

HIGH COURT OF UTTARAKHAND AT NAINITAL.

(Court's order whether the case is or not approved for reporting)
(Chapter VIII Rule 32 (2) (b))

Description of the Case.

Civil Contempt No. 18 of 2005

Ambrish Kumar ... Petitioner

Vs

Ms. S.K. Das and others ... Respondents

Approved for reporting

Not approved for reporting

Date of Decision – 27.02.2009

Initial of Judge

(B.C. Kandpal, ACJ.)

Dated: 27-02-2009

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

CIVIL CONTEMPT NO. 18 of 2005

Ambrish Kumar Petitioner.
Versus
Mr. S.K. Das and others ... Respondents.

Dated: 27th Feb. 2009

Hon'ble B.C. Kandpal, ACJ

Heard the petitioner Sri Ambrish Kumar and Sri H.M. Raturi, learned Standing Counsel for the respondents and perused the record.

This contempt petition U/S 12 of the Contempt of Court Act has been filed by the petitioner against the respondents with the prayer that the respondents be summoned and punished for their deliberate and intentional act of flouting the judgment passed by the Hon'ble Apex Court dated 22-11-2001 as well as the judgment rendered by the Division Bench passed in writ petition no. 4237/2003 dated 25-2-2003.

The petitioner has taken the ground that he being senior most A.P.O. in the State has been continuously ignored in giving the promotions while the juniors to him had been given promotions by the different orders of the government. It has also been averred by the petitioner that the government in the light of the directions issued by the Hon'ble Apex Court prepared the interim seniority list dated 17-9-2002 including all the A.P.Os who were working in the State of Uttarakhand after affording an opportunity to both, the direct and adhoc appointees, of hearing, and then prepared the final seniority list on 2-1-2003. It has further been averred that the seniority list dated 2.1.2003 was challenged by way of misc. civil writ petition no. 4237/2003 Satish Chandra Srivastava Vs. State of U.P. and others, but this writ petition was dismissed by the High Court vide judgment and order dated 25-2-2003. The petitioner has further averred that in spite of this fact that he being the senior most direct appointee, had always been ignored in giving the promotions and his contentions have never been considered by the opposite parties with regard to the fixation of his seniority. The petitioner has thus prayed that the respondents have been deliberately flouting the orders passed by the

High Court as well as the Hon'ble Apex Court, thereby committing the contempt of court, hence he has prayed for taking suitable action against them.

The counter affidavit has been filed by the respondents. The respondents have further filed the supplementary counter affidavit and in paragraph-7 of supplementary counter affidavit filed on 26-3-2007, the respondents have contended that the petitioner was also granted the benefit of the order passed by the Hon'ble Apex Court as is evident by the averment made by him in writ petition No. 80 (S/B) of 2006 (supra). There was direction issued by the court by which the respondents were directed to consider the case of the petitioner for promotion. The supplementary counter affidavit filed by the respondents reveals that the case of the petitioner was considered for promotion. However, he was found unsuitable for promotion due to adverse entry made against him. The copy of the order dated 30-6-2006, by which the case of the petitioner was considered and rejected, has been annexed as Annexure C-A-1 to the supplementary counter affidavit.

The petitioner has submitted before this court that he has also made the prayer of mandamus in the aforesaid writ petition for quashing the adverse entry. It is pertinent to mention here that the order dated 30-6-2006 has not been challenged by the petitioner as yet. Further in paragraph-12 of the supplementary counter affidavit the respondents have submitted that in pursuance of the order dated 22-11-2001, passed by the Hon'ble Apex Court, the petitioner was placed in the seniority position over the adhoc appointees and in the meeting of Departmental Promotion Committee, which was held on 13-7-2005 in the State of Uttarakhand, the petitioner was placed at serial No.1.

The learned standing Counsel has also placed the final seniority list before me, which indicates that the name of Ambrish Kumar stands at serial No.4. It has been contended by the learned Standing Counsel that the persons mentioned at serial No.1 and 2 have been retired, while the person mentioned at serial No.3, is presently posted as Joint Director. Therefore, the petitioner mentioned at serial No.4 is

now at serial No.1 in the seniority list. This factual aspect has not been denied by the petitioner before me.

In view of the aforesaid position it is quite clear that the petitioner now stands at serial No.1 in the final seniority list prepared by the State of Uttarakhand.

I, therefore, do not find any force in this contempt petition as the orders passed by the Hon'ble Apex Court as well as the High Court have now been complied with, specially after preparation of the final seniority list in which the petitioner stands at serial No.1.

However, so far as the other grievances of the petitioner are concerned, it is to be noted that the writ petition NO. 80 (S/B) of 2006 Ambrish Kumar Vs. State is still pending and if he has any grievance against the adverse entries passed against him or the promotions not accorded to him on account of those adverse entries, it is open for him to raise all these pleas in the aforesaid writ petition.

With the aforesaid observation the contempt petition lacks merit and is accordingly dismissed. The notices issued against the respondents are hereby discharged.

ISB

(B.C. Kandpal, ACJ)