

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE/ORIGINAL JURISDICTION

I.A. NOS.11,12, 15-18 21-22, I.A.NO.1 IN I.A.NO. 11/2016,
I.A.NO. 25-67

IN

CIVIL APPEAL NO(S).2608/2011

U.P.POWER CORP.LTD.

APPELLANT (S)

VERSUS

RAJESH KUMAR & ORS.

RESPONDENT (S)

WITH

W.P.(C) No. 507/2015, W.P.(C) No. 199/2016, W.P.(C) No.
208/2016, I.A.NOS.4, 5 & 10 IN C.A. No. 2679/2011, C.A. No.
6584/2015, I.A.NOS.4, 5 & 6 IN CONTEMPT PETITION(C) No.
214/2013 IN C.A. No. 2679/2011, CONTEMPT PETITION.(C) No.
259/2016 IN CONTEMPT PETITION(C) No. 214/2013 IN C.A. No.
2679/2011, T.C.(C) No. 6/2017 AND T.C.(C) No. 5/2017

O R D E R

In I.A.Nos.11 and 12 & I.A.No.1 in I.A.NO. 11/2016 in C.A.
No.2608/2011

It is stated by learned counsel for the applicant that nothing survives in these applications in view of the seniority list dated 05.08.2016.

Accordingly, I.A. Nos.11 & 12 are disposed of.

In view of above, I.A.No.1 in I.A.NO. 11/2016 is also stand disposed of.

In I.A.Nos.15 and 16 in C.A. No.2608/2011

Heard.

I.A.Nos.15 and 16 are dismissed. However, if any

person junior to the applicant is promoted or placed above him, he will be at liberty to take his remedy at that stage before an appropriate forum.

In I.A.No.17 in C.A. No.2608/2011

Grievance in this application is that the applicant has been placed below Ram Vilas Verma, Harbir Singh, Surender Singh Chauhan and Babu Lai Kushwaha. If that is so, the applicant is at liberty to approach the appropriate forum for redressal of his grievance.

Interlocutory application is disposed of.

In I.A.No.18, I.A.No.22, I.A.Nos.36 & 37, I.A.Nos.43 & 44, I.A.Nos.48 to 50, I.A.No.53, I.A. No.54, I.A.No.55, I.A. No.64, I.A.No.65 to 67 in C.A. No.2608/2011

Heard.

The interlocutory applications are dismissed.

In I.A.No.21 in C.A. No.2608/2011

Learned counsel for the applicant seeks permission to withdraw I.A.No.21.

I.A.No.21 is, accordingly, dismissed as withdrawn.

In I.A.No.26 in C.A. No.2608/2011

Learned counsel for the applicants seeks permission to withdraw I.A.No.26 with liberty to take any

other appropriate remedy in accordance with law.

I.A.No.26 is, accordingly, dismissed as withdrawn.

In I.A.No.27 in C.A. No.2608/2011

The Education Director (Basic), Uttar Pradesh, may take decision on the pending representation of the applicant within a period of six months from today.

I.A. is disposed of accordingly.

In I.A.No.28 in C.A. No.2608/2011

Learned counsel for the applicants are allowed to withdraw the said I.A. without prejudice to the right of the individual to take remedies in accordance with law, if advised.

I.A.No.28 is, accordingly, dismissed as withdrawn.

In I.A.Nos.29, 30 & 31 in C.A. No.2608/2011

Heard.

The Grievance Committee may dispose of any pending representation of the applicant within four weeks from today.

The I.As are stand disposed of.

In I.A.Nos.32 & 33 in C.A. No.2608/2011

Heard.

The contention raised by the applicant is that his promotion was within five years of the judgment of this Court in *Indra Sawhney Etc. Etc. Vs. Union of India and Others, Etc. 1992 (Supp.3) SCC 217* and no benefit for consequential seniority in promotional post has been given.

Let this aspect be re-considered by the Grievance Committee within four weeks from today.

The I.As are stand disposed of.

In I.A.Nos.38 & 39 in C.A. No.2608/2011

The concerned department may take decision on the pending representation of the applicant within a period of six weeks from today.

The applicants will furnish a copy of the representation to the Director of Secondary Education, Uttar Pradesh, within a period of one week.

The Interlocutory applications are disposed of.

In I.A.Nos.41 & 42 in C.A. No.2608/2011

Heard.

Our attention has been drawn to order dated 17.06.2010 relating to promotion to the post of Superintending Engineer (Civil). It is stated that the applicant is at the bottom of the list and he has not given any benefit of accelerated promotion nor anyone senior to

him has been overlooked.

Let this aspect be looked into by the concerned Grievance Committee within a period of six weeks from today.

The applicant may furnish a representation to the said Committee within one week from today.

I.As are disposed of.

In I.A.Nos.45 to 47 in C.A. No.2608/2011

Heard.

I.A.Nos.45 to 47 are dismissed. However, the applicant will be at liberty to represent any claim consistent with his seniority in terms of judgment of this Court in (2012) 7 SCC 1 - *U.P. Power Corporation Ltd. v. Rajesh Kumar*, which may be considered in accordance with law.

In I.A.No.25, I.A.Nos.34 & 35, I.A.No.40 in C.A. No.2608/2011 & C.A. No.6584/2015

In (2012) 7 SCC 1, - *U.P. Power Corporation Ltd. v. Rajesh Kumar* this Court held that in absence of quantifiable data, the catch up rules applies in promotions.

These I.As have been listed on the understanding that they relate to this issue. Since, it is stated that C.A. No.6584/2015 does not relate to this issue, it may be listed on Tuesday i.e. on 28.03.2017 along with connected

matters, including, I.A.Nos.34 & 35 in C.A.No.2608/2011 and these applications.

In I.A.Nos.51 & 52 in C.A. No.2608/2011

Let the Grievance Committee decide the representation of the applicants within a period of six weeks.

I.As are disposed of.

In I.A.Nos.56 to 59 in C.A. No.2608/2011

The applicants are at liberty to make their representation before the Director Secondary Education, Uttar Pradesh, upon which the Director may decide the same within a period of six week.

The applicants will furnish a copy of the representation to the Director Secondary Education, Uttar Pradesh within a period of one week.

I.As are disposed of accordingly.

In I.A.No.60 in C.A. No.2608/2011

I.A.No.60 is allowed to be withdrawn without prejudice to approaching the concerned authority.

The Director of Medical and Health Services may resolve the grievance of the applicant within a period of four weeks.

The applicant will furnish a copy of the

representation to the Director of Medical and Health Services within a period of one week.

I.A.No.60 is, accordingly, dismissed as withdrawn.

In I.A.No.61 to 63 in C.A. No.2608/2011

Heard.

Seen the reversion of the applicants is not on account of the judgment of this Court in (2012) 7 SCC 1-*U.P. Power Corporation Ltd. v. Rajesh Kumar*, the applicant(s) is at liberty to avail remedy before the High Court in accordance with law.

I.As are stand disposed of.

In I.A.No.4 in C.A. No.2679/2011

Heard.

I.A.No.4 is dismissed as having become infructuous.

In I.A.No.5 in C.A. No.2679/2011

Heard.

I.A.No.5 is dismissed.

In I.A.No.10 in C.A. NO.2679/2011

Heard.

I.A.No.10 is dismissed. *De hors* the judgment of

this Court in (2012) 7 SCC 1 - *U.P. Power Corporation Ltd. v. Rajesh Kumar*, the applicant will be at liberty to claim any relief to which he may be entitled to in accordance with law.

In I.A.No.4, 5 & 6 in Contempt Petition(Civil) No.214/2013 in C.A.No.2679/2011

Let the Grievance Committee dispose of the pending representation within a period of four weeks from today.

I.As are disposed of.

In Writ Petition (Civil) No.507/2015

Liberty is granted to the petitioners to make a representation within a period of one week from today.

Let the Principal Secretary, Public Works Department may decide the representation within a period of six weeks from today.

The writ petition is, accordingly, disposed of.

In Writ Petition (Civil) No.199/2016

It is pointed out that the petitioners - Narshing Prasad and Pravendra Kumar did not get any benefit of accelerated promotion to the post of Superintending Engineer. Let this aspect be verified and a fresh order passed in accordance with law within a period of six weeks.

The writ petition is, accordingly, disposed of.

In Writ Petition (Civil) No.208/2016

Heard.

We are not inclined to entertain this writ petition.

The writ petition is, accordingly, dismissed.

In Contempt Petition(C) No. 259/2016 in Contempt Petition(C) No. 214/2013 in C.A. No. 2679/2011

It is stated that no further order is necessary in this petition.

Accordingly, the contempt petition is disposed of.

In T.C. (C) No. 6/2017 and T.C. (C) No. 5/2017

It is stated that the issue involved in these matters is whether the direct recruits will have seniority over the promotees appointed prior to them.

List the matters on Tuesday i.e. on 28.03.2017.

.....J.
[ADARSH KUMAR GOEL]

.....J.
[UDAY UMESH LALIT]

NEW DELHI;
23RD MARCH, 2017

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[ADARSH KUMAR GOEL]

.....J.
[UDAY UMESH LALIT]

NEW DELHI;
23RD MARCH, 2017

ITEM NO.1 R E V I S E D
COURT NO.13 SECTION XI

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

I.A. NOS. 11,12, 15-18, 21-22, I.A.NO.1 IN I.A.NO. 11/2016, I.A.NO. 25-67 in Civil Appeal No(s). 2608/2011

U.P.POWER CORP.LTD. Appellant(s)

VERSUS

RAJESH KUMAR & ORS. Respondent(s)

(For direction and exemption from filing O.T. and intervention and impleadment)

WITH

W.P. (C) No. 507/2015

(With appln.(s) for direction and exemption from filing O.T. and impleadment)

W.P. (C) No. 199/2016

(With appln.(s) for stay)

W.P. (C) No. 208/2016

(With appln.(s) for stay)

I.A.Nos.4, 5 & 10 in C.A. No. 2679/2011

(For directions and impleadment and Office Report)

C.A. No. 6584/2015

(With appln(s) for exemption from filing o.t. and impleadment and intervention and permission to file lengthy list of dates and directions and office report)

I.A.Nos.4, 5 & 6 in CONMT.PET.(C) No. 214/2013 in C.A. No. 2679/2011

(For impleadment and directions and exemption from filing O.T. and Office Report)

CONMT.PET.(C) No. 259/2016 in CONMT.PET.(C) No. 214/2013 in C.A. No. 2679/2011

T.C. (C) No. 6/2017

T.C. (C) No. 5/2017

Date : 23/03/2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

HON'BLE MR. JUSTICE UDAY UMESH LALIT

Counsel for parties

Mr. Basava Prabhu S. Patil, Sr. Adv.
 Mr. Varun Thakur, Adv.
 Mr. Varinder Kumar Sharma, Adv.
 Ms. Shraddha Saran, Adv.

Mr. Vikramjeet Banerjee, Sr. Adv.
 Mr. V.V.S. Pattahiram, Adv.
 Mr. Mukul Singh, Adv.
 Mr. Santosh Kumar, Adv.
 Mr. M.K. Maroira, Adv.

Mr. Subodh Markandeya, Sr. Adv.
 Mr. Rahul Aggarwal, Adv.
 Mr. Anand, Adv.
 Mr. Pramit Saxena, Adv.

Mr. P.P. Rao, Sr. Adv.
 Mr. Purushottam Sharma Tripathi, Adv.
 Mr. Ravi Chandra Prakash, Adv.
 Ms. Sushma Singh, Adv.
 Mr. Sarvanendu Chatterjee, Adv.
 Ms. Ananya Sarkar, Adv.
 Ms. Diskha Rai, Adv.

Mr. Jayant Bhushan, Sr. Adv.
 Mr. Rajeev Sirohi, Adv.
 Mr. Nagendra Singh, Adv.
 Mr. Vishal Chauhan, Adv.
 Mr. Piyush Vatsa, Adv.
 Mr. Vishwajit Singh, Adv.
 Mr. Piyush Vatsa, Adv.
 Ms. Ridhima Singh, Adv.
 Mr. Pankaj Singh, Adv.

Mr. Huzefa A. Ahmadi, Sr. Adv.
 Mr. Rajat Singh, Adv.
 Mr. Apoorva Tewari, Adv.
 Mr. Rohan Sharma, Adv.
 Mr. Anupam Lal Das, Adv.

Mr. S.R. Singh, Sr. Adv.
 Mr. Ankut Yadav, Adv.
 Mr. Mangal Prasad, Adv.
 Mr. Dwarka Sawale, Adv.
 Mr. Ujjawal Pandey, Adv.
 Mr. Yash Pal Dhingra, Adv.

Mr. Sunil Gupta, Adv.
 Mr. Gaurav Agarwal, Adv.
 Mr. Satpal Singh, Adv.

Mr. Ravi Prakash Mehrotra, Adv.
Mr. Abhinav Kumar Malik, Adv.
Mr. Pankaj Singh, Adv.
Mr. M. R. Shamsad, Adv.

Mr. Manoj K. Mishra, Adv.
Mr. Sandeep Kumar Dwivedi, Adv.
Mr. Umesh Dubey, Adv.

Mr. Sudhansu Palo, Adv.
Mr. Suraj Prakash Singh, Adv.
Ms. Pushpila Bisht, Adv.

Mr. Vivek Singh, Adv.
Mr. Sudhakar Kulwant, Adv.

Mr. Parthiv K. Goswami, Adv.
Mr. Manan Verma, Adv.
Ms. Kanika Saran, Adv.
Ms. Diksha Rai, Adv.

Mr. Rajendra Singhvi, Adv.
Mr. K.K.L. Gautam, Adv.
Mr. Rajesh Kumar, Adv.

Dr. K.S. Chauhan, Adv.
Mr. Ajit Kumar Ekka, Adv.
Mr. Ravi Prakash, Adv.
Mr. Chand Kiran, Adv.
Ms. Charu Lata Chaudhary, Adv.

Mr. Sunil Fernandes, Adv.
Ms. Astha Sharma, Adv.
Ms. Mithu Jain, Adv.
Mr. Arnav Vidyarthi, Adv.

Mr. Gaurav Agarwal, Adv.
Mr. Raj Singh Rana, Adv.

Mr. Sanjay Singh, Adv.
Mr. Rajeev Singh, Adv.

Mr. R.K. Singh, Adv.
Mr. Kumar Gaurav, Adv.
Mr. B.N. Dubey, Adv.
Mr. Robin Khokhar, Adv.
Mr. P. Dayal, Adv.
Mr. Rameshwar Prasad Goyal, Adv.

Mr. Antaryami Upadhyay, Adv.
Mr. Rutwik Panda, Adv.
Mr. Abhishek Upadhyay, Adv.

Mr. Sanjay Kumar Dubey, Adv.
Mr. Rakesh Kumar Tewari, Adv.
Ms. Shuchi Singh, Adv.
Mr. Devendra Kumar Shukla, Adv.
Mr. C.K. Pandey, Adv.
Mr. U.N. Mishra, Adv.

Mr. P.N. Mishra, Sr. Adv.
Mr. C. D. Singh, Adv.
Mr. Sandeepan Pathak, Adv.

Mr. N. Rajaraman, Adv.
Ms. Uma Prasuna B., Adv.
Mr. Reegan S. Bel, Adv.

Mr. R.K. Raizada, Adv.
Mr. Devesh Kumar Tripathy, Adv.

Mr. Dinesh K. Garg, Adv.
Mr. Abhishek Garg, Adv.
Mr. Dhananjay Garg, Adv.
Mr. Deepak Mishra, Adv.
Mr. D.K. Garg, Adv.

Mr. Manoj Gorela, Adv.
Ms. Priya Sharma, Adv.
Mr. Prakash Sharma, Adv.
Mr. Prathvi Raj Chauhan, Adv.
Mr. Kedar Nath Tripathy, Adv.

Mr. Kavin Gulati, Adv.
Ms. Rashmi Singh, Adv.

Mr. Gunnam Venkateswara Rao, Adv.

Mr. Aniruddha P. Mayee, Adv.

Mrs. Lalita Kaushik, Adv.

Mr. Harsh Vardhan Surana, Adv.

Mr. Brij Bhusan, Adv.

Mr. Abhishth Kumar, Adv.

Mr. Ashok K. Mahajan, Adv.

Mr. Sudarshan Singh Rawat, Adv.

Ms. Priya Aristotle, Adv.

Mr. Nikhil Majithia, Adv.

Mr. Satyajeeet Kumar, Adv.

Mr. Anuvrat Sharma, Adv.

Mr. Prabodh Kumar, Adv.

Mr. Abinash Kumar Mishra, Adv.

Mr. Santosh Krishnan, Adv.

Mr. Vishwpal Singh, Adv.

Mr. Rajesh Kumar, Adv.

Mr. Sunil Kumar Jain, Adv.

Mr. T. Mahipal, Adv.

Mr. R.D. Upadhyay, Adv.

Mr. Anuvrat Sharma, Adv.

UPON hearing the counsel the Court made the following
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All I.As are disposed of in terms of the signed order.

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The interlocutory applications are dismissed in

terms of the signed order.

In I.A.No.21 in C.A. No.2608/2011 , I.A.No.26 in C.A. No.2608/2011, I.A.No.28 in C.A. No.2608/2011, I.A.No.60 in C.A. No.2608/2011 & in I.A.No.5 in C.A. No.2679/2011

I.As are dismissed as withdrawn in terms of the signed order.

In I.A.No.25, I.A.Nos.34 & 35, I.A.No.40 in C.A. No.2608/2011 & C.A. No.6584/2015

In (2012) 7 SCC 1, - *U.P. Power Corporation Ltd. v. Rajesh Kumar* this Court held that in absence of quantifiable data, the catch up rules applies in promotions.

These I.As have been listed on the understanding that they relate to this issue. Since, it is stated that C.A. No.6584/2015 does not relate to this issue, it may be listed on Tuesday i.e. on 28.03.2017 along with connected matters, including, I.A.Nos.34 & 35 in C.A.No.2608/2011 and these applications.

In I.A.No.4 in C.A. No.2679/2011

I.A.No.4 is dismissed as having become infructuous.

In Writ Petition (Civil) No.507/2015

The writ petition is disposed of in terms of the signed order.

In Writ Petition (Civil) No.199/2016 & Writ Petition (Civil) No.208/2016

The writ petitions are disposed of in terms of the signed order.

In Contempt Petition(C) No. 259/2016 in Contempt Petition(C) No. 214/2013 in C.A. No. 2679/2011

The contempt petition is disposed of in terms of the signed order.

In T.C.(C) No. 6/2017 & T.C.(C) No. 5/2017

It is stated that the issue involved in these matters is whether the direct recruits will have seniority over the promotees appointed prior to them.

List the matters on Tuesday i.e. on 28.03.2017.

(SWETA DHYANI)
SR.P.A

(MADHU BALA)
COURT MASTER

(VEENA KHERA)
COURT MASTER

(Revised signed order is placed on the file)

ITEM NO.1

COURT NO.13

SECTION XI

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 SI.A. NOS. 11,12, 15-18, 21-22, I.A.NO.1 IN I.A.NO. 11/2016, I.A.NO.
25-67 in Civil Appeal No(s). 2608/2011

U.P.POWER CORP.LTD.

Appellant(s)

VERSUS

RAJESH KUMAR & ORS.

Respondent(s)

(For direction and exemption from filing O.T. and intervention and
impleadment)

WITH

W.P.(C) No. 507/2015

(With appln.(s) for direction and exemption from filing O.T. and
impleadment)

W.P.(C) No. 199/2016

(With appln.(s) for stay)

W.P.(C) No. 208/2016

(With appln.(s) for stay)

I.A.Nos.4, 5 & 10 in C.A. No. 2679/2011

(For directions and impleadment and Office Report)

C.A. No. 6584/2015

(With appln(s) for exemption from filing o.t. and impleadment and
intervention and permission to file lengthy list of dates and
directions and office report)I.A.Nos.4, 5 & 6 in CONMT.PET.(C) No. 214/2013 in C.A. No.
2679/2011(For impleadment and directions and exemption from filing O.T. and
Office Report)CONMT.PET.(C) No. 259/2016 in CONMT.PET.(C) No. 214/2013 in C.A.
No. 2679/2011

T.C.(C) No. 6/2017

T.C.(C) No. 5/2017

Date : 23/03/2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

HON'BLE MR. JUSTICE UDAY UMESH LALIT

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Mr. Sunil Kumar Jain, Adv.

Mr. T. Mahipal, Adv.

Mr. R.D. Upadhyay, Adv.

Mr. Anuvrat Sharma, Adv.

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

In I.A.Nos.11 and 12 & I.A.No.1 in I.A.NO. 11/201, in C.A. No.2608/2011, I.A.No.17 in C.A. No.2608/2011, I.A.No.27 in C.A. No.2608/2011, In I.A.Nos.29, 30 & 31 in C.A. No.2608/2011, I.A.Nos.32 & 33 in C.A. No.2608/2011, I.A.Nos.38 & 39 in C.A. No.2608/2011, I.A.Nos.41 & 42 in C.A. No.2608/2011, I.A.Nos.51 & 52 in C.A. No.2608/2011, I.A.Nos.56 to 59 in C.A. No.2608/2011, I.A.No.61 to 63 in C.A. No.2608/2011 & in I.A.No.4, 5 & 6 in Contempt Petition(Civil) No.214/2013 in C.A.No.2679/2011

All I.As are disposed of in terms of the signed order.

In I.A.No.18, I.A.No.22, I.A.Nos.36 & 37, I.A.Nos.43 & 44, I.A.Nos.48 to 50, I.A.No.53, I.A. No.54, I.A.No.55, I.A. No.64, I.A.No.65 to 67 in C.A. No.2608/2011, I.A.Nos.15 and 16 in C.A. No.2608/2011, I.A.Nos.45 to 47 in C.A. No.2608/2011 & I.A.No.10 in C.A. NO.2679/2011

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