

(2015) 05 UK CK 0050
In the Uttarakhand High Court
Case No : Writ Petition No. 536 (SS) of 2007

Dinesh Singh Rawat and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 19-05-2015

Acts Referred:

Citation : (2015) 05 UK CK 0050

Hon'ble Judges : Alok Singh, J.

Bench : Single Bench

Advocate : K.N. Joshi, Advocate, for the Appellant; Anil Kumar Joshi, Addl. CSC, for the Respondent

Final Decision : Dismissed

Judgement

Alok Singh, J.—Present petition is filed challenging the order dated 17.04.2007 whereby representation of the petitioners claiming seniority from the date of their initial appointment i.e. with effect from 18.03.1996 and 09.05.1997 was rejected. Undisputedly, vide Government Order dated 22.11.1995 (Annexure CA 2 to the counter affidavit), State of U.P., keeping in mind shortage of Assistant Teachers in Primary Schools, has made provision that untrained candidates may be appointed as Assistant Teachers in Primary Schools purely on contractual basis and if they acquire qualification of BTC within 5 years from the date of their contractual appointment, they should be given regular appointment against vacant sanctioned posts; advertisements were issued pursuant to the Government Order dated 22.11.1995 and few petitioners were appointed as untrained teachers vide orders dated 18.03.1996 while other petitioners were appointed as untrained teacher vide order dated 09.05.1997 on consolidated salary of Rs. 850 per month purely on contract basis; petitioners could acquire BTC qualification in the year 2002 consequently, petitioners were permitted to work as regularly appointed Assistant Teachers on the posts where they were working earlier on contract basis; thereafter, petitioners moved representation claiming their seniority from the date of their initial appointment i.e. with effect

from 18.03.1996 and 09.05.1997, as the case may be; representation so moved by the petitioners came to be dismissed vide impugned order dated 17.04.2007; feeling aggrieved, petitioners have approached this Court by way of filing present writ petition.

2. There is no dispute that minimum qualification required for appointment on the post of Assistant Teacher (Primary School), as per the U.P. Basic Education (Teachers) Service Rules, 1981, is Intermediate with BTC and there is no dispute that petitioners were not having qualification of BTC when they applied for the post of Assistant Teacher (Primary School).

3. This is also not in dispute that considering the shortage of Assistant Teachers in Primary Schools in State of U.P., Government was pleased to issue Government Order dated 22.11.1995 making provision to give appointment to untrained candidates on consolidated salary, purely on contract basis with the stipulation that they can be given regular appointment against sanctioned posts, if they are able to acquire BTC qualification within five years from the date of their initial contractual appointment. This is also not disputed that petitioner could acquire BTC qualification in the year 2002 and their services were treated to be regularized with effect from 2002.

4. Rule 22 of the U.P. Basic Education (Teachers) Services Rules, 1981 reads as under:

"22. Seniority - The seniority of a teacher in a cadre shall be determined by the date of his appointment in a substantive vacancy:

Provided that, if two or more persons are appointed on the same their seniority shall be determined according to the order in which their names appear in the list referred to in Rule 17 or 17-A or 18, as the case may be.

(2) The seniority of a teacher, who has been transferred from one Local Area to another in accordance with the provisions of Rule 21 shall be placed at the bottom of the list of teachers of the corresponding class or category pertaining to the Local Area to which he has been transferred, as on the date of orders for transfer are passed. Such a person shall not be entitled to any compensation."

5. A bare perusal of Rule 22 of the U.P. Basic Education (Teachers) Services Rules, 1981 would reveal that seniority of teacher shall be determined by the date of his appointment in a substantive vacancy.

6. In view of the above undisputed fact that initially petitioners were not given regular appointment against substantive vacancies but they were appointed on contractual basis pursuant to Government Order dated 22.11.1995 and petitioners could acquire the minimum qualification of BTC in the year 2002, consequently, they were given regular appointment in the year 2002, therefore, their seniority was rightly considered with effect from 2002 - the date when they acquired the minimum qualification of BTC. In view of the above, writ petition fails and is hereby dismissed.