

(2011) 11 UK CK 0167

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 244 of 2005

Dr. Rajender Singh Rawat

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 02-11-2011

Acts Referred:

Citation : (2011) 11 UK CK 0167

Hon'ble Judges : Barin Ghosh, C.J;Umesh Chandra Dhyani, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Barin Ghosh, C.J.—Delay Condonation Application No. 4379 of 2011:

We have considered the averments made in the Application for condonation of delay in filing the Application for restoration and being satisfied with the reasons furnished therein, we allow the same and condone the delay in filing the Application for restoration.

Restoration Application No. 291 of 2011:

Being satisfied with the reasons furnished for non prosecution of the writ petition when the same was dismissed for default, we allow the Application for restoration.

Writ Petition (S/B) No. 244 of 2005:

Heard the learned counsel for the parties.

2. At the relevant time, petitioner was working as Scientist (E) of Wadia Institute of Himalayan Geology. In terms of the Rules prescribed by Office Memorandum dated 1st November, 2000, petitioner became eligible for being considered to be uplifted to Scientist (F) under the scheme for Assessment Promotion Scheme of such Scientists propounded by and under the said Office Memorandum. He was, accordingly, called for interview four times. Despite that, he was not promoted.

Hence, the present writ petition.

3. The principal contention in the writ petition is that, despite petitioner having better merit, others having lesser merit have been promoted, while promotion to the petitioner or upliftment of the petitioner to Scientist (F) has been denied four times. It is the contention of the petitioner that merit was the sole consideration for adjudging the person fit to be uplifted and that could only be determined on the basis of published work in the reputed journals during the residency period. It is the contention of the petitioner that such published work was only to be considered while interviews of the petitioner were taken. It is the contention of the petitioner that, while at the relevant time the petitioner had 18 published works in reputed journals, he was not promoted; but people having much lesser number of published works were promoted.

4. The fact remains that the petitioner did not appreciate appropriately the scope of the said Scheme. In terms of the Scheme, a person is not promoted. His status is only uplifted. In other words, as has been explained in the latest affidavit filed by the Institution, there is no sanctioned post of Scientist (F). The sanctioned posts are only of Scientist (B). A Scientist (B), by dint of his efforts, can reach to the post of Scientist (G) and, in course thereof, he better his status in the Institution. Once a Scientist (G) retires, a post of Scientist (G) does not become vacant, instead the original post held by the said Scientist, namely the post of Scientist (B), becomes vacant and a new entrant enters in the Institution as a Scientist (B) and grows in the Institution by dint of his efforts on being assessed under the said Scheme to the post of Scientist (G). In terms of the Scheme, there are two stages of assessing the suitability of a Scientist (E) to be uplifted to Scientist (F). The first stage is screening on the basis of A.C.R. The Scheme provides what marks should be given for what remark obtained in the A.C.R. The Scheme provides what percentage of mark, on a 10 point scale, a Scientist (E) is required to obtain in A.C.R. for the first attempt and for the subsequent three attempts. The fact remains that the petitioner obtained such marks in his A.C.R. grading, inasmuch as, he was called for interview four times. The second stage of ascertaining whether a Scientist (E) is suitable for upgradation to Scientist (F) is through interview. The screened Scientist (E) is required to go through interview. Again, the interview board is required to give marks on a 10 point scale and the Scheme specifically provides that the eligibility for promotion will be based on the same norms as depicted in the table, i.e. on the basis of percentage of marks to be obtained as depicted in the Scheme in the first attempt and in the subsequent three attempts. In the last affidavit, the Institution has brought on record the constitution of the four Interview Boards, who interviewed the petitioner and what marks they gave to the petitioner. In the first attempt, petitioner did not get the minimum percentage for eligibility. He did not get, in the second, third and the fourth interview, the minimum percentage for eligibility. In the circumstances, there is no question of holding that the petitioner was unjustly denied upgradation from Scientist (E) to Scientist (F) under the said Scheme.

5. The writ petition, accordingly, is liable to be dismissed.

6. However, in the latest affidavit filed by the Institution, it has been brought on record that the previous practice of giving four chances only has now been done away with and, accordingly, if the petitioner once again desires to be considered for ascertaining whether he is suitable for upgradation to Scientist (F), petitioner is permitted to evince an intention to that effect in writing to the Institute. In the event, such an intention is evinced, the Institute is directed to consider the case of the petitioner afresh proceeding on the basis that the minimum percentage for eligibility, both in case of A.C.R. as well as interview, shall be 70 per cent only. This disposes of the writ petition.