

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S). 1056/2017

UNION OF INDIA & ORS.

....Appellant(s)

VERSUS

SUKHINDER PAL SINGH

....Respondent(s)

O R D E R

This appeal is directed against the judgment and order dated 24.03.2009 passed by the High Court of Punjab and Haryana in Civil Writ Petition No.1565 of 2009.

The respondent had initially approached the Central Administrative Tribunal at Chandigarh by filing O.A. No.1037 of 2005 which was disposed of on 18.11.2005 by the Tribunal directing the present appellants to consider the claim raised by the respondent and pass an appropriate order.

It was the submission of the respondent that his initial appointment having been made prior in

point of time as against one Shiv Charan Saini, the latter could not have been given promotion to the higher level ahead of the respondent. In pursuance of the direction issued on 18.11.2005, the matter was considered by the appellants and by order dated 19.01.2006, the claim raised by the respondent was rejected. The order, inter-alia, records that the respondent had passed the inspectors exam in the year 1997 whereas said Shiv Charan Saini had passed said exam in the year 1991; that in the DPC held on 10.05.2005 both the claims were considered by the Committee. It was stated that said Shiv Charan Saini had passed the exam in 1991 and as such he was rightly given promotion in terms of the relevant Recruitment Rules.

The aforesaid order dated 19.01.2006 was again put in challenge by the respondent by filing O.A. No. 757 of 2006 before the Central Administrative Tribunal, Chandigarh. The Tribunal again directed the present appellants to consider the case of the respondent. The operative part of the direction was as under:

"In view of the above discussion, the respondents are directed to consider the case of the applicant for promotion to the posts of office Suptd. with effect from the date, his junior Shri Shiv Charan Saini has been promoted if he is otherwise found fit on the basis of his service record etc. After promotion as the office supdt., he may be considered for promotion for the post of Inspector, if he is otherwise found within the zone of consideration and if found fit on the basis of his service record etc. The above exercise may be completed in a period of 4 months from the date of receipt of these orders."

The appellant had initially filed review but the review having been dismissed, it challenged both orders, namely, order dated 16.05.2008 passed by the Central Administrative Tribunal in said O.A. No. 757/2006 and the subsequent order passed rejecting the review. The High Court by its order dated 24.03.2009, only on the ground that the counsel for the appellant had sought time to implement the order passed by the Tribunal, rejected said writ petition. The view taken by the High Court is presently in appeal.

The record indicates that after the first order was passed by the Tribunal, the matter was

duly considered in the light of directions so issued by the Tribunal. The rival claims were considered and the reasons were indicated why said Mr. Saini was given promotion before the respondent. Unless and until those reasons were in any way found to be incorrect or unsustainable, the Tribunal was not justified in issuing directions to reconsider the matter. The matter already stood considered, the controversy was dealt with and the reasons were squarely put on record. In the circumstances, the order passed by the Tribunal in the second round was wholly unjustified.

We, therefore, accept the appeal, set aside the orders under challenge and dismiss Original Application No.757/2006.

The appeal stands allowed in aforesaid terms.

Pending application, if any, shall stand disposed of.

No costs.

.....J.
(Uday Umesh Lalit)

.....J.
(Deepak Gupta)

New Delhi;
June 15, 2018

ITEM NO.109

COURT NO.5

SECTION IV

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

Civil Appeal No(s).1056/2017

UNION OF INDIA & ORS.

Appellant(s)

VERSUS

SUKHINDER PAL SINGH

Respondent(s)

Date : 15-06-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE DEEPAK GUPTA
(VACATION BENCH)

For Appellant(s)

Mr. R.Bala,Adv.
Ms. Gargi Khanna,Adv.
Mr. Sachin Sharma,Adv.
Ms. Anil Katiyar,Adv.

For Respondent(s)

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

The appeal stands allowed in terms of the signed order.

(B.PARVATHI)
COURT MASTER(JAGDISH CHANDER)
BRANCH OFFICER

(Signed order is placed on the file)