

ITEM NO.8

COURT NO.11

SECTION XI

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)...../2010

(CC 10644/2010)

(From the judgement and order dated 19/01/2010 in WP No. 207/2006
of The HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH,
LUCKNOW)

STATE OF U.P.& ORS

Petitioner(s)

VERSUS

SHREE DEO SHARMA & ANR.

Respondent(s)

With I.A.1 (C/delay in filing SLP and exemption from filing O.T.)
Date: 19/10/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s)

Mrs.Shobha Dixit, Sr.Adv
Ms.Vandana Mishra, Adv.

For Respondent(s)

Mr.Vijay Hansaria, Sr.Adv.
Mr.Nagendra Singh, Adv.
Mr. Vishwa Pal Singh,Adv.

UPON hearing counsel the Court made the following

O R D E R

Delay condoned.

This petition is directed against the order passed by the
Division Bench of the Allahabad High Court directing the
petitioners to consider the case of respondent No.1 for promotion
to the post of Deputy Director, Agriculture.

Respondent No.1 was selected by the Uttar Pradesh Public
Service Commission (for short, 'the Commission') in May, 1999 for
appointment as Assistant Soil Chemist. However, order of
appointment was not issued for more than 13 months due to non
availability of police verification report. Finally, he was
appointed vide order dated 13.6.2000, which was served upon him on
24.6.2000. Respondent No.1 joined on 24.7.2000.

In the meeting of the Departmental Promotion Committee held on

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27.1.2006, respondent No.1's candidature was considered for
the post of Deputy Director but he was not treated eligible on the
ground that he did not complete five years service on the lower
post. At the same time, persons, who were placed lower in merit at
the time of selection for the post of Assistant Soil Chemist, were
considered and promoted as Deputy Director.

By the impugned order, the High Court allowed th
e writ petition and directed the petitioners to consider his case for
promotion to the post of Deputy Director by observing t
hat he cannot be penalised for the fault of the concerned authorities in
giving police verification report.

We have heard Ms. Shobha Dixit, learned senior counsel for the
petitioners and perused the record.

In our view, the High Court did not commit any error by directing consideration of respondent No.1 for promotion to the post of Deputy Director by treating him eligible for that post. Undisputedly, despite his selection by the Commission for appointment as Assistant Soil Chemist, respondent No.1 was not given appointment on the pretext of non availability of police verification report. This was something beyond the control of respondent No.1. Therefore, he cannot be made to suffer on account of the fault of the concerned departmental authorities and deprived of promotion on the higher post ignoring that persons junior to him were treated eligible for such promotion. The decision of the Departmental Promotion Committee not to recommend the name of respondent No.1 for promotion as Deputy Director was ex-facie arbitrary and violative of his fundamental right to equality guaranteed under Articles 14 and 16 of the Constitution.

The special leave petition is accordingly dismissed. The petitioners are directed to implement the order of the High Court within a period of three months by treating respondent No.1 eligible for promotion to the post of Deputy Director

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(Agriculture). If respondent No.1 is found suitable for promotion, then he shall be promoted with effect from the date persons junior to him were promoted as Deputy Directors. In that event, he shall also be entitled to consequential benefits.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master