
(2012) 02 UK CK 0003

In the Uttarakhand High Court

Case No : Writ Petition (SB) No. 46 of 2012

Kalpana Kumari Singh

APPELLANT

Vs

U.K. Public Service Commission and others

RESPONDENT

Date of Decision : 15-02-2012

Acts Referred:

Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994 — Section 3(6)

Citation : (2012) 02 UK CK 0003

Hon'ble Judges : V.K. Bist, J

Bench : Single Bench

Judgement

Hon"ble V.K. Bist, J.

IA No. 844 of 2012 (Urgency Application)

1. Heard learned counsel for the parties.
2. For the reasons stated, the urgency application is allowed.

Writ Petition No. 46 of 2012 (S/B)

3. Heard learned counsel for the parties.
 4. Admit the writ petition.
 5. List this petition in the week commencing 12th March, 2012 along with Writ Petition (SB) No. 25 of 2012.
 6. By that time, counter affidavit, if any, may be filed by the respondents.
- CLMA No. 802 of 2012 (Interim Relief Application)
7. Heard.

8. It is asserted in the petition that the petitioner is a member of Scheduled Caste Community. He possesses all eligibility for appointment as Civil Judge

(Junior Division). Pursuant to advertisement dated 14th May, 2011, issued by the Uttarakhand Public Service Commission, he applied for the post of Civil Judge (Junior Division) under the category of Scheduled Caste and result of preliminary examination was declared on 11.1.2012 by the Commission, however, the petitioner was not declared successful in the preliminary examination. On 17.1.2011, the Uttarakhand Public Service Commission/respondent No. 1 declared cut off marks for different categories, as also the marks of each candidate. The petitioner came to know that the cut off marks fixed for Unreserved Woman was 91.25 marks. Assertion of the petitioner is that petitioner has secured 9.75 more marks than the cut off marks fixed for Uttarakhand Female candidate.

9. Submission of the learned counsel for the petitioner is that since the petitioner has secured more marks than the last successful woman candidate under general category, as such the petitioner should have been declared successful in the preliminary examination. He further submitted that it is provided in Section 3 (6) of Uttar Pradesh Public Service (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994, as has been adopted in State of Uttarakhand, a person belonging to any of the categories mentioned in Sub-section (1) of the Act, gets selected on the basis of merit in an open competition, with general candidates, he/she shall not be adjusted against the vacancies reserved for such category under sub-section (1). He submitted that candidate of Scheduled Caste (Woman) category, having higher marks than the candidate of General Category (woman), is entitled for selection in any examination. To substantiate his arguments, learned counsel for the petitioner relied on a judgment of Hon"ble Apex Court, rendered in the case of Rajesh Kumar Daria Vs. Rajasthan Public Service Commission and Others, and the case of P.V. Indiresan Vs. Union of India (UOI) and Others, .

10. Learned counsel appearing on behalf of the Commission submitted that there is only one post for the Scheduled Caste category and no post is available for the Scheduled Caste Woman candidate. He submitted that since the candidature of the petitioner was under Scheduled Caste category, therefore, the petitioner was not considered under General (Woman) category. In support of his arguments, learned counsel appearing for the Commission referred the judgment of this court rendered in V.K. Burman's case, reported in 2009 (I) U.D. 11.

11. Having considered the submission advanced by the learned counsel for the parties and upon examining the material available on record, I direct the Commission/respondent No. 1 to accept the forms of the petitioners, for the Civil Judge (Junior Division), (Main) examination - 2011 provisional0ly. The candidature of the petitioner will be subject to the decision of the writ petition.

12. Interim relief application stands disposed of.