

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). 4048 OF 2007

MAHENDRA KUMAR SHARMA

Appellant (s)

VERSUS

STATE OF U.P. & ORS.

Respondent(s)

Date: 22/09/2011                      This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN

HON'BLE MR. JUSTICE ANIL R. DAVE

For Appellant(s)                      Mr. Puneet Jain, Adv.  
   Ms. Rachitta P.Rai, Adv. for  
   Ms. Pratibha Jain, Adv.

For Respondent(s)                      Ms. Shalini Kumar, Adv.  
   Ms. Niranjana Singh, Adv.  
  
   Ms. Rachana Srivastava, Adv.  
   Mr. Krutin R.Joshi, Adv.

UPON hearing counsel the Court made the following  
O R D E R

We find from the impugned judgment that the main grievance of the appellant before the Uttar Pradesh State Public Service Tribunal as well as the High Court was that there was no separate cadre or grade for trained and untrained X-ray Technicians and therefore, there was no justification in assigning to the appellant a pay band of Rs.336-495/-, after revision of pay scales with effect from the 1st July, 1979.

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In the counter affidavit filed on behalf of the State of Uttar Pradesh it is stated that in furtherance of the recommendations by the second Pay Commission, vide Government order dated the 31st August, 1982, trained X-ray Technicians had been granted pay scale of Rs.430-520/- whereas the untrained X-ray Technicians were given the pay band of Rs.330-495/-, which clearly shows that there were two separate cadres of X-ray Technicians. Since the appellant was untrained X-ray Technician, he was rightly given the pay scale of

Rs.330-495/- with effect from the 1st July, 1979.

We find that in support of the said stand, except for the bald aforesaid averment in the counter affidavit, the respondents have not placed any other document on record.

Learned counsel appearing for the State of Uttar Pradesh prays for some time to file all the requisite documents, with the assistance of learned counsel appearing for the State of Uttrakhand because all the records are now stated to be in the custody of the new State, allocated to the appellant.

At this stage, it is pointed out by Mr. Puneet Jain, learned counsel appearing for the appellant that

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though the appellant retired sometime in the year 2001, but pensionary benefits have not yet been determined because of the pendency of this appeal and only some provisional payment is being made. We direct the authorities concerned to finalize the pensionary benefits payable to the appellant ignoring the pendency of this appeal, for the present. The said exercise shall be completed as expeditiously as possible, preferably within four weeks from today with an advance copy of the final computation to learned counsel for the appellant.

Call after four weeks.

[SUMAN WADHWA]  
COURT MASTER

[KUSUM GULATI]  
COURT MASTER