

(2011) 02 UK CK 0089

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1701 of 2005

Gunanand Petwal

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 15-02-2011

Acts Referred:

Citation : (2011) 02 UK CK 0089

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J.—Heard Sri Bhagwat Mehra, Advocate present for the Petitioner and Sri Dinesh Gahtori, Standing Counsel present for the State.

2. The Petitioner is a permanent employee on a class IV post in Public Works Department, State of Uttarakhand. According to the Petitioner, he is a handicapped person and, therefore, on the basis of the fact that he is handicapped claims promotion to class III post, as he contends that certain number of posts have to be reserved for handicapped candidates, even in cases of promotions.

3. The State has denied this contention of the Petitioner in its counter affidavit. Learned Counsel representing the State Sri Dinesh Gahtori has submitted before this Court the Act known as "Uttar Pradesh Public Services (Reservation for Physically Handicapped, Dependents of Freedom-Fighters and Ex-servicemen) Act, 1993 (from hereinafter referred to as the "Act"), which is presently applicable in the State of Uttarakhand, in its Section 3 reservation to handicapped candidate is provided only at the stage of direct recruitments. Relevant portion of Section 3, which is relevant for our purposes reads as follows:

3. Reservation of vacancies in favour of physically handicapped etc. -

(1) There shall be reserved at the stage of direct recruitment -

(i) in public services and posts two per cent of vacancies for dependents of freedom fighters:

(i-a) in public services and posts other than group "A" posts or group "B" posts, on and from May 21, 1999 two per cent of vacancies, and on from the date on which the Uttar Pradesh Public Services (Reservation for Physically Handicapped, Dependents of Freedom Fighters and Ex-Servicemen) (Amendment) Act, 1999 is published in the Gazette, five per cent of vacancies, for Ex-Servicemen.]

(iii) in such public services and posts as the State Government may, by notification, identify one per cent of vacancies each for the persons suffering from, -

(a) blindness or low vision;

(b) hearing impairment; and

(c) locomotor disability or cerebral palsy.

(2)....

(3)....

(4)....

(5)....

4. There is no provision under the Act, where posts are also reserved for handicapped candidates in the matters of promotions as well. Hence the claim of the Petitioner for promotion to class III post merely on the basis of fact that he is a handicapped candidate, is not a valid claim.

5. Having said this it must be stated that it is an admitted position that certain posts of class III are reserved for promotion from amongst class IV employees. As and when, such occasion arises, the Petitioner is at liberty to apply for the same and his claim for promotion to the post of class III will be duly considered along with other general category candidates.

6. Writ petition though has no merit and is hereby dismissed. No order as to costs.

7. Interim order, if any, stands vacated.