

ITEM NO.8+20

COURT NO.5

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

CONMT. PET. (C) No.214 of 2013 In C.A. No.2679 of 2011

AMAR KUMAR & ORS.

Petitioner(s)

VERSUS

JAVED USMANI, C.SEC., GOVT.OF U.P.& ORS.

Respondent(s)

(With appln.(s) for exemption from filing O.T. and intervention and office report)

WITH W.P. (C) No.273/2015

(With appln.(s) for exemption from filing O.T. and impleadment and stay and office report)

S.L.P. (C) No.21918/2015

(With interim relief and office report)

S.L.P. (C) No.24364/2015

(With appln.(s) for de-tagging and appln.(s) for exemption from filing O.T. and interim relief and office report)

W.P. (C) No.652/2015

(With appln.(s) for exemption from filing O.T. and impleadment and stay and office report)

CONMT.PET. (C) No.414/2015 In C.A. No. 2610/2011

(With office report)

W.P. (C) No.656/2015

(With appln.(s) for exemption from filing O.T. and stay and office report)

W.P. (C) No.638/2015

(With appln.(s) for exemption from filing O.T. and appln.(s) for stay and appln.(s) for permission to file amended writ petition and stay and office report)

W.P. (C) No.639/2015

(With appln.(s) for amendment of the petition and exemption from filing O.T. and stay and office report)

W.P. (C) No.725/2015

(With appln.(s) for exemption from filing O.T. and stay and office report)

W.P. (C) No.726/2015

(With appln.(s) for exemption from filing O.T. and stay and office report.

W.P. (C) No.727/2015

(With appln.(s) for exemption from filing O.T. and stay and office report)

Date: 13/10/2015 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Gopal Subramaniam, Sr. Adv.
Mr. Gaurav Agarwal, Adv.
Mr. Abhishek Sharma, AOR

Dr. Rajeev Dhavan, Sr. Adv.
Mr. Kumar Parimal, Adv.
Mr. Kabir Ghosh, Adv.
Mr. Aniruddha P. Mayee, AOR

Mr. K.V. Vishwanathan, Sr. Adv.
Ms. Mahalakshmi Pavani, Sr. Adv.
Mr. G. Balaji, Adv.
Mr. Santosh Krishnan, AOR

Ms. V. Mohana, Sr. Adv.
Mr. Sunil Fernandes, AOR
Ms. Astha Sharma, Adv.
Ms. Mithu Jain, Adv.

Mr. Ravindra Srivastava, Sr. Adv.
Mr. Pallav Shisodia, Sr. Adv.
Mr. Kamendra Mishra, AOR

Mr. Abhishek Sharma, AOR

Mr. Salman Khurshid, Sr. Adv.
Mr. Avtaar Singh Rawat, Sr. Adv.
Mr. Rajeev Kumar Bansal, AOR

For Respondent(s) Mr. Ravi Prakash Mehrotra, AOR
Mr. Rajeev Dubey, Adv.

Mr. Sunil Fernandes, AOR

Dr. Krishan Singh Chauhan, AOR
Mr. Ajit Kumar Ekka, Adv.
Mr. Ravi Prakash, Adv.
Mr. Chand Kiran, Adv.
Mr. Murari Lal, Adv.
Mr. K.K.L. Gautam, Adv.

Mr. Aviral Saxena, Adv.
Mr. Vinay Garg, AOR

Mr. Varun Thakur, Adv.
Ms. Shraddha Saran, Adv.
Ms. Varinder Kr. Sharma, Adv.

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

Contempt Petition (C) Nos.214/2013 in C.A. No.2679/2011 &
Contempt Petition (C) Nos.414/2015 in C.A. No.2610/2011

In pursuance of our earlier order dated 15th September, 2015, the Chief Secretary of the State of U.P., has filed an affidavit dated 8th October, 2015, stating that there has been full compliance of the judgment dated 27th April, 2014, passed in Civil Appeal No.2608 of 2011 and other connected appeals.

Mr. Ravi Prakash Mehrotra, learned counsel appearing for the State of U.P., has drawn our attention to paragraphs 4, 5 and 6 of the said affidavit. They read as follows:

"4. That, following the said order dated 15.9.2015 passed by this Hon'ble Court in the present case, Government Orders dated 16.9.2015 and 22.9.2015 were issued by the Principal Secretary (Karmik) & the Chief Secretary respectively, directing all concerned government functionaries in the State to ensure that all reversions are completed in the State within the stipulated time frame, in terms of Government Order dated 21.8.2015, which has already been placed on record in this Hon'ble Court in the affidavit filed by the deponent on 14.9.2015.

5. That, pursuant to the exercise aforesaid, and in full compliance of the judgment rendered by the Hon'ble Supreme Court of India on 27.4.2012 in U.P. Power Corporation Ltd. v. Rajesh Kumar & Others (2012 7 SCC 1,

and following the order passed in the instatn Contempt Petition by this Hon'ble Court from time to time, a total of 15226 (111514+3712) employees in Groups A, B and C in various departments and organizations of the State Government, have been reverted.

A copy of the Chart containing the numbers of the reverted employees in various departments and organizations, along with summary thereof, is filed herewith as Annexure A-1).

6. That, it is thus manifest from the details of all reversions effected in the State, as contained in the said chart, that the directions contained the judgment rendered by this Hon'ble Court in the U.P. Power Corporation Ltd. case (supra), have been fully complied with. The entire exercise in this regard by the State Government has been completed in terms of the said Government Order dated 21.8.2015.

It is further stated that in the event any employee is aggrieved by an issue relating to his reversion, or in case of any grievance that a particular employee ought to have been reverted, following the judgment by this Hon'ble Court, such representations/complaints are proposed to be decided on top priority by the State Government."

On a perusal of the Chart, we find that the State Government has identified 20,807 persons, who were required to be reverted, but in actuality 15,226 persons have been reverted. The other 5581 persons have not been reverted because some of them have died or retired or have resigned or dismissed from the service or allocated to the State of Uttarakhand. As far as the death, retirement, dismissal and resignation are concerned, we do not take that into account. However, in respect of the persons allocated to the State of Uttarakhand, we do not express any opinion on the same in this proceeding.

Be it noted, it has been stated in the affidavit that if anyone is grieved by the order of reversion or in case of any grievance that a person ought to have been reverted, if raised, shall be decided on top priority by the State Government. We inquired from Mr. Mehrotra, learned counsel for the State that who would be the competent authority who will decide it, learned counsel has submitted that he has instructions to state that Principal Secretary, Department of Personnel, State of U.P., shall decide the same. If anyone is grieved by the decision taken by the said authority, the said person is entitled to file an interlocutory application before this Court in the disposed of Civil Appeal No.2608 of 2011 and connected appeals, so that suitable order can be passed. The purpose of stating so is that no other court shall entertain the challenge to the grievance of any person .

We will be failing in our duty if we do not note another aspect before we close these contempt petitions. A number of writ petitions have been filed which have been listed today and they pertain to reversion. They call in question the validity of the order of reversion. They shall be dealt with independently when we address the writ petitions.

At this juncture, Mr. Ravi Prakash Mehrotra, learned counsel for the State, has drawn our attention to paragraph 6(f) of the affidavit dated 12th September, 2015. The said paragraph reads as follows:

"On the vacancies which will be available as a result of aforesaid reversions, proceedings of promotion shall be conducted as per the amended seniority list."

The State Government is at liberty to proceed accordingly.

Needless to emphasize, our above said observation for granting liberty to the State will not be an impediment in adjudication of the writ petitions which have been filed before this Court.

The contemnors in the contempt petitions are discharged. The contempt petitions are, accordingly, disposed of. All the applications filed in the contempt petitions stand disposed of.

W.P. (C) No.273/2015, W.P. (C) No.652/2015, W.P. (C) No.656/2015, W.P. (C) No.638/2015, W.P. (C) No.639/2015, W.P. (C) No.725/2015, W.P. (C) No.726/2015, W.P. (C) No.727/2015, S.L.P. (C) No.21918/2015 and S.L.P. (C) No.24364/2015

Let these matters be listed along with the record/paper-book of W.P. (C) No.698 of 2015, on 3rd November, 2015.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master