

(2010) 05 UK CK 0017
In the Uttarakhand High Court

Km. Shalini Dadar, Radha Mittal and Km. Meenakshi	APPELLANT
Vs	
Uttarakhand Public Service Commission	RESPONDENT

Date of Decision : 05-05-2010

Acts Referred:

Citation : (2010) 05 UK CK 0017

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Tarun Agarwala, J.—This group of petitions raises a common controversy and is being decided together. For facility, the facts of writ petition No. 244 of 2010 (S/S) is taken into consideration.

2. The Uttarakhand Pubic Service Commission issued an advertisement inviting applications for the post of Review Officer/Assistant Review Officer. The petitioner applied for the said post. The petitioner filled the OMR form (known as Optical Marks Reader) in order to sit for the preliminary examination to be followed by the written examination in the event the petitioner was found to be successful in the preliminary examination. In this OMR form, the petitioner disclosed in column No. 6 that she belongs to the female gender. In column No. 8, the petitioner showed herself as a candidate belonging to the domicile of Uttaranchal. Column No. 12 and the Sub-columns refers to the reservation category. In the first column, the petitioner showed herself as belonging to a Scheduled Castes category. The 2nd sub column of column No. 12 indicated the reservation in the horizontal category, namely, as to whether the applicant was a dependant of freedom fighter or was a skilled player or was a working government servant of Uttaranchal or was a Uttaranchal female. The 3rd sub column of column No. 12 also related to horizontal reservation, namely, as to whether the candidate belongs to a physically handicap category. In column No. 12, the petitioner showed herself as belonging to a Scheduled Castes category and did not claim the horizontal reservation nor marked the column relating to Uttaranchal female.

3. The petitioner appeared in the preliminary examination. The results were declared on 11th March, 2010 which was published in the local dailies on 12th March, 2010. The petitioner's name did not figure in the aforesaid result. The petitioner made an inquiry under the Right to Information Act and found that she had scored 87 marks and that she could not qualify for the written examination as the cut off marks in the Scheduled Castes category was 112 marks. The petitioner also came to know that the cut off marks in the category of the Scheduled Castes for Uttaranchal female was 82 marks.

4. The petitioner accordingly filed the present writ petition claiming that since she is a domicile of Uttaranchal and is a female and that she is entitled to be given the horizontal reservation as an Uttaranchal female. The petitioner contended that since the cut off marks for Uttaranchal female in the Scheduled Castes category is 82 marks and the petitioner has obtained 87 marks, consequently, the petitioner is entitled to be treated as qualified to appear in the written examination.

5. Similar is the position in other connected writ petitions and the petitioners contend that they are entitled to be given the horizontal reservation as an Uttaranchal female and that they have more marks than the cut off marks in that category.

6. Heard Shri Narendra Bali, Shri Bhagwat Mehra, holding the brief of Shri Kamlesh Tiwari and Shri Sandeep Tiwari, the learned Counsel for the petitioners and Shri B.D. Kandpal, the learned Counsel for the respondents.

7. Admittedly, the petitioners did not claim the horizontal reservation as an Uttaranchal female while filling column No. 12 of the OMR form. The petitioners contend that filling the Sub-category of Uttaranchal female in column No. 12 was a repetition, in much as, in column No. 6 the petitioners had shown themselves to be a female and in column No. 8 the petitioner had shown themselves as a domicile of Uttarakhand. The learned counsel, consequently, submitted that the aforesaid facts are easily discernable in the OMR form and, consequently, even though, the petitioners had not filled up the reservation category for Uttaranchal female in column No. 12, nonetheless, the petitioners were entitled to be treated as an Uttaranchal female and should be given the reservation of Uttaranchal female under column No. 12.

8. On the other hand, the learned Counsel for the Uttarakhand Public Services Commission contended that item No. 9(2) and (3) of the advertisement clearly indicated that a candidate was required to fill up the reservation column and its Sub-column in order to avail the benefit of reservation of a particular category. The learned Counsel submitted that since the petitioner did not opt for the reservation category of an Uttaranchal female in column No. 12, the benefit of Uttaranchal female could not be given to them.

9. Having heard the learned Counsel for the parties at some length, this Court is of the opinion that the petitioners are not entitled for any relief. Column No. 6

and column No. 8 has no relation with column No. 12. Column No. 6 only relates to the gender of the applicant. Column No. 8 is confined as to whether the candidate was a domicile of Uttaranchal or not. Even though, the petitioner had filled column No. 6 and 8 indicating that the petitioner is a female and is a domicile of Uttaranchal, it does not mean that the benefit of an Uttaranchal female would necessarily be passed on to her. Each and every candidate is required to claim or not to claim the benefit of reservation. If the candidate claims a benefit of reservation under column No. 12, the said benefit would be granted failing which the petitioner would not be given the benefit of reservation.

10. In the present case, the petitioners did not fill up the column relating to Uttaranchal female in column No. 12 and, consequently, the horizontal benefit of Uttaranchal female was not granted to them. The petitioners themselves chose not to seek the benefit as an Uttarakhand female. The respondents, consequently, did not grant them the said benefit. To that extent, there is no error on the part of the respondents in not granting the benefit of Uttarakhand female to the petitioners.

11. In view of the aforesaid, this Court finds that the petitioners are not entitled to be given the horizontal benefit of a female candidate belonging to Uttarakhand since the petitioners did not fill up the category for availing the benefit of Uttarakhand female in column No. 12.

12. In view of the aforesaid, the writ petition fails and is dismissed. In the circumstances there shall be no order as to cost. Let a copy of the order be placed in the connected writ petitions.