

Supreme Court of India

K.S. Upadhaya vs State Of Gujarat on 29 November, 1978

Equivalent citations: (1979) 4 SCC 321, 1979 (11) UJ 159 SC

Author: V K Iyer

Bench: A Koshal, J Singh, V K Iyer

JUDGMENT V.R. Krishna Iyer, J.

1. This appeal which has come up by special leave is of such a small dimension that after a preliminary explanation of the case and a consideration of the relevant celender of events, we thought that a just order would be as we propose to make below.
2. We put the suggestions to counsel on both sides and they agreed that it was fair in the circumstances of the case. But, instead of resting it on consent of parties, we pass the following order because we consider that it comports with law and justice in this case.
3. The appellant was a Police Sub Inspector in the State of Junagadh long years ago where he was later confirmed. However, when he was absorbed into the regular service in the State of Seurashtra, he was admittedly treated as a temporary and officiating Police Sub-Inspector. While so functioning, he was reverted to the post of Head Constable Ist Grade by the Inspector General of Police. The appellant filed a suit after 18 years of his reversion, got a decree declaring that the reversion was void together with a decree for difference in salary and allowances for three years and two months. However, when the matter was carried in appeal to the High Court of Gujarat, it was held, that the suit was barred by limitation and without pronouncing on any of the other findings, especially one by which the reversion was held to be void, the High Court allowed the appeal.
4. The real question before us are as to whether the reversion order was in violation of Article 311 of the Constitution and whether the suit is in time. The fact remains that the appellant was later promoted as a police Sub-Inspector and has, by now, retired from service altogether. The result is that the dispute centers round a monetary claim of small dimension. It is this background which has persuaded us to pass the order which will work out substantial justice between the parties.
5. We direct the respondent/State to pay to the appellant a sum which will be the difference between the salary and allowances drawn by him as head Constable Grade I and the salary and allowances payable to him as Police Sub-Inspector at the starting point of the scale (subjects, of course, to revisions of scales of pay, but not to any increments for service) from the date of his reversion to the date on which he was promoted again as Police Sub-Inspector. The State will also pay interest at 12 per cent per annum on the aforesaid sum from the date of the suit to the date of the payment. This sum will be paid within three months from to-day. The appeal is allowed to the extent indicated above, but there will be no order as to costs.