

NARENDRA NATH SINHA

A

v.

STATE OF U.P. AND ORS.

DECEMBER 5, 1995

[K. RAMASWAMY, FAIZAN UDDIN AND B.N. KIRPAL, JJ.]

B

*Service Law.*

*U.P. Service of Engineers (Buildings and Road Branch) Class II (Amendment) Rules, 1969 :*

C

*Seniority—Assistant Engineer—Promotion as Executive Engineer—Seniority list challenged—High Court expressing diverse opinions as regards orders passed by the Government—Held, rights accrued to appellant prior to filing of writ petition would continue to be available to him.*

Writ petitions were filed before the High Court challenging the seniority list of Assistance Engineers working in the Public Works Department of State of U.P. The High Court while deciding the writ petitions observed in its judgment that the order passed in the writ petitions would not affect any confirmation or substantive promotion made prior to the filing of the writ petitions. But in the ultimate paragraph of the judgment it was stated that any action taken prior to 29.11.1979 was illegal. The appellant was promoted as Executive Engineer on 12.7.1979 on ad hoc basis, and later he was regularised and confirmed on the said post with effect from 30.6.1980; and the writ petition was filed on 29.9.1980.

D

This Court, while granting the leave in the petition for special leave to appeal filed by the appellant, passed an interim order directing the parties to maintain status quo. Pending appeal contesting respondents superannuated and the Court felt it was not necessary to go into the controversy raised in the appeal.

E

F

Disposing of the appeal, this Court

G

**HELD :** In view of the facts and the interim directions issued by this Court, the consequence could be that the *Status quo* which the appellant had prior to the order passed by this Court, would continue. The rights accrued to the appellant period to the date of the filing of the writ petition

H

- A would continue to be available to him, since his promotion and confirmation as such was not quashed. The Government, therefore, would work out the rights of the appellant accordingly. [235-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1157 of 1982.

B

From the Judgment and Order date 14.1.82 of the Allahabad High Court in W.P. No. 2447 of 1980.

Narayan B. Shetye, A.K. Sanghi and Diwakar Chaturvedi for the Appellant.

C

Anil Kumar Gupta, T.N. Singh and R.B. Misra for the Respondents.

The following Order of the Court was delivered:

- D It is not necessary to go into the controversy raised in this appeal since the contesting respondents have already retired by attaining superannuation. This Court while granting leave and admitting the appeal stated thus :

- E "Status quo pending disposal of the appeal as of today in the matter of reversion as a consequence of the judgment of the High Court. Future promotions will be subject to the result of the appeal."

In the judgment of the High Court in first part in paragraph 46, it was stated thus :

- F 1982

"We would further like to clarify that any order that may be passed in these writ petitions should not effect any confirmation or substantive promotion made prior to the filing of the writ petitions."

- G In the ultimate paragraph of the judgment a contrary opinion was expressed stating that any action taken prior to November 29, 1979 was illegal.

- H It is stated by the appellant that on his promotion as Executive Engineer on July 12, 1979 though initially on *ad hoc* basis, he was confirmed and regularised as an Executive Engineer on June 30, 1980. The

writ petition case No. 2447 of 1980 came to be filed by V.N. Mittal on September 29, 1980. In view of the above facts and in view of the directions issued by this Court the consequence would be that the *status quo* which the appellant had prior to the other passed by this Court, would continue. The rights accrued to the appellant prior to the date of the filing of the writ petition would continue to be available to him, since his promotion and confirmation as such was not quashed. The Government, therefore, would work out the rights of the appellant accordingly.

The appeal is accordingly disposed of. No costs.

R.P.

Appeal disposed.