I.....T.....T.....T.....T.....T.....J  
.SP2

Leave granted.

The respondents in these appeals filed writ petitions under Article 226 of the Constitution of India before the High Court of Allahabad for issuing direction to the State Government to issue appointment orders to those candidates whose names were sent by the U.P. Public Service Commission and were in waiting list. It appears that the High Court granted time to the State Government and the Public Service Commission, Allahabad to file counter affidavit. However, no counter affidavit was filed. The High Court, therefore, disposed of the writ petition with the direction to the State Government and the U.P. Public Service Commission for taking steps for appointment of the respondents. It is against the said judgment the State and the U.P. Public Service Commission have come in appeal before this Court.

It appears that when the writ petitions were filed the appellants were granted time by the Court to file counter affidavit but no counter affidavit was filed. When the writ petitions were listed next for admission the High Court in the absence of counter affidavit disposed of the writ petitions. The way the High Court dealt with the matter was not correct. Admittedly, the writ petitions were not admitted and no notices were issued to the respondents. In any case, if the High Court was of the view that writ petition was required to be disposed of at the admission stage itself, it could only be done with the agreement of the parties or after fixing a date for final disposal of the case. Further, the High Court has not gone into the question whether the writ petitioners were entitled under law to be appointed and also whether the waiting list was still valid. For these reasons, the judgment of the High Court is not sustainable in law. We, therefore, set aside the judgment under challenge and send the case back to High Court to be decided on merits. The appellants herein have waived the notice of the writ petition and shall file counter affidavit within eight weeks from today. After the counter affidavit is filed, the High Court may dispose of the matter finally. Respondent No. 2, if already appointed, will continue to serve during pendency of the writ petition and his appointment shall be subject to the decision of the writ petition.

The appeals are allowed. There shall be no order  
as to costs.

& & & & & & & & .J.  
(V.N.Khare)

& & & & & & & & J.  
(N.Santosh Hegde)

New Delhi;  
November 03, 2000