

(2009) 11 AHC CK 0223
In the Allahabad High Court

Bhoopendra Kumar Tripathi and Others	APPELLANT
Vs	
State of Uttar Pradesh and Others	RESPONDENT

Date of Decision : 05-11-2009

Acts Referred:

Citation : (2009) 11 AHC CK 0223

Hon'ble Judges : D.K. Arora, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

D.K. Arora, J.—Heard learned Counsel for the petitioners and learned Standing Counsel.

2. By means of present petition, the petitioners have assailed the advertisement dated 12.11.2007 for appointment on the post of Pharmacists through direct recruitment in accordance with the provisions of U. P. Procedure for Direct Recruitment of Group "C" Posts (Outside the Purview of Public Service Commission) Rules, 2002 as amended by U. P. Procedure for Direct Recruitment of Group "C" Posts (Outside the Purview of Public Service Commission) (First Amendment) Rules, 2003, instead of following the U. P. Pharmacists Services Rules, 1980, which are in vogue so far as the recruitment on the post of Pharmacist in the State of Uttar Pradesh is concerned. The petitioners have also claimed the benefit of the judgment dated 04.05.2009 rendered in Special Appeal No. 377 of 2008 by this Court.

3. Earlier, a number of writ petitions were filed in this Court at Lucknow as well as at Allahabad assailing the process of recruitment as provided in the aforesaid advertisement dated 12.11.2007. All the writ petitions were disposed of by means of a common judgment and order dated 23.5.2008.

4. Against the aforesaid judgment, several Special Appeals were filed by the aggrieved persons. The leading Special Appeal was Special Appeal No. 377 of 2008. By the judgment and order dated 4.5.2009, all the appeals were disposed

of by a single order. The operative portion of the judgment reads as under:

...We, therefore, dispose of these special appeals with the directions that the appellants' cases shall be considered in accordance with the pre-existing practice by considering their appointment on the basis of their merit taking their batches into consideration as was being done earlier but this process would be available only for the appellants and they would be accommodated if they are otherwise found eligible and the remaining vacancies would be filled in by following Rule 15 (2) strictly as directed by the learned Single Judge.

5. After disposal of the aforesaid Special Appeals, the candidates, who have submitted applications pursuant to the advertisement dated 12/11/2007, preferred several of writ petitions at Lucknow and Allahabad. In such writ petitions, the Learned Single Judge disposed of the Writ Petitions and extended the benefit of the judgment and order dated 4.5.2009 passed in Special Appeal No. 377 of 2008 to such petitioners.

6. It may also be pointed out that certain Special Appeals were filed against the order of learned Single Judge and the Division Bench of this Court, while disposing of the Special Appeal Nos. 400 of 2009 and 390 of 2009 on 22.7.2009 and 23.07.2009 also extended the benefit of the judgment and order dated 4.5.2009 passed in Special Appeal No. 377 of 2008.

7. During the course of arguments, learned Standing Counsel was asked as to how they will proceed with the recruitment of the candidates who had submitted applications pursuant to the advertisement dated 12.11.2007 as this Court while disposing of the Special Appeal No. 377 of 2008 has extended the benefit of year-wise seniority as provided under U. P. Pharmacist Rules, 1980 for the purposes of recruitment only to the appellants of special appeals decided on 04.05.2009. The other set would be of the candidates who have not approached the Court and as such, whether the State Government will adopt different mode of recruitment. No satisfactory explanation has been given by the Standing Counsel and he also failed to obtain instructions in respect of the queries indicated here-in-above but it has been informed that a SLP is under process wherein the order passed in Special Appeal No. 377 of 2008 and other connected appeals will be challenged. Learned Standing Counsel also informs that in pursuant to the advertisement only applications have been received but no steps beyond that has been taken as regards the recruitment.

8. In view of the above, there cannot be two source of recruitment process insofar as the persons, who have approached this Hon'ble Court are to be recruited as per provisions of U.P. Pharmacists Service Rules, 1980, whereas those who have not approached had to undergo recruitment in accordance with U.P. Procedure for Direct Recruitment of Group "C" Posts (Outside the Purview of Public Service Commission) Rules, 2002 as amended by U.P. Procedure for Direct Recruitment of Group "C" Posts (Outside the Purview of Public Service Commission) (First Amendment) Rules, 2003. Thus, I am of the opinion that the

benefit of the order dated 4.5.2009 passed in Special Appeal No. 377 of 2008 be also extended to the present petitioners also.

9. Under the circumstances, it is provided that the benefit of the judgment and order dated 4.5.2009 passed in Special No. 377 of 2008 shall also be extended to the present petitioners.

10. Considering the fact that the advertisement was issued on 12.11.2007 and considerable long time has elapsed, the opposite parties shall make earnest endeavour to complete the recruitment process, as directed by the Division Bench in the Special Appeal.

11. The writ petition is disposed of finally.