
(2018) 08 UK CK 0076

In the Uttarakhand High Court

Case No : Writ Petition (PIL) No.86 of 2013, Special Appeal No.66 of 2017, Special Appeal No.98 of 2017, (4) Writ Petition (PIL) No.95 of 2018 & Writ Petition (PIL) No.86 of 2013, Special Appeal No.66 of 2017, Writ Petition (PIL) No.95 of 2018, Special Appeal No.98 of 2017

Kuldeep Singh Rawat & others	Vs	APPELLANT
State of Uttarakhand & others		RESPONDENT

Date of Decision : 14-08-2018

Acts Referred:

Constitution of India, 1950 — Article 309

Citation : (2018) 08 UK CK 0076

Hon'ble Judges : Rajiv Sharma, J;Alok Singh, J

Bench : Division Bench

Advocate : S.N. Babulkar, Paresh Tripathi, Alok Mehra, Rakesh Thapliyal, Vinay Kumar, Shobhit Saharia, B.D. Kandpal, Devesh Upreti, Lalit Samant

Final Decision : Disposed Of

Judgement

RAJIV SHARMA, ACJ. (ORAL)

1. Since the common questions of law and facts are involved, the present matters have been taken up together and are being decided by this common judgment.

2. In all these matters, including the public interest litigations, a very important question has been raised. According to the averments made in the

public interest petitions, the regular teachers are not being appointed in the schools and colleges strictly as per the Recruitment and Promotion Rules

framed under Article 309 of the Constitution of India. As an ad hoc measure, the State Government has adopted a policy to appoint the teachers

called "guest faculty". The teachers were recruited as "guest faculty" on the basis of the merit drawn at block level. Since the matter was

urgent, we have called upon learned Advocate General to supply the list of vacant posts of Lecturers and Assistant Teachers in Colleges, Senior

Secondary and Secondary Schools.

3. Learned Advocate General has placed before us the details in a tabular form. According to the information placed on record, the State Government

has sent requisition for 970 posts to the Public Service Commission.

4. Learned Counsel appearing on behalf of the Uttarakhand Public Service Commission was directed to seek instructions how soon the posts can be

fully filled up. A detailed calendar has been supplied to us along with letter dated 08.8.2018 which is permitted to be taken on record. According to

this, the advertisement is to published on 4.9.2018 and the process shall be completed by April, 2019.

Direction: - Accordingly, there shall be a direction to the Uttarakhand Public Service Commission to abide by the calendar given to us and to make all

out efforts to complete the process of filling up 917 posts by April, 2019. It is also made clear that immediately after the completion of selection

process, the Uttarakhand Public Service Commission shall send its recommendations to the State Government within 15 days. Thereafter, the

appointment letters shall be issued within a period of one week.

5. It is also stated that the process for filling up 507 posts is under process before the Government.

Direction: - Accordingly, there shall be a direction to the State Government to complete all the codal formalities and send the requisition for filling up

507 posts within four weeks. The process shall be commenced and completed by the Uttarakhand Public Service Commission within a period of 9

months. The recommendation shall be sent by the Uttarakhand Public Service Commission to the State Government. The State Government shall

make appointment forthwith.

6. It is also brought to the notice of the Court that for holding the Departmental Promotion Committee (DPC), 1949 posts have been sent to the

Uttarakhand Public Service Commission. The conditional ad hoc promotions have been made by the Department. For remaining 1136 posts, the

Confidential Reports of the Teachers have been sought from the concerned Schools for promotion.

Direction: - Accordingly, there shall be a direction to the Uttarakhand Public

Service Commission to hold the D.P.C. and to make recommendation within 120 days from today. The State Government is also directed to supply the up-to-date seniority list/annual confidential reports as well as the eligibility of the candidates. However, the liberty is reserved to the State Government to approach this Court in case of any difficulty.

7. Now, the Court will advert to the vacant posts of Assistant Teachers (L.T.) Grade in Senior Secondary Schools. The State Government has sent the requisition for filling up 1214 posts to the Uttarkahand Subordinate Service Selection Commission. The Subordinate Service Commission has conducted the written examination, the result whereof has been declared and the counseling is going on.

Direction: - Accordingly, there shall be a direction to the Uttarkahand Subordinate Service Selection Commission to complete the process within a period of three weeks. Thereafter, the recommendation shall be sent to the State Government forthwith. The State Government shall make the appointments within a period of three weeks.

8. The State Government has also fairly stated that for filling up 906 posts, the promotional exercise is under process. This process be completed within a period of four months from today positively.

9. Now, as far as remaining 10% posts i.e. 296 posts are concerned, the counseling has already been held by the Uttarakhand Board of Technical Education.

Direction: - Accordingly, there shall be a direction to the Uttarakhand Board of Technical Education to complete the process and send the recommendation to the State Government within a period of three weeks from today.

10. The State Government is also directed to complete the process for filling up the remaining 673 posts within a period of four weeks.

11. Since the posts of Lecturers are to be filled up by the constitutional body i.e. Uttarakhand Public Service Commission, we hope and trust that the directions, issued hereinabove, will be followed in letter and spirit by it.

12. In order to obviate the difficulty in filling up the posts by the Uttarakhand Public Service Commission, we permit this body to seek the preference of the candidates subject-wise after declaration of the preliminary examination.

13. To safeguard the students' community, some interim measure is required to be made in the meantime. We have been told that in SPA

Nos.66/2017 and 98/2017, the Guest Teachers have been allowed to continue only 31.3.2018. We are in August, 2018. Thus, it is evident that the

guest faculty was not discharging its duties for almost 4-5 months. The students have a right to be taught by the duly

qualified teachers as per the norms laid down by the National Council for Teachers' Education Act as well as under the Recruitment and

Promotion Rules framed under Article 309 of the Constitution of India.

14. We are told at the bar that initially, the process for filling up the guest faculty was at the grass-root level i.e. at the block level. The appointment to

the important posts like Lecturers, Assistant Lecturers (L.T.) must be on merit. The zone of consideration should be wide to appoint the most

meritorious teachers who fulfill the essential educational qualification.

15. No recruitment can be made on the basis of place of residence as per Articles 15 and 16 of the Constitution of India. In making public

employments, Articles 14 and 16 of the Constitution of India are also to be followed in letter and spirit.

16. Accordingly, we permit the State Government to make fresh recruitment of teachers to be filled up as a 'guest faculty' at district level. The

process be commenced within one month and the same be completed within eight weeks on urgent basis. It is made clear that the candidates

appointed as guest faculty shall not claim any right. They shall cease to work immediately after the appointment of first batch on the basis of

recommendation of the Uttarakhand Public Service Commission.

17. The applications shall be called on-line and the testimonials etc. shall be checked on the date of interview.

18. The candidates who have already been selected as 'guest faculty', they should be given preferential marks on the basis of their experience.

19. All the public interest litigation petitions as well as all pending applications stand disposed of in the aforesaid terms.