

(2021) 03 UK CK 0167

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 393 Of 2021

Medhani Prasad

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 24-03-2021

Acts Referred:

Citation : (2021) 03 UK CK 0167

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Niranjana Bhatt, P.S. Bisht, Indu Sharma

Final Decision : Disposed Of

Judgement

Ravindra Maithani, J

1. Instant petition has been preferred by the petitioner claiming that he is eligible for consideration of "Shailesh Matiyani State Teacher Award, 2018" (for short "the award"), and related reliefs.

2. It is the case of the petitioner that he was appointed as a teacher in the year 1990. In the year 2018, he applied for the award. He was not granted the award and it was told that since he is on the extension of service, he is not eligible for consideration of the award. The petitioner filed a Writ Petition (S/S) No. 235 of 2021 (for short "the writ petition"). The writ petition was disposed of with the direction that the petitioner shall make a fresh representation to the authorities. The petitioner made a representation, which was rejected on 22.02.2021. This rejection order is impugned in this writ petition.

3. Heard learned counsel for the parties and perused the record.

4. A few facts are undisputed. Petitioner has already retired from service on 30.09.2020. He applied for the award of 2018 as per the directions of the competent authority in the year 2019. After retirement, the petitioner was given extension till the current educational session which ends on 30.03.2021. The

candidature of the petitioner for the award has not been considered on the ground that since he is on the extension of service, therefore, he is not eligible for it.

5. Learned counsel for the petitioner would submit that the concerned Government Order does not make the petitioner ineligible for the award merely on the ground that he is on the extension of service. It is submitted that a Rohitashav Kunwar was given the award during the extension of his service.

6. On behalf of the State, it is submitted that in view of the Government Order No. 437/XXIV-4/2009 dated 20.10.2009 of the Education Department (for short "the Government Order dated 20.10.2009"), the petitioner is not eligible for the award because, according to clause 4 of it, reappointed teachers are not eligible for it.

7. The Court wanted to know from the learned State Counsel as to what is the eligibility date. When the award is given or when the applications are sought. To it, he would submit that he will have to examine the matter for ascertaining this fact.

8. Arguments have already been heard. The Court proceeds to adjudicate on this issue as well.

9. The Government Order dated 20.10.2009, which launches the Scheme for the award is Annexure-6 to the petition. The standard for selecting for the award is given at serial no. 3 to it. It gives various criteria. The criteria no. 1 is that in the previous calendar year, a teacher must have completed 15 years of service. Similarly, the criteria no. 2 says that till the preceding year, the Principals must have completed 20 years of service.

10. The words "preceding year" are very significant. Preceding year to what. It simply means the preceding year to the year when the application for the award is made. It may be noted here that the award is not given on the basis of assessment made by the Government, instead applications are invited to consider a person for the award. The Court will advert to this issue at a later date.

11. Annexure No-1 is the communication made by the Director Education seeking applications for the award of 2018. It gives a calendar as to up till which date the applications are to be submitted; when they would physically be verified; when will reports be submitted; when the recommendation will be made from the District; when the Regional Selection Committee would sit and when will they finally decide it at the Regional Level. This date is 20.08.2019. For State Level Committee meeting the date is also given in this communication, which is 25.08.2020, and 28.08.2019 is the date when the proposals were to be sent by the Directorate to the Government. This communication of the Director Education was further communicated at Block Level by the Chief Education Officer, Uttarkashi by his communication dated 28.05.2019, which is Annexure-2. It is important that in the communication of the Director Education as well as in the

communication of the Chief Education Officer, Uttarkashi, at serial no. 3 it is noted that the applications of only eligible candidates be forwarded.

12. It means that the eligibility is to be ascertained from the date when the application is to be given. Rules, Regulations and Government Orders are to be read in such a manner that each of its provision is given meaningful interpretation. What if applications are invited today prescribing maximum age limit for any appointment, and appointments are made after six years. Can after six years it be said that a candidate has become overage? Perhaps it cannot be. There should be a cut-off date, when a person would be eligible either for the award as in the instant case, or for appointment on any post in case of fresh recruitment or promotion, etc.

13. There is no dispute to the fact that on the date when the petitioner applied for the award, he was eligible. The Government Order dated 20.10.2009 also does not categorically stipulate the date of eligibility, but it speaks of the "preceding year". The communication of the Director Education dated 27.05.2019 and the Chief Education Officer, Uttarkashi dated 28.05.2019 also state that applications of ineligible candidates may not be forwarded. The interpretation of these communications in the light of the Government Order dated 20.10.2009 makes it abundantly clear that the eligibility is to be determined on the date when the applications are presented. Therefore, without advertng to any other issue, this Court is of the view that the candidature for the consideration of the award to the petitioner may not be rejected on the ground that the day when the Committee for selection, considered the matter, the petitioner was not eligible. This Court also restrains to direct the State Government to confer the award on the petitioner, but in this petition what the Court considers, in the interest of justice, is that while quashing the order dated 22.02.2021, respondent no. 1 should be directed to consider the candidature of the petitioner on the date when he made the application, not on the date when Selection Committee considered it.

14. The impugned order dated 22.02.2021 is quashed. The respondent no.1 is directed to consider the case of the petitioner for the award, keeping in view his eligibility on the date, when he submitted application for that purpose.

15. The writ petition is disposed of accordingly.