
(1996) 08 AHC CK 0024
In the Allahabad High Court
Case No : Writ Petition No. 815 (SS) of 1995

Faujdar

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 20-08-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 1 UPLBEC 48

Hon'ble Judges : G.P. Mathur, J

Bench : Single Bench

Advocate : R.S. Pande, for the Appellant; C. S. C., for the Respondent

Final Decision : Dismissed

Judgement

G.P. Mathur, J.—This writ petition has been filed praying that a writ of mandamus be issued commanding the respondent to issue appointment order in favour of the petitioner for the post of Forester in pursuance of the selection held in March, 1994.

2. The petitioner claims that respondent No. 3 invited applications from Employment Exchange for making appointment on the post of Van Daroga which is a Class III post. The selection was to be made on the basis of a written test and interview. It is averred that Virendra Kumar (Petitioner in writ petition No. 682-SS of 1996) was placed at serial No. 1 and Faujdar, (petitioner in writ petition No. 815-SS of 1995) was placed at serial No. 3 in the merit list which was prepared after the examination. Petitioners contend that those who were placed lower than them in the merit list, have been given appointment orders which violates Article 14 of the Constitution. A counter affidavit has been filed in writ petition No. 582-SS of 1995 by Sub-Divisional Forest Officer, Barabanki where in the marks secured by every candidate has been mentioned. This shows that The petitioner Faujdar had secured 119 marks while Virendra Kumar had secured 121 marks and they were placed at the bottom of the merit list. All the remaining 8 candidates had secured higher marks than the petitioners. Therefore

the contention of the petitioners that they had secured first and third rank in the examination is absolutely false. It is further averred in the counter affidavit that two petitioners were placed in the waiting list and the remaining 8 candidates were given appointment orders. Thus the contention that the petitioners have been discriminated in the matter of appointment has no substance.

3. Learned counsel has next submitted that although ten vacancies had been advertised but the respondents had made appointment of 8 posts only and therefore a direction be issued for giving appointment to the petitioners as well.

4. In my opinion, no writ of mandamus can be issued to the respondents to give appointment to the petitioners merely on the ground that the number of posts advertised have not been filled in. It is for the respondents to decide how many appointment they will make and a writ of mandamus cannot be issued commanding the appointing authority to give an appointment order to a person whose name appears in the merit list.

5. See *The State of Haryana Vs. Subash Chander Marwaha and Others*, *Jatinder Kumar and Others Vs. State of Punjab and Others*, and *Shankarsan Dash Vs. Union of India*, .

6. The writ petition lacks merit and is hereby dismissed at the admission stage.