

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No.495 of 2021  
(Arising out of SLP (C) No. 2288 of 2019)**

**Vinod Prasad Raturi & Ors.**

**.... Appellant(s)**

***Versus***

**Union of India & Ors.**

**.... Respondent (s)**

**J U D G M E N T**

**L. NAGESWARA RAO, J.**

**1.** In this Appeal the correctness of the order of the High Court directing the respondents in Writ Petition to conduct a review Departmental Promotion Committee (DPC) for considering allotment of the 4<sup>th</sup> Respondent to earlier batch.

**2.** The State of Uttar Pradesh was reorganized under the Uttar Pradesh Reorganization Act, 2000 (hereinafter referred to as “the Act”). The State of Uttarakhand was created pursuant to the said Act. The Central Government issued guidelines on 30.09.2000 for allocation of erstwhile employees of the State of Uttar Pradesh amongst the two States. A tentative final allocation list was prepared and

circulated to the employees calling for their objections, if they were aggrieved by the proposed final allocation. A State Advisory Committee was constituted by the Central Government. The State Advisory Committee prepared a list of State Civil Service (SCS) Officers on the basis of their seniority for allocation to the State of Uttarakhand. Though, some of the officers joined the services in the State of Uttarakhand, there were others who objected to their allotment. Writ Petitions were filed in the High Court of Judicature at Allahabad questioning the allotment to the State of Uttarakhand. Appellant No.2 was also a party to the Writ Petition. The High Court stayed the orders of allocation during the pendency of the Writ Petitions.

**3.** After considering the objections received from the aggrieved parties, the Central Government issued the final allocation list on 22.04.2003 in accordance with Section 73 of the Act. By a judgment dated 11.12.2003, the High Court dismissed the Writ Petition filed by Appellant No.2 and others challenging the allocation to the State of Uttarakhand. Aggrieved by the judgment of the High Court, Appellant No.2 and other SCS Officers including Respondent No.4 filed Special Leave Petitions (SLPs) in this Court. By an order

dated 07.01.2004, this Court directed the authorities to maintain the *status quo*.

**4.** The State of Uttarakhand communicated to the Government of India by a letter dated 09.01.2011 that 9 vacancies in the Indian Administrative Services (IAS) cadre for the select list for the year 2010 were available. 2 additional vacancies had arisen in the year 2009. In all, there were 11 vacancies in the IAS cadre in 2011. Appellant No.2 withdrew SLP (C) No.24078 of 2003. Thereafter, a final allotment order was passed by the Government of India, pursuant to which the Appellant No.2 joined the State of Uttarakhand on 15.04.2011.

**5.** The Appellants were included in the select list for 2011 and they were promoted to IAS in the vacancies determined in accordance with Regulation 5(1) of the IAS (Appointment by Promotion) Regulations, 1955.

**6.** SLPs filed by Respondent No.4 and others against the judgment of the High Court were dismissed on 12.02.2015. Thereafter, Respondent No.4 filed a Review Petition which was also dismissed by this Court. On 09.06.2015, the Government of India allocated Respondent No.4 and other PCS officers to the State of Uttarakhand. The request made by the Government of Uttar Pradesh for retention of

Respondent No.4 in the State of Uttar Pradesh was rejected by the Central Government by order dated 25.06.2015. The Government of India on 02.09.2015 reiterated its direction of allocation of Respondent No.4 and others to the State of Uttarakhand. Respondent No.4 was relieved on 28.09.2016 from Uttar Pradesh and thereafter, he joined the services of the State of Uttarakhand on 01.10.2016. A seniority list of State Civil Services Officers (Executive Branch) was prepared on 20.02.2017. Respondent No. 4 submitted his objections to the tentative seniority list wherein he requested for the period of service rendered by him in Short Service Commission of the Indian Army and as Deputy Superintendent of Police to be counted for the purpose of calculating the total qualifying services. A final seniority list of SCS Officers (Executive Branch) was issued on 17.03.2017. Respondent No.4 made a representation on 23.11.2017 requesting to induct him in the IAS cadre with seniority being restored as per the seniority in the feeder cadre of PCS. Respondent No.4 was promoted to IAS on 09.01.2018 and allocated the year of allotment as 2010. As his juniors were given the year of allotment from 2005 onwards, Respondent No.4 requested for revision of his seniority in the IAS cadre. He requested for a review DPC to be held in view of the

allocation of his juniors in earlier batches. As there was no response to his representation, Respondent No.4 filed a Writ Petition seeking direction to the Respondents-therein to conduct review DPC and to consider his case for allotment in the All India Services as per his seniority in SCS (Executive Branch). On 20.06.2018, the High Court disposed of the Writ Petition with direction to the Respondents to hold a review DPC within a period of six months.

**7.** We have heard Mr. V. Shekhar, learned Senior Counsel appearing on behalf of the Appellants and Mr. Rupinder Singh Suri, learned Additional Solicitor General appearing on behalf of the Union of India and Mr. V.K. Shukla, learned Senior Advocate for Respondent No. 4. The Appellants contended that the High Court committed an error in directing the review DPC to be conducted without hearing them. The Appellants were not even made parties in the Writ Petition. It is well settled law that persons who are likely to be affected have to be heard before any order likely to affect them is passed. According to the Appellants, Respondent No.4 continued to serve in the State of Uttar Pradesh by virtue of an interim order passed by this Court. Till the year 2016, Respondent No.4 did not make any request for consideration of his case for induction to IAS cadre from the State of

Uttarakhand. Moreover, Respondent No.4 did not protest when the Appellants were being inducted in the IAS cadre. As Respondent No.4 was not in the State of Uttarakhand when the Appellants were being promoted to IAS cadre, he cannot raise any grievance at this stage. It was further submitted on behalf of the Appellants that Respondent No. 4 was considered for promotion to IAS cadre while he was working in the State of Uttar Pradesh. Respondent No.4 contended that the order passed by the High Court which is innocuous in nature should not be interfered with by this Court in exercise of its jurisdiction under Article 136 of the Constitution of India. It was submitted on his behalf that his allotment to the State of Uttarakhand is with effect from 09.11.2000 and he is entitled to get all the benefits including his seniority. Admittedly, juniors to Respondent No.4 were promoted earlier than him. The request made by Respondent No.4 to review his seniority in the SCS Officers is legitimate. It was pointed out on behalf of Respondent No.4 that the Union of India also supports his plea that a review DPC has to be conducted. It was pointed out on behalf of the Union of India that the final allocation of SCS Officers was delayed due to pendency of the SLPs in this Court. After dismissal of the SLPs, final allocation was made. On the

basis of the order passed by the High Court in the Writ Petition filed by Respondent No.4, a decision was taken by the Central Government to hold a review DPC which could not be completed in view of certain objections taken by the State of Uttarakhand.

**8.** The dispute that arises for consideration of this Court is regarding the reconsideration of Respondent No.4 for inclusion in an earlier select list for promotion to IAS in State of Uttarakhand. As stated above, Respondent No.4 was finally allocated to the State of Uttarakhand only in the year 2016 after the dismissal of the SLPs filed by them. Respondent No.4 requested for reviewing his allotment to his inclusion in the select list prepared for earlier years by restoring his seniority in the SCS Officers cadre. This request was made due to the promotion of his juniors in the SCS Officers cadre to IAS by being included in the select list of earlier years.

**9.** Respondent No.4 continued to work in the State of Uttar Pradesh by virtue of interim orders passed initially by the High Court of Judicature at Allahabad and later by this Court. He did not make any attempt to have his case considered for promotion to IAS when his juniors in the SCS Officers cadre were being promoted to IAS from the State of Uttarakhand.

He could have made a request for consideration of his case without prejudice to the ongoing litigation in this Court. Admittedly, he did not lodge any protest or prefer any objection at the time of promotion of the Appellants to IAS. Even after the SLP filed by him was dismissed, an attempt was made for his retention in the State of Uttar Pradesh. As the Union of India did not accept the request made by the State of Uttar Pradesh to retain Respondent No.4 in Uttar Pradesh, having no other alternative he joined the State of Uttarakhand. No fault can be found with Respondent No.4 for pursuing his legal remedies. However, he cannot now seek to disturb settled matters, especially those relating to seniority of others during the period in which he was serving in the State of Uttar Pradesh. In other words, the inclusion of the Appellants in the select list of IAS cannot be reviewed at the behest of Respondent No.4 at this stage. No doubt, the allocation of Respondent No.4 dates back to 09.11.2000. However, Respondent No.4 cannot be permitted to seek review of the promotions made while he was serving the State of Uttar Pradesh. The promotion of the Appellants cannot be disturbed by the 4<sup>th</sup> Respondent who continued to work in Uttar Pradesh of his volition. The High Court committed an error in directing a review DPC to be



conducted without hearing the affected parties and without realising that there was a likelihood of seniority of other officers being disturbed.

**10.** For the aforementioned reasons, the judgement of the High Court is set aside and the Appeal is allowed.

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

.....J.  
[ S. RAVINDRA BHAT ]

**New Delhi,  
March 05, 2021.**