

Non-Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No.325 of 2021

Rajesh Kumar Singh & Ors.

.... Appellant(s)

Versus

The State of Uttar Pradesh & Ors.

.... Respondent (s)

J U D G M E N T

L. NAGESWARA RAO, J.

1. The Appellants were initially appointed as Constables in the State of Uttar Pradesh. Pursuant to an advertisement issued for filling up the posts of Constable Drivers, the Appellants participated in the selection test. They were selected and on completion of training they were appointed as Constable Drivers. Seniority list of Constable Drivers was prepared on 14.05.2015. In supersession of Government orders, the State Government in exercise of the power under Section 2 read with Section 46 (11) of the Police Act, 1861 framed Uttar Pradesh Police Motor Transport Unit Subordinate Officers Service Rules, 2015 (hereinafter, 'the 2015 Rules') to govern the selection, promotion, training, appointment, merit etc. and other conditions of service of the Motor Transport

Unit of the Police Department. Posts of Inspector, Motor Transport, Sub-Inspector, Motor Transport, Head Constable, Motor Transport, Constable Driver and Head Constable Driver constitute the cadre of Motor Transport Subordinate Service. The post of Head Constable Driver Motor Transport according to the 2015 Rules, shall be filled up by selection from amongst Head Constables Drivers and Constable Drivers. Aggrieved by the Rules introducing the selection for appointment to the post of Head Constable Motor Transport, the Appellants filed a Writ Petition in the High Court of judicature at Allahabad. By a judgment dated 24.10.2017, the High Court dismissed the Writ Petition. Dissatisfied with the judgment of the High Court, the Appellants are before this Court.

2. Mr. V. Shekhar, learned Senior Counsel appearing for the Appellant submitted that the vertical mobility of Constable Drivers is by promotion as Head Constable Motor Transport and thereafter, Sub-Inspector and Inspector Motor Transport on the basis of seniority. The Appellants who were initially recruited as police Constables went through a selection process for being appointed as Constable Drivers. Introduction of another selection process for the purpose of

being appointed as Head Constable Motor Transport by making Constable Drivers and Head Constable Drivers eligible for consideration is arbitrary and violative of Article 14 and 16 of the Constitution of India. He submitted that the Appellants have been stagnating in the post of Constable Drivers for a long period of time.

3. Ms. Garima Prasad, learned counsel appearing for the Respondent State of Uttar Pradesh argued that the post of Constable Driver is a technical post and the posts of Head Constable Motor Transport, Sub-Inspector Motor Transport and Inspector Motor Transport are highly technical. She contended that a Constable has to go through a process of selection to become a Constable Driver. To address the stagnation of the Constable Driver, several posts of Head Constable Drivers have been created. However, for being appointed to the post of Head Constable Motor Transport, Constable Drivers and Head Constable Drivers who are eligible to be considered are required to go through a process of selection. Thereafter, they will be entitled to be considered for promotion as Sub-Inspector Motor Transport and Inspector Motor Transport on the basis of seniority. She argued that there are 12,000 posts of Constable Drivers at

present. 2498 posts of Head Constable Drivers have been created to which Constable Drivers are eligible for promotion on the basis of seniority. There are only 283 posts of Head Constables Motor Transport which is a highly technical post which can be filled up by selection from Constable Drivers and Head Constable Drivers. To address the concern of the Head Constable Drivers and Constable Drivers who are not appointed to the post of Head Constable Motor Transport that there are no avenues for promotion, there is a proposal to create 1000 posts of Sub-Inspector Drivers. Head Constable Drivers shall be entitled to be promoted to the post of Sub-Inspector Drivers.

4. The 2015 Rules has a cadre consisting of 9126 Constable Drivers, 1098 Head Constable Drivers, 283 Head Constable Motor Transport, 99 Sub-Inspector Motor Transport and 9 Inspector Motor Transport. Rule 5 (c) which has been challenged by the Appellants in the Writ Petition provides for appointment to the post of Head Constable Motor Transport by selection from amongst Constable Drivers and Head Constable Drivers as per the procedure prescribed in appendix to the Rules. Rule 10 prescribes the procedure for selection and appointment to the post of Head Constable

Motor Transport which is also assailed in the Writ Petition. The main grievance of the Appellants is that they have already undergone a selection process for their lateral movement as Constable Drivers. It is impermissible to make them to go through yet another selection process for appointment to the post of Head Constable Motor Transport. According to the Appellants, all Constable Drivers should be eligible to be promoted either as Head Constable Drivers or as Head Constable Motor Transport on the basis of seniority without going through any selection process. Referring to the appendix to the Rules, the Appellants submitted that there is nothing highly technical about the post of Head Constable Motor Transport.

5. It is clear from the structure of the cadre that there are only 283 posts of Head Constable Motor Transport which according to the Government is a highly technical post. Though the said post carries the same pay scale as Head Constable Drivers, lateral movement as Head Constable Motor Transport would provide an opportunity of vertical mobility as Sub-Inspector Motor Transport and Inspector Motor Transport. Addressing the concerns of Drivers, 1098 posts of Head Constable Drivers have been created and there

is a proposal to create 1000 posts of Sub-Inspector Drivers. The posts of Head Constable Drivers and Sub-Inspector Drivers are filled up by promotion on the basis of seniority.

6. Rule 5 and 10 of the 2015 Rules are primarily challenged on the ground that the Appellants are forced to undergo a selection process for appointment to the post of Head Constable Motor Transport. The selection process is mandated due to the posts of Head Constable Motor Transport being highly technical. The Rules are neither discriminatory nor arbitrary. Constable Drivers can be promoted on the basis of seniority to Head Constable Drivers. If they desire to be appointed as Head Constable Motor Transport, then they have to go through selection process. No interference with the judgment of the High Court is warranted.

7. The judgment of the High Court is upheld and the Appeal is, accordingly dismissed.

.....J.
[L. NAGESWARA RAO]

.....J.
[INDIRA BANERJEE]

**New Delhi,
February 18, 2021.**