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SLP(C)No. 12768 OF 1999

ITEM No.3

Court No. 3

SECTION XI  
A/N MATTER

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

(NMD Case )  
Petition(s) for Special Leave to Appeal (Civil) No.12768/1999

(From the judgement and order dated 17/05/1999 in CMWP 36146/98  
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

STATE OF U.P. AND ORS.

Petitioner (s)

VERSUS

KULDEEP CHAND KAPOOR AND ANR.

Respondent (s)

(With prayer for interim relief)  
( For Final Disposal )  
With

SLP(C)No.14767/1999

Date : 18/10/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAİK  
HON'BLE MRS. JUSTICE RUMA PAL

For Petitioner (s) M/s.Y.P.Singh,R.C.Verma,C.Siddharth and  
Mr. Mukesh Verma,Advs.

Mr. B.L.Yadav,Sr.Adv.  
M/s.Rameshwar Prasad Goyal,K.K.Gupta,Advs.

For Respondent (s) Mr. B.D.Agarwal,Sr.Adv.  
Ms. Manjula Gupta,Adv.  
Mr. A. Dayal,Adv.  
Ms. Anjali Dayal,Adv.

UPON hearing counsel the Court made the following  
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Leave granted.  
The appeals are disposed of in terms of signed order.

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(Y.P.Dhamija) (Kanwal Singh) @@  
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Court Master Court Master@@

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Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7299/2001@@  
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(arising out of SLP(C) 12768/1999)

State of U.P. & Ors. ..Appellants

Vs.

Kuldeep Chand Kapoor & Anr. ..Respondents

WITH C.A.No.7300/2001 @ SLP(C) No.14767/1999@@  
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O R D E R@@  
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Leave granted.

These appeals are directed against the judgment of Allahabad High Court dated 17.5.1999. Respondent Chandra Deo Ram having been promoted as Head of the Department of Composing applying the principles of reservation and roster, the Writ Petition was filed by one Kuldeep Chand Kapoor. It was alleged in the Writ Petition that the appointment of said Chandra Deo Ram on promotion as Head of the Department of Composing is contrary to rules and is illegal. The High Court by the impugned judgment came to the conclusion that the post of Head of the Department, Composing is a single post in a cadre, and as such the principle of reservation could not have been applied in view of the Constitution Bench decision of this Court in the case of Post Graduate Institute@@  
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of Medical Education and Research, Chandigarh Vs. Faculty@@  
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Association and other. The High Court having allowed the@@  
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Writ Petition, and having quashed the promotion of Chandra

Deo Ram, the State of U.P. as well as Chandra Deo Ram are in two appeals before us.

It is contended by Mr. Yadav appearing for Chandra Deo Ram and Mr. Singh appearing for the State of Uttar Pradesh that the conclusion that the Head of the Department is a single post is erroneous, as would appear from the provisions contained in U.P. Technical Education Gazetted Officers' Service Rules, 1990 and the appendix thereto. According to Mr. Yadav, category 9 consists of Head of the Department in the Institution and the number of posts are three. Mr. Agarwal appearing for Mr. Kuldeep Chand Kapoor, however, contends that the Head of the Department of the three different discipline must be from the very discipline where the concerned employee was working in the feeder category. According to him, composing, Graphic Reproduction and Lithography, and Letter Press are three distinct separate

disciplines, and therefore Head of the Department of each of the disciplines must be held to be a single cadre, and High Court could not be said to have committed error in coming that conclusion and then setting aside the promotion of Chandra Deo Ram applying the ratio of the judgment of this Court in Post Graduate Institute. We find that the High Court committed an error by recording a finding that the service rules do not provide for reservation on the post of

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Head of the Department, and the Government order dated 10.10.1994 cannot give any benefit to a reserved candidate, in view of the rule 6 of the U.P. Technical Education Gazetted Officers' Service Rules, 1990. Since the question whether the particular post is an isolated post, as contended by the general category candidate, or not an isolated post, as contended by Mr. Yadav appearing for the reserved category candidate, as also by the State of U.P., is yet to be determined and since the High Court also committed an error in holding that there is no provision in the rules providing for reservation, we think it appropriate to quash the impugned order and remit the Writ Petition for re-disposal in accordance with law after giving opportunity of hearing to the parties concerned. The impugned judgment of Allahabad High Court accordingly is set aside and the Writ Petition No. 36146/1998 is remitted back to the High Court for re-disposal. These two appeals are disposed of accordingly.

We make it clear that since Shri Kuldeep Chand Kapoor has been continuing as a Head of the Department pursuant to the judgment of the High Court he shall be allowed to continue until the High Court finally disposes of the Writ Petition. The High Court is requested to take up the hearing of the Writ Petition early and learned Chief Justice of Allahabad High Court is requested to place the matter before

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an appropriate Division Bench so that the matter could be disposed of within three months from today.

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.....J.  
(G.B. PATTANAİK)@@  
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New Delhi,  
October 18, 2001

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(RUMA PAL )@@  
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