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**(2022) 10 UK CK 0021**

**In the Uttarakhand High Court**

**Case No : Writ Petition (S/B) No. 536 Of 2019**

Mohd. Imran Khan

APPELLANT

Vs

Uttarakhand Public Service Commission And Another

RESPONDENT

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**Date of Decision : 11-10-2022**

**Acts Referred:**

**Citation : (2022) 10 UK CK 0021**

**Hon'ble Judges : Vipin Sanghi, CJ;Manoj Kumar Tiwari, J**

**Bench : Division Bench**

**Advocate : T.A. Khan, Sadaf, Ashish Joshi, J.C. Pande**

**Final Decision : Dismissed**

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## **Judgement**

Vipin Sanghi, CJ

1. We have heard Mr. T.A. Khan, learned Senior Counsel for the petitioner.

2. The petitioner has preferred present writ petition to seek the following reliefs:

"I. To issue a writ, order or direction in the nature of certiorari quashing the impugned decision taken by the Uttarakhand Public Service Commission to repatriate the 4 posts of Forest Range Officer to the government, communicated vide letter no. 453/01/E-1/2006-07 dated 03.01.2019 (Annexure no. 1 to this writ petition).

II. To issue a writ, order or direction in the nature of mandamus directing the respondents to declare the result of 4 remaining posts in pursuance to the Forest Range Officer Examination-2012, which was conducted in pursuance to the advertisement no. E-2/A-1/2011-12, dated 03.03.2012.

III. To issue a writ, order or direction in the nature of mandamus directing the respondents to give appointment to the petitioner on the post of Forest Range Officer in accordance with the merit list/advertisement issued by Uttarakhand Public Service Commission bearing no.23/31/Gopan/Van Chhetra

Adhikari/2012-13, dated 10.07.2014 (Annexure No. 3 to the writ petition).

IV. To issue a writ, order or direction in the nature of mandamus directing the respondent to give the appointment to the post of Forest Range Officer and give same seniority in accordance with the merit list of Forest Range Officer as per the result declared on 10.07.2014, with all consequential benefits which have been provided to other selected candidates who were earlier given the appointment as per the result dated 10.07.2014 (Annexure No. 3 to the writ petition)."

3. The relevant facts of the case are that an advertisement was issued by the respondents for recruitment against 60 posts of Forest Range Officer on 03.03.2012. Of these, 22 posts were reserved and 38 posts were unreserved. It appears the State reserved 04 posts for Aandolankaris, who participated in the Aandolan for creation of the State of Uttarakhand. That reservation was challenged before this Court in a Public Interest Litigation, being WPPIL No. 67 of 2011. The respondents issued the list of 56 selected candidates for their appointment. In respect of 04 posts, since there was a challenge raised in the aforesaid writ petition, the appointments were not made.

4. The case of the petitioner is that he was within the merit list of 60 candidates, and he could not be appointed as the reservation, which was under challenge, had been granted. The petitioner also filed his own writ petition challenging the reservation, being WPSB No. 396 of 2014, which was also tagged along with the aforesaid PIL. The writ petitions were allowed, and the reservation granted for the Aandolankaris was quashed. In this process, about 06 years were consumed.

5. The respondent-Uttarakhand Public Service Commission surrendered the four vacancies, and did not recommend appointment of the general category candidates on the basis of merit. Consequently, the petitioner could not secure his appointment.

6. The case of the petitioner is that, in case the Uttarakhand Public Service Commission had made the recommendations for appointment, the petitioner would have secured appointment against one of the 04 posts of Forest Range Officers.

7. Aggrieved by the aforesaid action of the Uttarakhand Public Service Commission, the petitioner has preferred the present writ petition.

8. We had asked learned Senior Counsel for the petitioner on the previous date of hearing to satisfy us, as to what vested right the participants in a public recruitment process have, to seek a mandamus that they should be appointed against the vacancies for which the advertisement was issued. No satisfactory answer has been given by Mr. Khan to this query.

9. In fact, the settled position in law is, that a person, whose name appears in the select list has no vested right that he/she should be given appointment, and it is up to the employer to take a decision whether, or not, to fill up the existing

vacancies. It is not the petitioner's case that the respondents have resorted to discrimination by giving appointments to a less meritorious candidate. As noticed hereinabove, the recruitment process was initiated way back in March, 2012. The decision of the Uttarakhand Public Service Commission not to fill up the four posts after lapse of six years-when the Public Interest Litigation was decided on 07.03.2018, cannot be said to be arbitrary or unreasonable. In the meantime, score of other persons would have become eligible to offer their candidature for the post in question, and their interest, as well as the interest of administration to recruit fresh blood justifies the decision taken by the respondents not to proceed with appointment against the four posts in question.

10. We may also refer to the judgment of the Supreme Court in Shankarsan Dash V. Union of India, (1991) 3 SCC 47, where the Supreme Court has held that there is no vested right in a selected candidate to demand or claim that he/she should be appointed against the advertised post.

11. For the aforesaid reasons, we find no force in the writ petition.

12. Accordingly, the writ petition is dismissed.