

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.7503-7504 OF 2004

STATE OF U.P. & ORS.

... APPELLANTS

VERSUS

BRIJ KISHORE PANDEY & ORS.  
S

... RESPONDENT

WITH

C.A. NOS. 7507-7508/2004

O R D E R

Applications for impleadment are rejected.

These four appeals preferred by the State of U.P. arise out of a common

judgment and order of the Division Bench of the High Court of Allahaba  
d and as

such the appeals are being disposed of by this common order.

Heard the parties.

In view of the order that we propose to pass it may not be necessary to  
recite the entire facts leading to the filing of the present appeals. Suffice it to say tha  
t

in 1991 716 posts of Sub-Inspectors Police were advertised on 10.10.1991. The result of

the selection was declared on 2.12.1996. No waiting list was prepared. It appears that

the selected candidates were sent for training on 21.1.1997. Out of 63  
0 selected

candidates, 123 candidates did not join training, 13 candidates resigned subsequently

after joining the training. Therefore, 136 posts remain unfilled.

It appears that some candidates who appeared in the selection test and could not qualify filed Writ Petition No.40495 of 1996 before the learned Single Judge which was disposed of on 28.5.1997 allowing the petition with the direction to the State Government to prepare a waiting list and consider their cases. The State Government has unsuccessfully raised a dispute before the Division Bench and before this Court by filing SLP which was dismissed on 26.7.1999.

Pursuant to the aforesaid direction the waiting list was prepared by the appellant State by a Notification dated 15th November, 1999. The Notification, inter alia, states that the candidates whose names figured in the waiting list be appointed within a period of three months after the receipt of the recommendations and allotment of the concerned departments and the candidates may be given one month's time in the first instance to join the duty. Clause 6 of the said Notification provides that the select list will be used for the same year for which the requisition has been

sent/selection has been made. Therefore, it clearly appears in the waiting list notified by office circular dated 15th November, 1999 the validity of it is only for one year. It

appears that the present controversy is with regard to the 37 vacancies which are

unable to fill up pursuant to the waiting list notified by a circular dated 15th

November, 1999. The Division Bench of the High Court referring to the earlier

direction passed in Writ Petition No.40495/1996, inter alia, directed the State

Government to make 37 more appointments from the waiting list prepared on 15th

November, 1999. This direction was issued in Special Appeal No.105/2003 and the

direction is dated 19.9.2003.

As already pointed out that in the waiting list prepared by a circular

dated 15th November, 1999 the validity of it is only for the one year and the validity of

the waiting list was lapsed when the direction was issued by the Division Bench of the

High Court on 19.9.2003. Needless to say that there is a catena of decisions of this

Court taking consistent view that once the select list is expired the Court has no

jurisdiction to extend the select list. The only way is to re-advertise the post as to

attract the better candidates. In the present case, as already noticed, the selection was

made in 1996, we are now in 2006, if the waiting list prepared in 1999 is directed to be

implemented and acted upon in 2006, it would deprive the rights of the candidates

who are now qualified to apply for the post and may be with the better academic

carrier.

Considering all these facts, we are of the opinion that the Division Bench

of the High Court was not justified directing the appellant State to make 37 more

appointments from the waiting list prepared on 15th November, 1999. More so, when

the circular itself says that the waiting list will be valid for only one year and which

has been lapsed long time ago. The High Court has failed to take notice of the

condition stipulated in the circular dated 15th November, 1999.

Accordingly, these appeals are allowed. The impugned orders of the High Court are set aside. The appellant State shall now re-advertise the 37 posts and make a fresh recruitment in accordance with law. Needless to say that the respondents herein if they are otherwise qualified will also apply for the post and their case shall also be considered along with other candidates on merits. In the event any one of the respondents have now become age bar, it is open to the appellant State to consider relaxation of age bar.

With the aforesaid direction the appeals are allowed. No costs.

.....J.

( H.K. SEMA )

.....J.

( DR. AR. LAKSHMANAN )

NEW DELHI,

MARCH 23, 2006.

ITEM NO.101(PH)

COURT NO.8

SECTION XI

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 7503-7504 OF 2004

STATE OF U.P. & ORS.

Appellant (s)

VERSUS

BRIJ KISHORE PANDEY & ANR.

Respondent(s)

(With appln(s) for impleadment as party respondent)

WITH Civil Appeal NO. 7507-7508 of 2004

(With prayer for interim relief)

Date: 23/03/2006 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Appellant(s)

Mrs. Alka Agarwal, Adv.

Mr. Garvesh Kabra, Adv.

Mr. Sanjay Singh, Adv.

Mr. Anuvrat Sharma, Adv.

For Respondent(s)

Mr. Vishwajit Singh, Adv.

Mr. Ashok Kumar Sharma ,Adv

Mr. Manoj K. Mishra, Adv.

Mr. Sanjay Visen, Adv.

Mr. Amit Yadav, Adv.

Mr. Anish Kumar Gupta ,Adv

UPON hearing counsel the Court made the following

O R D E R

Applications for impleadment are rejected.

Heard the parties.

The appeals are allowed in terms of the signed order. No costs.

(PAWAN KUMAR)

(ANAND SINGH)

COURT MASTER

COURT MASTER

(signed order is placed on the file)