

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5839 OF 1999@@
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Pradeep Kumar Trivedi ...Appellant

Versus

State of U.P. & Ors. ...Respondent(s)

WITH

Civil Appeal No. 5840 of 1999@@
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O R D E R~@@
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These two appeals are directed against the judgment of Allahabad High Court. The grievance of the appellants is that the private respondents have been erroneously shown senior to them and have been granted promotion to the post of Executive Engineer. According to Mr. Pradeep Kumar Trivedi, appellant in C.A. No. 5839/1999, who appeared before us in person, it is on account of misleading statement of the State of U.P. the relief has been denied to him. During the hearing of these appeals, application for inclusion of private respondents were made and the impleaded respondents have been served with notices. The State of U.P. has filed an affidavit indicating therein that in the meantime a fresh seniority list has been drawn up of the Assistant Engineers (Civil), Rural Engineering Services Department and that ..2/-

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seniority list has also been finalised. It is stated by the State of U.P. that the aforesaid re-drawn up seniority list is essentially in consonance with the relief which the present appellants have been seeking from this Court. Mr. P.S. Mishra, the learned senior counsel appearing for some of the private respondents, urged that the legality and/or correctness of the re-drawn up seniority list is under challenge by way of filing a writ petition in Allahabad High Court which is now pending.

Mr. Varghese, learned counsel appearing for the appellant in C.A. No. 5840/99, submitted that this Court permitted to implead the affected private respondents for the sole purpose that there can be a final adjudication of the rights of the parties and a final determination can be made as to who would be entitled to be promoted to the post of Executive Engineer and from which date. According to him, the persons who have been erroneously promoted on the basis of 1995 seniority list or any other basis, should be reverted to

the post of Assistant Engineer and, in their place, persons entitled to be promoted on the basis of the re-drawn up seniority list should be promoted w.e.f. respective dates.
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He also alleged that there has been an encroachment of these private respondents in the matter of promotion inasmuch as they had occupied the quota available for the category of the appellants.

On consideration of the arguments advanced, we do not think it possible for this Court to entertain and adjudicate all these disputes in the present Civil Appeals. Be it stated that since the seniority list has already been re-drawn up and has been finalised against which the present appellants have no grievance, but the private respondents have grievance and in fact they have approached the High Court for appropriate directions, it would be proper for this Court to remit these two matters to the High Court with the observation that it would be open for the present appellants, who were the writ petitioners, to amend their writ petitions suitably both on factual aspect as well as on the relief part so that the High Court would examine the pending writ petitions filed at the behest of the private respondents as well as these two matters together and dispose them of in accordance with law. Ordinarily we would have only observed that it would be open for the appellants to file fresh writ petitions, but having
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regard to the fact that the matter has taken a considerable period and the fact that the pending writ petition/petitions filed at the behest of the private respondents, who assail the re-drawn up seniority list, and the grievance of the present appellants are inter-related, we have remitted these matters to the High Court with the observation that it would be open for the petitioners to amend the writ petition so that the High Court can consider all these matters together and pass appropriate directions in accordance with law. We therefore set aside the impugned judgment of the High Court and remit these two matters to the Division Bench of Allahabad High Court. The writ petitioners before the High Court who are appellants before us, may amend their writ petitions within six weeks from today. The private respondents who have filed their writ petitions and which are pending before the High Court may file their objections to those amended provisions of the writ petitions within four weeks thereafter. In the pending writ petitions if the present appellants have not been made parties, they would be permitted to be impleaded as parties and they may file their objections to the averments made in the writ petitions within four weeks. It is made clear that all parties will be given the opportunity of
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amending and/or filing additional affidavits once and not thereafter. The High Court is requested to dispose of these two matters along with other writ petition/petitions which is/are pending within six months from today. We make it clear that we have not examined and expressed any opinion on the merits of the rival contentions of the parties. These appeals stand disposed of accordingly.

For Appellant (s) In person
CA 5839/99

CA 5840/99 Dr. Jose P. Verghese, Adv.
Mr. V.K. Sidharthan, Adv.

For Respondent (s) Mr. T.N. Singh, Adv.
Mr. Pramod Swarup, Mr. Praveen Swarup, Adv.

Mr. Jitendra Mohan Sharma, Adv.

Mr. P.N. Mishra, Sr. Adv.
Mr. Gaurav Jain, Adv.
Ms. Abha Jain, Adv.

Mr. Shakil Ahmed Syed, Adv.

Mr. P.S. Mishra, Sr. Adv.
Mr. M.D. Adkar, Adv.
Mr. Anurag Kishor, Adv.
Mr. Vishwajit Singh, Adv.

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Mr. Shrish Kumar Mishra, Adv.

Mr. Shail Kumar Dwivedi, Adv.

Mr. R.C. Srivastava, Sr. Adv.
Mrs. Rachana Srivastava, Adv.

UPON hearing counsel, the Court passed the following
O R D E R

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Heard the appellant in person and the learned counsel
for the parties from 10.40 a.m. to 11.10 a.m.

Appeals and applications stand disposed of in terms of
the signed order.

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(J.S. Rawat)
Court Master

(Janki Bhatia)
Court Master

(Signed order is placed on the file)