
(2020) 06 UK CK 0020

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 2491, 2551 Of 2017, 463, 621, 622 Of 2018

Namlesh Singh And Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 15-06-2020

Acts Referred:

Uttarakhand Health & Family Welfare Department Health Worker & Health Supervisor
(Male And Female) Service Rules, 2016 — Rule 8(2)(iii)

Citation : (2020) 06 UK CK 0020

Hon'ble Judges : Ramesh Ranganathan, CJ; R.C. Khulbe, J

Bench : Division Bench

Advocate : Prabhat Bohara, C.S. Rawat

Final Decision : Disposed Of

Judgement

Ramesh Ranganathan, CJ

1. Heard Sri Prabhat Bohara, learned counsel for the petitioners and Sri C.S. Rawat, learned Additional Chief Standing Counsel for the State

Government.

2. In all the Writ Petitions, the relief sought for is more or less similar. Therefore, all these Writ Petitions are disposed of by this common judgment.

3. The petitioners have challenged the validity of Rule 8(2)(iii) of the Uttarakhand Health & Family Welfare Department Health Worker & Health

Supervisor (Male and Female) Service Rules, 2016 as illegal and unconstitutional; and for a writ of mandamus to direct respondent nos. 1 and 2 to

consider the petitioners' claim for appointment in the forthcoming recruitment as Health Worker (Female) in Government General Hospitals and

Primary Health Centres by giving them weightage of the service rendered by them as contractual Health Workers (Female).

4. The recruitment process, referred to in these writ petitions, is the recruitment exercise sought to be undertaken in terms of an advertisement issued

on 07.03.2018. In the light of the interim order passed by this Court earlier, the said selection process has not been undertaken for the past two years.

5. Sri C.S. Rawat, learned Additional Chief Standing Counsel appearing for the State Government, would submit that, as there are several errors in the

advertisement, the State Government intends withdrawing it and, after correcting the errors therein, a fresh advertisement would be issued inviting

applications afresh for the post of ANM Health Workers.

6. While fairly stating that the writ petitions, to the extent the selection process undertaken pursuant to the advertisement issued earlier was subjected

to challenge, may not survive if the advertisement itself is cancelled, Sri Prabhat Bohara, learned counsel for the petitioner, would however request

this Court to adjudicate upon the petitioners' challenge to the constitutional validity of the Rules.

7. This Court would, ordinarily, not adjudicate academic issues. The constitutional validity of the Rules has been subjected to challenge, in these writ

proceedings, only because the respondents had issued an advertisement on 07.03.2018 inviting applications, from eligible candidates, for the posts of

ANM Health Workers. Since the advertisement itself is being cancelled, and a fresh advertisement is proposed to be issued, it is only if the petitioners

are aggrieved by the advertisement which would be issued by the State Government, and the selection process being undertaken pursuant thereto,

would they then be entitled to subject the constitutional validity of the Rules to challenge. If, on the other hand, the petitioners have no grievance with

the advertisement proposed to be issued, any challenge to the constitutional validity of the rules would then remain a mere academic exercise which

this Court would, ordinarily, not undertake an examination of.

8. Suffice it, in such circumstances, to dispose of all the Writ Petitions recording the submission of Sri C.S. Rawat, learned Additional Chief Standing

Counsel for the State Government, that the State Government intends to cancel the earlier advertisement and to issue an advertisement afresh. It is

made clear that, in case the petitioners are aggrieved with the fresh advertisement, it is not only open to them to challenge the conditions of the

advertisement but also the constitutional validity of the Rules. Leaving it open to

the petitioners to do so, we see no reason to entertain these Writ Petitions.

9. The Writ Petitions are, accordingly, closed. No costs.