
(2015) 03 UK CK 0080

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1779 of 2014

Bhuwan Chandra Pandey

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 12-03-2015

Acts Referred:

Citation : (2015) 03 UK CK 0080

Hon'ble Judges : Sudhanshu Dhulia, J.

Bench : Single Bench

Advocate : D.K. Joshi, Advocate, for the Appellant; R.P. Sharma, Learned Brief Holder, for the Respondent

Final Decision : Allowed

Judgement

Sudhanshu Dhulia, J.—The petitioner applied for the post of Assistant Teacher (Primary School) in a Government School. The essential qualifications for appointment on the post of Assistant Teacher (Primary School) are that one should be a graduate with B.T.C or B.Ed. and should have qualified an examination known as "Teachers Eligibility Test" (from hereinafter referred to as "TET"). The petitioner has all the qualifications and consequently he applied for the post of Assistant Teacher (Primary School). He has applied as a dependent of a "freedom fighter". His candidature has been rejected as the petitioner has been informed that his candidature has been rejected as he has crossed the upper age limit of 40 years. Admittedly a candidate must not have reached the age of 40 years as on 01.07.2013. It is again admitted that when the petitioner applied for the post in question, his age was 44 years 09 months and 20 days, in other words, he had not completed 45 years of age, though he had crossed 40 years of age. He then relies upon a Government Order dated 21.05.2005 (Annexure No. 5 to the writ petition), by which, inter alia, for the dependants of freedom fighters, age relaxation of five years will be given in government employment.

2. The respondents have not denied the veracity of such Government Order. The petitioner has then taken this Court to the condition of the advertisement,

namely, condition No. 2, which if we translate into English reads as under:--

"For the appointment, the minimum age of a candidate as on 1st July, 2013 must be 21 years and should not have crossed the maximum 40 years. Reserved category candidates shall be given relaxation in age as per the rules but in any case on the prescribed date a candidate whose age is more than 50 years will not be entitled for appointment."

3. The Government Order, which is applicable in this case gives a relaxation of five years in the case of dependants of freedom fighters, such benefit is liable to be given to the petitioner, which is apparently denied.

4. In the counter affidavit the State has only reiterated the objections that there was no provision under which the relaxation could have been given to the petitioner. This objection of the State authorities is incorrect. The Government Order, referred above, clearly gives such a relaxation to the petitioner.

5. In view thereof, the writ petition is allowed. A mandamus is issued to the State authorities/respondents to consider the candidature of the petitioner, in the light of what has been held above and if on other counts he is eligible do the needful.

6. Let the needful be done within a period of six weeks from the date of production of certified copy of this order. No order as to costs.