

(2018) 05 UK CK 0028

In the Uttarakhand High Court

Case No : Writ Petition No. 1074 (SS) of 2017

MOHD. JAFFAR AND ANOTHER

APPELLANT

Vs

STATE OF UTTARAKHAND AND OTHERS

RESPONDENT

Date of Decision : 07-05-2018

Acts Referred:

Citation : (2018) 05 UK CK 0028

Hon'ble Judges : ALOK SINGH, J

Bench : Single Bench

Advocate : S.S. Yadav, Gajendra Tripathi

Final Decision : Dismissed

Judgement

1. Mr. S.S. Yadav, Advocate for the petitioner and Mr. Gajendra Tripathi, Brief Holder for the State, are ready to argue the matter finally. Therefore,

with the consent of learned counsel for the parties, matter is taken up for final hearing and disposed of by this judgment.Â Â Â

2. An advertisement was published 16.06.2002 inviting applications for filling up the post of Assistant Teacher (Urdu). Petitioners applied for the said

post. Petitioners have obtained certificate of Moallim-e-Urdu in 1997. Candidature of the candidates having Moallim-e-Urdu was rejected by the

respondents. Feeling aggrieved, some of the candidates had filed WPSB No. 794 of 2002. In WPSB No. 794 of 2002, this Court held that the

certificate of Maollim-e-Urdu obtained prior to 11.08.1997 is equivalent to BTC (Urdu). Thereafter, all the petitioners of WPSB No. 794 of 2002

approached the respondents and they were given appointment in the year 2006. Again in the year 2006, six persons approached this Court seeking

appointment pursuant to the advertisement dated 16.06.2002 on the post

Assistant Teacher (Urdu) by way of filing different writ petitions. In pursuance to the orders passed by this Court, these six persons approached the respondents and respondents had given appointment to these six persons on 21.05.2010. In the year 2010, petitioners had filed WPSS No. 955 of 2010 before this Court and this Court directed the petitioners to make representation before Director, who in turn, would decide the representation with logical and speaking reasons. In compliance of the Court's order, Director rejected the representation of the petitioners vide order dated 20.07.2015. Feeling aggrieved, petitioners approached this Court, after lapse of almost two years, challenging the order dated 20.07.2015.

3. Claim of the petitioners was rejected mainly on the two grounds viz. posts are not vacant and petitioners do not possess the qualification of TET.

4. Learned counsel for the petitioners submits that petitioners sought some information regarding the vacancy of Assistant Teacher (Urdu) from the respondent department and the Public Information Officer on 30.05.2010 and 25.08.2014 informed the petitioners that nine posts and six posts of Assistant Teacher (Urdu) were vacant on the respective dates.

5. Per contra, Mr. Gajendra Tripathi, Brief Holder submits that mere fact that posts are vacant does not give any right to the petitioners for their appointment. It may be possible that posts are vacant but petitioners may not be suitable for those posts, which were shown as vacant because as per latest Government Orders, first appointment of the Assistant Teacher can be made only in Y category schools and now, we have to see to whether these vacancies are fallen in Y category or not and whether these posts are available for which category of candidate open, SC, ST or OBC. He further submits that after the advertisement 16.06.2002, so many advertisements for filling up the vacancies of Assistant Teacher had been published and selection process thereof had already been completed.

6. This Court in none of the cases mentioned above had issued direction for appointment of candidates having Moallim-eUrdu on the post of Assistant Teacher (Urdu) pursuant to the advertisement dated 16.06.2002.

7. Petitioners are seeking appointment against the advertisement dated 16.06.2002. Number of posts vacant has to be seen as per vacancy fell in that calendar year as mentioned in the advertisement. Petitioners applied pursuant to

the advertisement dated 16.06.2002 and now, petitioners cannot be adjusted against the vacancies falling in the present calendar year. Selection process pursuant to the advertisement dated 16.06.2002 and advertisements published thereafter had already been completed. Now, after a lapse of sixteen years, merely on the fact that petitioners were having educational qualification for the post, this Court cannot issue direction to the respondents to appoint petitioners on the post of Assistant Teacher (Urdu), their merit or cut off marks would also be seen. It is not the case of the petitioners that persons lower in merit had been appointed.Â Even, petitioners have not made parties those candidates, who had been selected pursuant to advertisement dated 16.06.2002.Â

8. In view of the above discussion, I do not find any merit in the petition. Writ petition fails and is hereby dismissed. No order as to costs.Â