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(2024) 08 UK CK 0080

In the Uttarakhand High Court

Case No : Writ Petition Service Single No. 1646 Of 2018, Writ Petition (S/S) No. 500 Of 2019

Lalita Bohra & Others — APPELLANT

Vs

State Of Uttarakhand Through Secretary, Technical Education And Others — RESPONDENT

Date of Decision : 30-08-2024

Acts Referred:

Citation : (2024) 08 UK CK 0080

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Vinay Kumar, Narain Dutt

Final Decision : Allowed

Judgement

Pankaj Purohit, J

1. Heard.

2. Since common questions of law and facts are involved, hence these petitions have been taken up together and decided by this common judgment. For the sake of brevity, facts of WPSS No.1646 of 2018 alone are being considered.

3. By means of this petition, petitioner has sought indulgence of this Court for a direction to the respondents to regularize the services of petitioner on the post of Computer Programmer/Operator in Govt. Polytechnics, Department of Technical Education, Uttarakhand in terms of Daily Wages, Work-Charge, Fixed Pay Scale, Part Time and Ad-hoc Employees Regularization Rules, 2013 (for short "Regularization Rules, 2013") in a time-bound manner.

4. Facts of the case, shorn off unnecessary details, are that petitioner was engaged as Computer Programmer/Operator in Govt. Women's Polytechnic Kotabagh, District Nainital in the 2004 pursuant to an advertisement issued by the said institution, and she joined as such. The petitioner, under the Rules

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known as 'Uttarakhand Technical Education Department (Non-Gazetted Technical) Service Rules 2008' possesses the educational qualification for being appointed on the post of Computer Programmer/Operator. The said qualification is quoted hereinbelow: -

"Bachelor and recognized Diploma in Computer Application of minimum one year from Govt. of India/State Govt.

Or

Recognized Diploma in any discipline of Engg. and Recognized Diploma in Computer Application of minimum one year from Govt. of India/State Govt."

5. The petitioner admittedly fulfills the aforesaid qualification and there is no impediment in the regularization of petitioner on the said post insofar as the educational qualification is concerned. The petitioner further contends in the writ petition that she has been appointed against a sanctioned and vacant post of Computer Programmer/Operator. Her name was short-listed for placement before the Regularization Committee on 24.09.2016. However, her regularization could not take place for the reason that Regularization Rules of 2013 were stayed by a Division Bench of this Court in WPSS No.616 of 2018 (Narendra Singh v. State). It is submitted by learned Counsel for petitioner that the only impediment which was in the way of petitioner's regularization was stay of Regularization Rules of 2013, but by the lapse of time, the said writ petition came to be decided by a Division Bench of this Court vide judgment dated 22.02.2024 and the stay order was accordingly vacated. Now, according to learned counsel, there is no difficulty with the respondent-State to regularize the petitioner on the post of Computer Programmer /Operator.

6. Per contra, learned State Counsel submits that petitioner was engaged on contractual basis for a limited period, and there was no assurance ever been given to the petitioner for her regularization.

7. Having considered the submissions made by learned Counsel of parties and going through the material available on record, it transpires that petitioner has been working regularly, without any break, with the respondent-Department since the year 2004 and she has spent around 20 years as a contractual employee of the respondent Department. Further, the petitioner's engagement as Computer Programmer/Operator is against a sanctioned and vacant post and she was engaged after following a due process of law by issuing the advertisement.

8. Since petitioner has been working for last 20 years uninterruptedly with the respondent –Department, it can be culled out that the nature of work with the respondent Department, which the petitioner is performing, is perennial in nature, and the services of petitioner are certainly required by the Department. Moreover, not regularizing the petitioner who has worked for more than 20 years with the Department is nothing but a kind harassment of petitioner's youth and education.

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9. Furthermore, from the pleadings of parties, it transpires that petitioner could not be regularized despite her being short-listed for regularization in the year 2016 only for the reason that there was a stay of regularization Rules of 2013, however, that impediment too no longer exists. The sum and substance of aforesaid discussion is that there should be no hesitation now to regularize the services of petitioner.

10. It needs to be mentioned that same is the condition with the petitioner in connected WPSS No.500 of 2019.

11. As a result, both these petitions are allowed. A writ of mandamus is issued to the respondent-Department to consider the claim of petitioners of both these writ petitions for regularization in terms of Regularization Rules of 2013.

12. Costs easy.

13. All pending application(s) stand disposed of.

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