

Uttarakhand High Court

Suneel Singh Bhandari vs State Of Uttarakhand And Others on 9 May, 2019

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

WRIT PETITION (S/B) NO. 178 OF 2019

Suneel Singh Bhandari

....Petitioner.

Vs.

State of Uttarakhand and others.

...Respondents

Sri Tapan Singh, learned counsel for the petitioner.

Sri B.S. Parihari, learned Standing Counsel for the State of Uttarakhand / respondent no
1.

Sri B.D. Kandpal, learned Standing Counsel for the Uttarakhand Public Service
Commission.

Dated: 9th May, 2019

Coram: Hon'ble Ramesh Ranganathan, C.J.
Hon'ble N.S. Dhanik, J.

Ramesh Ranganathan, C.J. (Oral) This writ petition is filed seeking a writ of mandamus to direct respondent nos. 1 & 2 to place Sri Lokendra Singh Rawat, Sri Laxman Singh Rawat, Rajesh Gorkela and Tarun Kumar in their respective categories, under which they were selected in the screen- test; thereafter, to re-fix the last cut-off marks for general candidates; to prepare the select list as per the respective categories; and to give appointment to the petitioner as per his merit in the general category.

2. Facts, to the limited extent necessary, are that the second respondent issued an advertisement on 22.03.2012 for 198 posts of lecturers in various subjects in government polytechnics. The petitioner belongs to general category and applied for the post of Lecturer (Electronics), for which 36 posts were earmarked in the advertisement. Of these 36 posts, five were reserved for the Scheduled Castes, two for the Scheduled Tribes, three for the OBCs, and 26 were left open for the General category. The petitioner applied for the said post and appeared in the screening text held on 20.04.2014, the results which was declared on 18.07.2014.

3. The Uttarakhand Public Service Commission issued advertisement dated 24.07.2014 furnishing details of the cut-off marks (marks of the finally selected candidates) subject-wise / category-wise and sub-category-wise on the basis of the result of the screening test. The date for interview was announced by the second respondent and all those, who were selected in the screening test, were called for interview, including the petitioner, who had secured 89.75 marks. The results of the interview were declared on 12.03.2015, and the petitioner was shown to have obtained 54 marks in the interview. The second respondent also declared the list of selected candidates on the same day, i.e. on 12.03.2015. However, the petitioner's name was not reflected therein.

4. The petitioner contends that, though Sri Lokendra Singh Rawat was selected as an OBC candidate, Sri Laxman Singh Rawat as a Scheduled Tribe candidate, Sri Rajesh Kumar Gorkela as a Scheduled Caste candidate, and Sri Tarun Kumar also as a Scheduled Caste candidate, in the screening test, they were all considered under the General category, and were appointed as Lecturers (Electronics).

5. The petitioner's grievance is that candidates, who were selected in the screening test under the reserved categories, were treated as belonging to the General category after the process of interview was completed; they were appointed in General category posts; consequently, he was deprived of being appointed to the post of Lecturer (Electronics) under the General category; the aforesaid four individuals ought to have been selected and appointed in their respective reserved categories; as a result, respondent nos. 3 & 4, who were selected and appointed under the Scheduled Caste and the Scheduled Tribe categories, were not entitled to be appointed; and the vacancy, caused as a result, in the General category should be filled up with the petitioner, who belongs to the General category.

6. On the other hand, Sri B.D. Kandpal, learned Standing Counsel for the Uttarakhand Public Service Commission, would submit that large number of applications were received from applicants to be considered for selection and appointment to various posts; a screening test was conducted to screen candidates, and those who qualified therein were called for interview in the ratio of 1:15; once candidates are screened, and are called for interview in the aforesaid ratio, the marks obtained by them in the screening test has no relevance thereafter; the entire selection process, thereafter, is based only on the marks secured by them in the interview; candidates, who are found meritorious in the interview, are alone selected and appointed to the posts of Lecturers, including the post of Lecturer (Electronics); since the four individuals, named in the writ petition, secured higher marks than the petitioner in the interview, they were selected and appointed, under the General category, on their own merit; and the posts, available in the reserved category, were filled up with those who belonged to the reserved categories, such as respondent nos. 3 & 4 though they were lower in merit than these four individuals.

7. Sri Tapan Singh, learned counsel for the petitioner, does not dispute that the entire process of selection, to the post of Lecturer, is based solely on the marks secured in the interview. As selection of candidates is based solely on the marks secured by them in the interview, the most meritorious, among them, is appointed under the General category, and those, who are lower in merit, are appointed in posts reserved for the respective reserved categories.

8. The petitioner's claim that candidates from the reserved category, who appeared in the screening test as such, should have been called for interview, selected and appointed only in their respective reserved categories is wholly misconceived, since the screening test is resorted to only to screen candidates and to call them, in the ratio of 1:15, for interview. The entire process of selection, thereafter, depends solely on the marks secured by these screened candidates in the interview. Since certain reserved category candidates secured more marks in the interview, they were selected and appointed under the General category, and those reserved category candidates, who were lower in merit, were appointed in posts earmarked for the respective reserved categories.

9. Even otherwise, the interviews were held on 12.03.2015 more than four years ago, and the petitioner has chosen not to invoke the jurisdiction of this Court earlier. The Supreme Court, in State of M.P. Vs. Nandlal Jaiswal: (1986) 4 SCC 566, observed:

".....Now, it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent of the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. The evolution of this rule of laches or delay is premised upon a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy under the writ jurisdiction because it is likely to cause confusion and public inconvenience and bring in its train new injustices. The rights of third parties may intervene and if the writ jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. When the writ jurisdiction of the High Court is invoked, unexplained delay coupled with the creation of third party rights in the meanwhile is an important factor which always weighs with the High Court in deciding whether or not to exercise such jurisdiction....." (emphasis supplied)

10. In the light of the law declared in the aforesaid judgment, this Court would not come to the aid of the indolent and the lethargic. The present writ petition, filed with inordinate delay and laches of more than four years, fails and is, accordingly, dismissed. However, in the circumstances, without costs.

(N.S. Dhanik, J.)

09.05.2019

Rathour

(Ramesh Ranganathan, C.J.)

09.05.2019