
(2021) 11 UK CK 0066

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1442 Of 2021

Anisha Devi

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 16-11-2021

Acts Referred:

Uttarakhand School Education Act, 2006 — Section 41

Citation : (2021) 11 UK CK 0066

Hon'ble Judges : Sharad Kumar Sharma, J

Bench : Single Bench

Advocate : Niranjana Bhatt, Anjali Bhargava

Final Decision : Dismissed

Judgement

Sharad Kumar Sharma, J

1. The Uttarakhand School Education Act of 2006, was notified to be made enforceable in the State of Uttarakhand w.e.f. 29.12.2006. In order to meet certain academic contingencies, the powers have been provided to the Committee of Management exclusively to make part-time/acting PTA teachers' appointment, exclusively on temporary basis in order to meet the academic contingencies. Section 41 of the Act is extracted hereunder:-

41. Ad hoc Appointment of Part Time Teacher/Acting P.T.A. Teachers by Committee of Management:-

[Such part time teachers/P.T.A. teachers employed from private sources upto dated 18.10.2011 by the Managing Committee may be appointed as ad hoc by the Managing Committee which for the post were created prescribed qualifications for the relevant posts, the result, conduct and behavior are best and the payment of honorarium is admissible from the Treasury.]

2. The learned counsel for the petitioner contends, that petitioner's late husband Ranbeer Singh, who was working in the institution of respondent Nos. 4 & 5,

which is a grant-in-aid institution had met with the sad demise on 04.08.2019, and since having met with the sad demise, during the course of the services, being rendered by him with the respondents, the petitioner had claimed to be considered for appointment on compassionate grounds.

3. When the claim thus raised by the petitioner and the same was not considered, she had approached the writ Court by preferring a writ petition, being Writ Petition (S/S) No. 1909 of 2020, which was disposed of by the coordinate Bench of this Court by the judgment dated 05.01.2021, directing the respondents to consider and decide the representation of the petitioner sympathetically as per the rules. The respondents, in compliance of the judgment dated 05.01.2021 had considered the claim of the petitioner for appointment on compassionate grounds and had rejected the same by the impugned order dated 07.04.2021.

4. After having heard the learned counsel for the parties and going through the impugned order, which has been passed by the respondents rejecting the representation of the petitioner, rejecting her claim for appointment on compassionate grounds, in fact, the reasoning which has been assigned by the Manager of the College in question, who is the appointing authority under the Act, is on the ground that; once, the appointment of the late husband of the petitioner with the respondents institution, was under Section 41 of the Act, as a PTA teacher, who was working on a consolidated honorarium paid to the late husband of the petitioner. Meaning thereby, the appointment of the late husband of the petitioner was not as a regular appointment, against sanctioned cadre strength of the teachers. In that eventuality, the nature of appointment of the late husband of the petitioner will not create any lien or would be treated as to be a regular appointment because the intentions expressed by the provisions to Section 41 as already extracted above are quite explicit.

5. Secondly, the application of the petitioner for appointment on compassionate grounds could not have been considered, because the State Government has issued an order No. 1974/xxiv/2016-10(20)/2016 dated 21.12.2016, wherein it has been provided that any appointments which are made by the Committee of Management under the PTA Scheme, would not be entitled for claiming a regular appointment and it would be treated as to be a contractual arrangement only.

6. Hence, it was observed in the impugned order that in view of the earlier Government Order No. 266 dated 10.07.2009, the appointment of the late husband of the petitioner was under these stipulated conditions provided therein.

7. In that eventuality, since the petitioner was claiming a compassionate appointment, which would not be available to the teachers appointed under Section 41 of the Act under the PTA Scheme, in an aided institutions, the claim of the petitioner had been rightly rejected by the respondents by the impugned order dated 07.04.2021. As such, I am of the view that writ petition lacks merit and the same is accordingly dismissed.