
(2019) 11 UK CK 0030
In the Uttarakhand High Court
Case No : Writ Petition No. 151 Of 2019 (S/B)

Pratibha Joshi

APPELLANT

Vs

State Of Uttarakhand And Another

RESPONDENT

Date of Decision : 05-11-2019

Acts Referred:

Citation : (2019) 11 UK CK 0030

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : Avidit Noliyal, C.S. Rawat, Naman Kamboj, N.S. Pundir

Final Decision : Disposed Of

Judgement

Ramesh Ranganathan, CJ

1. Heard Mr. Avidit Noliyal, learned Advocate for the petitioner, Mr. C.S. Rawat, learned Additional Chief Standing Counsel for the State of Uttarakhand/ respondent No.1 and Mr. Naman Kamboj, learned Advocate holding brief of Mr. N.S. Pundir, learned Counsel for the Uttarakhand Public Service Commission/ respondent No.2, and, with their consent, the Writ Petition is disposed of at the stage of admission.

2. An advertisement was issued on 19.09.2019 to fill up 38 posts of Assistant Prosecuting Officers. After a Preliminary Examination was conducted, the number of posts sought to be filled up were increased to 74. The respondents sought to fill up 74 posts even without issuing an advertisement, beyond the 38 posts advertised on 19.09.2019. The selection process was subjected to challenge in WPSB No.349 of 2011 and, by its order dated 10.06.2012, this Court directed the State Government to consider the recommendations made, or to be made, by the Commission in respect of the 38 advertised vacancies plus 25 percent thereof, meaning thereby 38 plus 9 posts. However, the State Government issued appointment orders only for 38 candidates.

3. The order of this Court, in WPSB No.349 of 2011 dated 10.05.2012, was subjected to challenge in Civil Appeal No. 8334 of 2013 and 8335 of 2013 and, by its order dated 05.10.2016, the Supreme Court upheld the order of this Court. The petitioner claims to have submitted a representation before the Principal Secretary to the Government seeking consideration of her candidature also, since she formed part of the wait-listed 09 candidates. The Secretary, Uttarakhand Public Service Commission supplied a list of 09 candidates to the State Government on 04.05.2017 and the petitioner's name is said to find place therein at serial No.4 (erroneously stated as Serial No.7 in the Writ Petition).

4. On the ground that the petitioner was not considered for selection, she invoked the jurisdiction of this Court. Two other candidates, in the wait-list, had approached this Court filing WPSB No.356 of 2018 and WPSB No.567 of 2017 and, by order dated 29.03.2019, a Division Bench of this Court, following the earlier order passed by this Court in WPSB No.436 of 2017 dated 20.09.2017, directed the State Government to appoint those candidates, whose names formed part of the wait-list as recommended by the Public Service Commission, to the post of Assistant Public Prosecutors.

5. In the light of the order passed by the Division Bench, in WPSB No.356 of 2018 and WPSB No.567 of 2017 dated 29.03.2019, both the petitioners therein were to be considered and appointed as Assistant Public Prosecutors. According to the petitioner herein, the petitioner in WPSB No.356 of 2018 stood at Serial No.5 in the wait-list of 09 candidates sent by the Public Service Commission to the State Government; and, only on the ground that she had invoked the jurisdiction of this Court, she was considered for appointment ignoring the claim of the petitioner herein who stood above her in merit in the wait-list of 09 candidates.

6. It is unnecessary for us to dwell on this matter any further since Mr. C.S. Rawat, learned Additional Chief Standing Counsel, appearing on behalf of the State Government, would fairly state that, along with the candidature of Smt. Poornima Sharma (petitioner in WPSB No.356 of 2018), the candidature of the petitioner and two other candidates in the wait-list would also be considered to fill up four posts of Assistant Public Prosecutors. When we asked him as to when the exercise would be completed, learned Additional Chief Standing Counsel would fairly state that the credentials of all these candidates are required to be verified, and they are required to undergo a medical examination; and the entire exercise would be completed, and appointment orders would be issued to the eligible candidates strictly in the order of merit, provided they are found medically fit and their character verification does not reflect any adverse antecedent. He would state that the entire exercise would be completed, and appointment orders would be issued to the eligible candidates, within one month from today.

7. The Writ Petition is disposed of recording the submission of the Learned Additional Chief Standing Counsel that the petitioner's candidature would be

considered along with three other eligible candidates; and those found eligible would be issued appointment orders within one month from today.

8. The Writ Petition stands disposed of accordingly. No costs.