
(2019) 05 UK CK 0300

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1003 Of 2019

Pankaj Singh Rana

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 29-05-2019

Acts Referred:

Citation : (2019) 05 UK CK 0300

Hon'ble Judges : Manoj K. Tiwari, J

Bench : Single Bench

Advocate : Maneesh Bisht, Atul Bahuguna

Final Decision : Disposed Of

Judgement

Manoj K. Tiwari, J

1. Petitioner participated in a selection for the post of Assistant Teacher - L.T. Grade held by Uttarakhand Subordinate Service Selection Commission pursuant to advertisement dated 03.01.2017. Petitioner was selected and his name was recommended by the Selecting Body for appointment in Science subject vide letter dated 19.12.2018, however, the Appointing Authority has not issued any order in his favour. Thus, feeling aggrieved, petitioner has approached this Court.

2. It is the contention of the petitioner that Appointing Authority/Additional Director of Education, Kumaon is requiring the petitioner to produce 'No Objection Certificate' from his previous employer i.e. Commandant, 40th Battalion, P.A.C. Haridwar. According to the petitioner, he was appointed as Constable in P.A.C. in the year 2007 and after serving for nearly ten years, he tendered resignation which was accepted by the Competent Authority on 31.07.2017. The order passed by Commandant, 40th Battalion, P.A.C., Haridwar on 31.07.2017, whereby petitioner's resignation was accepted, is on record as Annexure No. 4 to the writ petition.

3. According to the petitioner, candidates who applied for the post of Assistant

Teacher - L.T. Grade pursuant to advertisement dated 03.01.2017 were asked to submit online application and in the online application form, there was no column for NOC from the present employer nor there was any requirement of routing the application through the present employer. He further submits that since there was no requirement of submitting NOC from the present employer with the application, therefore, petitioner did not obtain any NOC while submitting online application and subsequently, he resigned from the post of Constable, which became effective from 31.07.2017. Learned counsel for the petitioner further submits that written examination for the post of Assistant Teacher - L.T. Grade was held on 21.01.2018 and thereafter successful candidates were called for document verification and thereafter counselling was held in December, 2018.

4. Grievance of the petitioner is that although his name was recommended by the Selecting Body, however, the Appointing Authority i.e. Additional Director of Education, Kumaon is insisting upon production of NOC from the previous employer.

5. This Court vide order dated 02.05.2019 asked the State counsel to get instructions in the matter. Today, learned counsel for the State, on instructions, submits that Additional Director of Education, Kumaon has never asked the petitioner to produce NOC from the Competent Authority from P.A.C., where petitioner earlier served. Learned counsel for the State made such statement based on written instructions received by him from Additional Director of Education, Kumaon vide letter dated 27.05.2019, which are taken on record. Learned counsel for the State further submits that as per the instructions received, the Additional Director of Education has withheld appointment of the petitioner on account of letter issued by the Selecting Body on 28.12.2018, whereby the Selecting Body has requested the Additional Director of Education not to issue appointment letter to the petitioner and one other selected candidate.

6. From the statement made by learned counsel for the State, it is apparent that the petitioner has not been asked to produce NOC from his previous employer. The reason for not issuing appointment letter in favour of the petitioner, assigned by Additional Director of Education, is not convincing. Once the Selecting Body has prepared a select list and forwarded recommendation to the Appointing Authority then the Selecting Body has no business to make further recommendation not to issue appointment letter to the selected candidates. However, in case of doubt, regarding eligibility/qualification of a selected candidate, the Appointing Authority can make necessary enquiry.

7. Accordingly, writ petition is disposed of with a direction to the Additional Director of Education, Kumaon to look into the eligibility/suitability of the petitioner and pass appropriate order, in accordance with law, within three weeks from the date of receipt of certified copy of this order.