

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 4342 OF 2000

G.P. KHARE Appellant (s)

VERSUS

MUNICIPAL CORPN,,MURWARA - KATNI & ORS. Respondent(s)

(With appln(s) for permission to file additional documents and office report)

Date: 22/08/2007 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA
HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Appellant(s) Mr. Anoop G. Choudhri, Sr. Adv.
Mr. P.K. Manohar,Adv.

For Respondent(s) Mr. T.L.V. Iyer, Sr. Adv.
Mr. T.G. Narayanan Nair,Adv.

Mr. Ashok Kumar Gupta ,Adv

Rr-Ex-Parte

UPON hearing counsel the Court made the following
ORDER

We set aside the order dated 08/09/1988 passed by the learned single Judge and the order dated 29/10/1998 passed by the Division Bench affirming the order of learned single Judge. This appeal is allowed in terms of the signed order. The writ petition filed by respondent Nos. 2 to 5 herein stands dismissed. No costs.

(Ravi P. Verma) (Anand Singh)
Court Master Court Master

[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4342 OF 2000

G.P. KHAREAPPELLANT(S)

Versus

MUNICIPAL CORPORATION, MURWARA -RESPONDENT(S)
KATNI & ORS.

ORDER

Challenge in this appeal is against the cryptic order dated 29/10/1998 passed by the Division Bench in LPA No. 307/1998 affirming the judgment rendered by learned single Judge on 08/09/1998

in MP No.3472/1988.

We have heard the parties at length. We are allowing this appeal by setting aside both the orders, passed by learned single Judge on 08/09/1998 and by Division Bench on 29/10/1998 on short ground.

A writ petition was filed by the respondent Nos. 2,3,4 & 5 herein challenging the order dated 16/08/1998 promoting the appellant as Revenue Officer on adhoc basis and the order of extension dated 07/09/1988. Undisputedly, during the pendency of writ proceedings, the appellant was promoted on 25/11/1988 as Revenue Officer on regular basis. He was further promoted to the post of Deputy Commissioner, Municipal

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-2-

Corporation, by an order dated 11/10/1989 pursuant to the resolution dated 07/10/1989 of the Corporation. Regular promotion of the appellant as Revenue Officer by an order dated 25/11/1988 has not been challenged. Further promotion of the appellant to the post of Deputy Commissioner by an order dated 11/10/1989 has also not been challenged. We have been taken through the entire writ petition filed by the respondent Nos. 2,3,4 & 5. Not even a whisper about the promotion of the appellant on 25/11/1988 as regular Revenue Officer has been averred in the writ petition. There is also no whisper about the further promotion of the appellant to the post of Deputy Commissioner by an order dated 11/10/1989. Obviously, because the writ petition was filed on 27/09/1988, prior to the aforesaid promotion. We have repeatedly requested Mr. T.L.V. Iyer, learned senior counsel appearing for the respondent No.2, if any amendment is filed during the pendency of the writ petition. The answer is that from perusal of record it does not appear that any such application is filed.

Despite of the aforestated admitted facts, it is curiously enough that the learned single Judge started the judgment that the writ petition

has been filed for quashing the order dated 25/11/1988 promoting the respondent No.5 therein (the appellant herein) as Revenue Officer on regular basis. The learned single Judge further goes on to quash the

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-3-

order dated 11/10/1989 further promoting the appellant to the post of Deputy Commissioner. To say the least, this amounts to judicial impropriety. In our view, the learned single Judge has exercised its jurisdiction capriciously, arbitrarily and such order cannot stand the scrutiny of the law.

For the reasons aforestated, we set aside the order dated 08/09/1998 passed by the learned single Judge and the order dated 29/10/1998 passed by the Division Bench affirming the order of learned single Judge. This appeal is allowed. The writ petition filed by respondent Nos.2 to 5 herein stands dismissed. No costs.

.....J.
(H.K. SEMA)

New Delhi;
August 22, 2007.

.....J.
(LOKESHWAR SINGH PANTA)