
(2022) 05 UK CK 0042

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 167 Of 2022

Dr. Tejvir Singh Tomar And Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 11-05-2022

Acts Referred:

Citation : (2022) 05 UK CK 0042

Hon'ble Judges : S.K. Mishra, J;R.C. Khulbe, J

Bench : Division Bench

Advocate : Abhijay Negi, Pradeep Joshi, Vikas Pande

Final Decision : Allowed

Judgement

S.K. Mishra, J

1. In this Writ Petition, the petitioners have prayed for the following reliefs :-

"a) Issue a writ, order or directions in the nature of certiorari to quash the letter dated 19.01.2022 as authored by Director Higher Education, by which he has mandated that the promotion avenue be considered only from the UGC Regulations of 2018 and not from UGC Regulations of 2010.

b) Issue a writ, order or direction in the nature of mandamus commanding the respondent no. 2 to act on the judgment and order dated 14.06.2018.

c) Pass any suitable order or direction of any nature which this Hon'ble Court may deem fit and proper in the present circumstance of the case.

d) Award the cost of the Writ Petition."

2. It is submitted by Mr. Abhijay Negi, the learned counsel for the petitioner, that the central issue involved in this case is already covered by the judgment passed by this Court in the case of Dr. Deepak Kumar Tiwari v. State of Uttarakhand and others (Writ Petition (S/B) No. 622 of 2021) dated 27.04.2022.

3. In the aforesaid judgment, after taking into consideration various provisions, the Court has come to the following conclusion :-

"9. The submissions made by the learned Additional Chief Standing Counsel for the State of Uttarakhand are unacceptable in view of the fact that the UGC Regulations of the year 2018 were placed before the Evaluation Committee and it recommended the same in the year 2019, which was adopted by the State of Uttarakhand in the year 2019. In the interregnum, there was no advertisement for Career Advancement Scheme for any of the Assistant Professor or Associate Professor. So, in effect, the petitioner was denied any opportunity of availing this three years' window period for no fault of his. It is not the case of the State of Uttarakhand that, in the meantime, there was no vacancy in the post of Professors.

10. That being the position, we are of the opinion that the interest of justice would be sub-served if the petitioner is considered for Career Advancement Scheme as per his option either under the 2010 or the 2018 UGC Regulations.

11. In that view of the matter, we find enough merit in this Writ Petition. The Writ Petition is, hereby, allowed. The respondent no. 2, namely Director, Higher Education, is directed to permit the petitioner to move his application as per the eligibility criteria of the 2010 or the 2018 UGC Regulations, as per his option."

4. It is not disputed by Mr. Pradeep Joshi, the learned Additional Chief Standing Counsel for the State of Uttarakhand, that the question involved in this case is covered by the judgment passed by this Court as referred to above.

5. On the last occasion, the learned Additional Chief Standing Counsel for the State was directed to take instructions regarding the stage of interview. The learned Additional Chief Standing Counsel submits that the process is on, and the petitioners may be allowed to exercise their option in the light of the judgment passed by this Court, as mentioned above.

6. In that view of the matter, the Writ Petition is, hereby, allowed. The respondent no. 2, namely Director, Higher Education, is directed to permit the petitioners to move their applications as per the eligibility criteria of the 2010 or the 2018 UGC Regulations, as per their option.

7. In sequel thereto, all pending applications stand disposed of.

8. Urgent copy of this order be supplied to the learned counsel for the parties, as per Rules.