

(2010) 08 UK CK 0080
In the Uttarakhand High Court

Ganesh Dutt Bhatt

APPELLANT

Vs

State of Uttarakhand and Another

RESPONDENT

Date of Decision : 25-08-2010

Acts Referred:

Citation : (2010) 08 UK CK 0080

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Judgement

B.S. Verma, J.—Heard learned Counsel for the parties and perused the record.

2. By means of this writ petition, the petitioner has sought a writ in the nature of certiorari quashing the promotion order dated 27-11-2009 of the respondent No. 2 passed by respondent No. 1. The petitioner has also sought a writ of mandamus directing the respondent No. 1 to provide the promotion to the petitioner on class III post according to seniority cum merit.

3. The petitioner claims to have been appointed as peon in April 2001 on daily wages in the office of the Advocate General, Uttarakhand High Court, Nainital and subsequently, he was regularized in July 2002 on the post of peon and since then, the petitioner is continuously working as such.

4. The grievance of the petitioner is that the respondent No. 2, a reserved candidate, who is junior to the petitioner in the seniority list, has wrongly been promoted to Class III cadre against a single vacancy and that a single vacancy could not be treated as reserved for the Scheduled Caste candidate.

5. The learned Brief Holder appearing for the respondent No. 1 has submitted that the petitioner is a State government servant. He has an efficacious alternate remedy to approach the Public Service Tribunal Uttarakhand at Nainital for redressal of his grievance.

6. A Division Bench of this Court in the case of Bhuvan Chandra Pandey and Ors. v. State of Uttaranchal and Ors. 2006 (2) U.D. 439, wherein it has been held in

paragraph No. 9 as under:

9. It is well settled principle of law that the High Court cannot lose sight of the fact that the matters of alternative remedy has nothing to do with the jurisdiction of the cases, normally the High Court should not interfere if there is an adequate efficacious alternative remedy available. If anybody approaches the High Court without availing the alternate remedy the High Court would ensure that he had made out a strong case or that there exist good ground to invoke the extraordinary jurisdiction. The rule of alternative remedy is essentially a rule of policy, convenience and discretion. When the petitioner files the petition before the High Court he should also state the reasons as to why he thought that the alternative remedy would not be efficacious. The High Court should not bypass the said Tribunal where the government servant is aggrieved by an order of the government pertaining to the service matter within the jurisdiction of the Tribunal.

7. In view of the above, the petitioner is relegated to the Public Service Tribunal Uttarakhand, Nainital for redressal of his grievance in the service matter.

8. The Registry of this Court is directed to send the record of the case to the Tribunal concerned.

9. With the above observation, the writ petition is disposed of finally.