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**(2003) 05 AHC CK 0211**

**Allahabad High Court**

**Case No:** Civil Miscellaneous Contempt Petition No. 156 of 1995

Mahesh Singh

APPELLANT

Vs

Indra Pal Singh (Dr.) and Others

RESPONDENT

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**Date of Decision:** May 9, 2003

**Citation:** (2003) 3 UPLBEC 2290

**Hon'ble Judges:** B.K. Rathi, J

**Bench:** Single Bench

**Advocate:** A.K. Singh, for the Appellant; V.B. Singh, M.C. Tiwari, U.P. Singh, S.N. Upadhy and A.K. Yadav, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

B.K. Rathi, J.

Request has been made to punish the opposite parties for committing dis-obedience of the order of this Court dated 18.4.1994 passed in Writ Petition No. 33016 of 1994.

2. I have heard Shri A.K. Singh, learned Counsel for the petitioner and Shri V.B. Singh, learned Senior Advocate for the opposite parties.

3. The petitioner and other persons were employees of erstwhile department of agriculture of the State Government and their services were transferred on creation of Chandra Shekhar Azad University of Agriculture and Technology (hereinafter referred to as the University). Several writ petitions were filed regarding service benefits either by grade or by promotion on transfer of the services to the said University. All the writ petitions including the above writ petition filed by the petitioner and Dr. U.N. Pandey were disposed of by a common judgment by order dated 18.10.1994 of which the disobedience is alleged by the petitioner.

4. Various counter and rejoinder affidavits have been exchanged. One counter affidavit has been filed by opposite party No. 4 Shri D.C. Keim, Registrar of the University. He has mentioned in his counter affidavit that the direction of the

Hon"ble Court was that all the petitioners will be on the ground level and shall be considered in accordance with their service conditions when they were working in the State Government before merger of their services with the University and in the matter of merger fitment, due regard to their seniority as well as availability of the post shall be considered and the direction which was issued by the Chancellor to the Vice Chancellor for working out the formula with regard to the placement of incumbents in the matter of fitment. That in compliance of the direction of this Court of the Vice Chancellor on 15.3.1995 constituted a Committee of four persons headed by Dr. K.S. Rath, Head of Department, Agronomy to comply the directions of the writ petition by order Annexure-1 to the counter. The Committee considered the matter and submitted a report, Annexure-2 to the counter affidavit, observing that promotion given to Dr. Dalsingar Singh, Tilak Raj Singh and other persons was illegal. In accordance with the report of the Committee, the University on 3.5.1995 issued order reverting the aforesaid persons to their original posts. However, they filed writ petitions in the High Court and interim orders were obtained that interference in the working of the petitioners on the post on which they were working should not be made. That in compliance of the interim orders of the High Court the reversion order was suspended by order dated 17.4.1999.

5. It is alleged that petitioner Mahesh Singh in a Writ Petition No. 33016 of 1994 had a grievance that Dr. Dal Singar Singh, Tilak Raj Singh and others have wrongly been promoted by overlooking his seniority: That Committee found that the promotion is illegal and therefore, the reversion order was passed. It is further alleged that there was no direction of the Court for promoting Mahesh Singh. The precise dispute and grievance of Mahesh Singh was against the promotion granted to Dal Singar Singh, Tilak Raj Singh and others. That therefore, the petitioner Mahesh Singh cannot be promoted in compliance with the order of this Court: That Mahesh Singh was also informed by letter dated 17.4.1999 that the order of the High Court has been complied with.

6. It is further alleged by him in the affidavit that Mahesh Singh is not entitled to promotion as his claim for promotion was rejected way back on 30.3.1995 as mentioned in Annexure-2 to the counter affidavit. If he was aggrieved by this order he should have got his grievance vindicated by filing a writ petition or approaching the Chancellor u/s 23 by way of reference.

7. Lastly, it is contended that there was no direction of the Court to promote the petitioner Mahesh Singh and therefore, there is no dis-obedience of the order of the Court of Mahesh Singh has not been promoted.

8. In order to appreciate the contention of the petitioner and the allegations made in the counter affidavit by opposite party No. 4 it is necessary to point out the directions given in the judgment by the High Court. The following observations in the writ petition is relevant:

"In the meantime, Messrs Mahesh Singh and Dr. U.N. Pandey also represented to the Chancellor of the University u/s 23 of the Act looking for financial improvements in their services and or promotion, whichever may be the case. It was the contention of Messrs Mahesh Singh and Dr. U.N. Pandey that they had been left out in the examination of the benefits and the reliefs which the others have been seeking, as all of the petitioners, that is, Ram Nath Yadav, Chandra Pal Singh, Prabhu Dayal Mishra, Ram Bilash Singh, Dal Singar Singh. Tilak Raj Singh and Mahesh Singh were in the same class and had come from the same department of the State Government prior to their transfer of their services to the University, in effect, as a merger, upon. certain conditions. The learned Chancellor towards the end of his order has, in effect, expressed that, regard being had to the circumstances that the petitioners in Writ Petition No. 21247 of 1992, are receiving certain service benefits, thus, the Vice Chancellor should also make the same benefits available to the Messrs Mahesh Singh and Dr. U.P. Pandey. This, in effect, amounts to a situation that all the persons similarly situated ought to receive similar benefits, regard being had to their service conditions, seniority of service not excluded. After carefully perusing the orders of the learned Chancellor, this Court is of the view that if equality is to be determined between persons similarly situated, let it be done without any extraneous factor being taken into consideration. The extraneous factor which is common to all the petitions which are pending and the petitioners, it is apparent from the record in the orders of the learned Chancellor, is the interim order of the High Court dated 15th June, 1992 passed in Writ Petition No. 21247 of 1992; Dr. Ram Nath Yadav and Ors. v. The Vice Chancellor, Chandra Shekhar Azad University of Agriculture and Technology, Kanpur and Ors. In these circumstances, the Court considers it appropriate, in the interest of justice and equity both, that all the writ petitions be consigned to the record and the interim order, if operating, be vacated. The balance which remains is that all the petitioners will be on the ground level to be considered strictly in accordance with their service conditions and such conditions which may apply to them when the State department where they had worked merged into the University after giving due regard to their seniority of service and the availability of post."

9. At the risk of the repetition it may be mentioned that several writ petitions were disposed of by this common judgment. In compliance of the order a Committee was constituted and on the basis of the finding of the Committee certain persons who were not entitled for promotion were reverted. It is a different matter that the reversion order cannot be given effect to because the stay order passed by this Court: The result, therefore, is that the University tried to put all the petitioners on the ground level to be considered in accordance with their service conditions. Therefore, the University has complied the order of this Court, though it failed in its attempt because of the stay orders obtained from this Court by many other persons.

10. In the circumstances, there is no ground to proceed against the opposite parties for dis-obedience of the order of this Court.

11. The petition for contempt is accordingly dismissed.