
(2021) 04 UK CK 0045

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 523 Of 2021

Km. Prachi (Female) & Others

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 16-04-2021

Acts Referred:

Uttarakhand Recruitment To Services (Age Limit) Rules, 2004 — Rule 5

Citation : (2021) 04 UK CK 0045

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Alok Mahra, C.S. Rawat, Anjali Bhargawa, Anil Dabral, Rakesh Thapliyal, Mukesh Kaparwan

Final Decision : Disposed Of

Judgement

Ravindra Maithani, J

1. By means of the instant petition, the petitioners seek the following reliefs :-

â??(i) Issue a writ order or direction in the nature of certiorari calling for the record and quashing the Clause-2 of the notification issued on 02- 02-

2021 (Annexure No. 5 to this writ petition), which fixes 01-01-2020 as the cutoff date for determining the minimum and maximum age of candidates,

as it is against Rule-5 of the Uttarakhand Recruitment to Services (Age Limit) Rules, 2004 as amended from time to time.

(ii) Issue a writ order or direction in the nature of mandamus declaring the candidature of the petitioners suitable for being considered for

selection/recruitment on the post of Staff Nurse pursuant to notification/ advertisement dated 02-02-2021 and 09-02-2021.

(iii) Issue any other writ order or direction, which this Honâ??ble Court may deem fit and proper in the circumstances of the case.

(iv) Award the cost of the writ petition in favour of the petitioner.â??

2. Heard learned counsel for the parties through video conferencing and perused the record.

3. It is the case of the petitioners that they are qualified for appointment to the post of Staff Nurse, but in the advertisement issued by the respondent

no. 5, the cut off date for determining the age has been wrongly fixed; the date for determining the age is contrary to the Rules, which govern the field.

4. The matter was taken up yesterday, when the Court observed as hereunder:-

â??The limited issue, which is raised in this writ petition is that the cut off date for determining age has been wrongly published in the advertisement

because according to the Uttarakhand Recruitment of Service (Age Limit) Rules, 2004 (for short, â??the Rulesâ?), the age has to be computed on

the first day of July of each calendar year, in which, vacancies for direct recruitment are advertised (as per Rule 5 of the Rules). The case of the

petitioners is that in the advertisement in question, 01.01.2021 is fixed as the date for computation of age, which is not correct.

Heard.

Learned counsel for the petitioners would submit that in the instant case, as per Rule 5 of the Rules, the date for computation of age should be

01.07.2021, because advertisement was published on 03.02.2021.

Learned senior counsel appearing for the respondent no.5 would refer to a Government Order, which speaks that for the vacancies advertised in 2020,

the date for computation would be 01.01.2020. But, the question in the instant case is that the vacancies were advertised on 03.02.2021 and it was so

done while cancelling the earlier advertisement, which was published in the year 2020; In essence the process for recruitment is on, on the basis of

advertisement dated 03.02.2021.

It is submitted that the examination is to be conducted on 18.04.2021.

The Court wanted to know from the learned Chief Standing Counsel, as well as the learned senior counsel appearing for the respondent no.5, as to

how this lapse has been done both by the State Government as well as by the respondent no.5.

Learned Chief Standing Counsel seeks time to give response to the issue.

This is undoubtedly an urgent matter.

List this case on 16.04.2021 at 11:00 a.m. The Court expects that the concerned responsible officers in the State Government would sit together and

discuss the issue. The matter may then be discussed with the respondent no.5 and a solution may be placed tomorrow, when the matter is taken up.â??

5. Today, the learned Chief Standing Counsel would give the following statement:

â??(i) The State Government has decided to postpone the examination, which was scheduled to be held on 18.04.2021.

(ii) The State Government has decided to re-fix the cut off date for determining the age.

(iii) The State Government/respondent no. 5, Uttarakhand Board of Technical Education will publish an amended advertisement and will give fifteen

daysâ?? time to the candidates to submit their applications, in accordance with the amended advertisement.

(iv) The candidates, who have already applied will not be required to apply again. Only such candidates will be required to apply, who had not earlier applied.â??

6. The Court takes on record the statement of the learned Chief Standing Counsel.

7. Learned Chief Standing Counsel also suggested a date, which the State Government intend to re-fix as a cut off date, but it has been disputed by

the learned counsel for the petitioners on the ground that the suggested cut off date would further be in contravention of the Uttarakhand Recruitment

of Service (Age Limit) Rules, 2004 (Rule 5). But, the learned Chief Standing Counsel would submit that the fresh cut off date will be in accordance

with the Uttaranchal Subordinate Nursing (Non-Gazetted) Service Rules, 2015.

8. Learned Senior Counsel for respondent no. 5 would also submit that the suggestive date that the State Government intend to re-fix for determining

the age will also be in accordance with the Uttaranchal Promotion by Selection in Consultation with Public Service Commission (Procedure) Rules,

2003.

9. As of now, this Court has no material as to which date the State Government intend to fix for determining the age. Therefore, the Court leaves this

issue open. As and when such issue arises, parties are definitely free to agitate it before the State Government or before the respondent no. 5.

10. In view of the statement given by the learned Chief Standing Counsel, nothing survives in this writ petition and it stands disposed of accordingly.