
(2011) 05 UK CK 0081

In the Uttarakhand High Court

Case No : Writ Petition No. 384 of 2011 (S/S)

Deepak Gola

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 05-05-2011

Acts Referred:

Citation : (2011) 05 UK CK 0081

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J.—Heard Mr. Vishwa Deepak Bisen, Advocate for the Petitioner and Mr. N.P. Sah, Standing Counsel for the State of Uttarakhand.

2. By means of present writ petition, the Petitioner has prayed for quashing of the order dated 26.4.2011 passed by Respondent No. 3 (Annexure-7 to the writ petition).

3. The Petitioner was an applicant for the post of constable in Civil Police, Fire Brigade and P.A.C. in the State of Uttarakhand. These appointments were district cadre appointments as it is evident from the advertisement dated 22.11.2010 annexed as Annexure-8 to the writ petition. After being successful in the physical test, written test and medical examination, the Petitioner was selected as recruit constable/P.A.C. on 4.4.2011 by the Senior Superintendent of Police, Nainital, but vide order dated 26.4.2011, the selection/appointment of the Petitioner on the said post has been rejected. Hence this writ petition.

4. The Petitioner contends that by the impugned order dated 26.4.2011, the appointment of the Petitioner has been cancelled and therefore, the Petitioner alleges that there is violation of principles of natural justice and fair play.

5. There cannot be a violation of principles of natural justice and fair play inasmuch as there is always a condition in such appointments that the

appointment is conditioned upon the scrutiny of the Character Certificates and other Certificates and in case anything contrary is found, then the appointment shall be rejected. Since it was subsequently discovered that the Petitioner has applied for more than one centre instead of only one centre, the appointment of the Petitioner was cancelled vide order-dated 26.4.2011. The principles of natural justice and fair play cannot be applied in every case. The principles of natural justice and fair play is not a "Bull in a China Shop", but in essence it is good conscience in governance. This is what has been said by Justice V. R. Krishna Iyer in the seminal judgment of Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others, :

For fairness itself is a flexible, pragmatic and relative concept not a rigid, ritualistic or sophisticated abstraction. It is not a bull in a china shop, nor a bee in one's bonnet. Its essence is good conscience in a given situation; nothing more - but nothing less.

6. Since in the present case, it cannot be denied that the Petitioner had violated the necessary condition of the advertisement and had applied for more than one centres and what is important is that he had given an undertaking that he has not applied for any other centre but one to which he had applied, knowing that he is giving a false undertaking. In the present case, the Petitioner had applied in response to advertisement dated 22.11.2010 (Annexure 8 to the writ petition). Condition clearly stipulated that a candidate shall apply only for one centre meaning thereby one district centre and in case a candidate applies for more than two centres, his application will stand rejected. Apart from that the advertisement also prescribes a certificate or an undertaking, which had to be given by the applicant, inter alia, stating that he has not applied for any other centre except one centre to which he applied. In view of the said advertisement, the Petitioner has clearly violated the condition and if any interference is made by this Court it will amount to changing the mandatory condition laid down in the advertisement itself, which is not permissible.

7. Even though there may be such cases where due to inadvertence and for any other reasons the State might have selected or granted appointment to a candidate who had also violated such condition as the Petitioner has done, even then this Court cannot grant the same relief to the Petitioner inasmuch as two wrongs do not make a right as has clearly been stated in a decision of Supreme Court namely Directorate of Film Festivals and Others Vs. Gaurav Ashwin Jain and Others, .

The writ petition is, therefore, dismissed. No order as to costs.