IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Special Apeal No. 224 of 2013

Rakesh Chand & othersAppellants

Vs.

State of Uttarakhand & othersRespondents

Present:

Mr. B.D. Upadhyaya, Senior Advocate assisted by Mr. Paresh Tripathi and Mr. M.C. Pant, Advocate for the appellants.

Mr. A.S. Rawat, Addl. Advocate General assisted by Mr. R.S. Bisht, Brief Holder for the State.

Mr. Neeraj Garg, Advocate for the intervener.

And

Special Apeal No. 29 of 2014

Jawahar Singh Rathor & othersAppellants

Vs.

State of Uttarakhand & othersRespondents

Present:

Mr. B.S. Adhikari, Advocate for the appellants.

Mr. A.S. Rawat, Addl. Advocate General assisted by Mr. R.S. Bisht, Brief Holder for the State.

Coram:

Hon'ble Alok Singh, J.
Hon'ble Servesh Kumar Gupta, J.

Hon'ble Alok Singh, J. (Oral)

Since in both the appeals identical questions of fact and law are involved, therefore, with the consent of learned counsel for the parties, both the appeals are taken up together for hearing and are being disposed of by this common judgment.

Mr. A.S. Rawat, learned Addl. Advocate General assisted by Mr. R.S. Bisht, learned Brief Holder for the State/ respondents has no objection if delay in filing Appeal (SPA No. 29 of 2014) is condoned.

For the reason stated in the application, delay in filing the appeal is condoned.

CLMA No. 14144 of 2013 stands disposed of accordingly.

Vide order dated 06.08.2011 impugned in the writ petitions, question of seniority of the appellants/petitioners was kept in abeyance awaiting decision in pending SLPs.

It is informed by learned counsel for the parties that now SLPs have already been dismissed, therefore, question of seniority can be decided by the State Government in accordance with prevailing Rules and Law. We are also informed by learned counsel for the parties that pursuant to Government Order/Notification dated 19.04.2011 posts of Inspector have already been filled up by way of promotion. Therefore, relief no. 1 claimed in the writ petition has rendered infructuous.

However, learned counsel for the appellants/petitioners submitted that petitioners' claim for promotion in subsequent promotional exercise should not be denied, if they are found eligible, and their candidature should be considered in accordance with law.

Mr. A.S. Rawat, learned Addl. Advocate General appearing for the State, fairly submitted that appropriate decision, in accordance with prevailing Rules and law shall be taken on the question of grant of seniority to the petitioners preferably within six weeks from today.

Mr. Neeraj Garg, learned counsel for the intervener, in view of the statement made by learned counsel for the parties, does not want to press intervention application (CLMA No. 5960 of 2015) with liberty to avail such legal remedy which is available under the law, if need be.

Ordered accordingly.

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In view of the above, present appeals are being

disposed of with the direction that question of seniority of

the petitioners/appellants shall be decided by the State

Government in accordance with prevailing Rules and Law

preferably within six weeks from today. We, however, clarify

that petitioners/appellants, if so advised, may send their

written submissions in the shape of representations to the

D.G.P., Uttarakhand within ten days from today.

We further clarify that while taking decision on

the question of seniority of the petitioners/appellants,

respondent Authorities shall not be prejudiced by any

observations made by learned Single Judge while

dismissing the writ petitions.

Both the appeals and writ petitions stand

disposed of accordingly.

Let copy of this judgment be placed in connected

appeals.

(Servesh Kumar Gupta, J.) (Alok Singh, J.)

Dated: 05.08.2015

SKS /Deepak