
(2010) 09 UK CK 0113
In the Uttarakhand High Court
Case No : Writ Petition (S/S) 273 of 2010

Praveen Kumari

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 13-09-2010

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2010) 3 UC 1634

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Judgement

B.S. Verma, J.—By means of this petition the petitioner has sought the following relief

I. To issue a writ in the nature of certiorari to call for the record of the case and quash the final result of the examination which was held pursuant to the advertisement dated 27.12.2005, so far as the same relates to the category to which petitioner belongs.

II. To issue a writ in the nature of mandamus directing the respondents to select the petitioner finally for the Basic Teachers Certificate Training and permit her to take training of the said course.

III. To issue any other writ, order or direction which this Hon"ble Court may deem fit and proper under the facts and circumstances of the case.

2. Briefly stated, the facts of the case are that respondent No. 2 vide its advertisement dated 27.12.2005, published in a daily Newspaper, invited applications for B.T.C. training from the eligible candidates. The petitioner, pursuant to the advertisement, submitted her application in the manner as laid down in the advertisement. The entrance examination was held on 23.8.2009. The respondent No. 3 declared the result on the basis of marks obtained by the candidates in written test, quality points marks, teaching experience, etc. In the merit list the petitioner, obtained 108.84 total marks and she was shown at serial

number 48 in the merit list. Thereafter the petitioner was called for counseling scheduled to be held on 08-12-2009 in the training institute at Rudrapur, District U.S. Nagar. The petitioner also attached certificate of teaching experience duly signed by the authorities concerned in the prescribed format. Later on the petitioner came to know that the respondent No. 3 has selected the candidates who have obtained less marks than the petitioner in the final select list, which is illegal, arbitrary, discriminatory and in violation of Article 14 of the Constitution of India.

3. The respondent No. 3 contested the writ petition by filing counter affidavit alleging therein that the selection in the B.T.C. Training was to be made on the basis of merit as per quality points specified for the academic qualification of the candidate, marks obtained by the candidate in the written examination and the teaching experience (obtained as Shiksha Mitra, Shiksha Acharya, Shiksha Anudeshak) of the candidate. The petitioner has applied for B.T.C. Training in Art General Group. The petitioner was called for counseling at DIET on 8.12.2009. Earlier in the tentative merit list prepared, the petitioner was given 108.84 marks on the basis of her quality points, marks obtained by her for the entire academic qualification, marks obtained by her in written test and as per the Shiksha Acharya Experience Certificate. However, at the time of counseling after scrutiny of the Experience Certificate it was found that the petitioner is entitled for 10 marks only for one year teaching experience certificate. Therefore, the petitioner scored only 98.84 marks and in women non-Science Group the last cut of marks of the selected candidate is 104.91, hence the petitioner is not entitled for any relief as claimed by her in the writ petition.

4. I have heard Mr. B.D. Upadhyay, learned Counsel for the petitioner and Mr. N.P. Shah, learned Standing Counsel for the respondents.

5. Learned Counsel for the petitioner has submitted that the petitioner has worked continuously for two academic sessions as Shiksha Acharya, i.e. w.e.f. 1.12.2007 to 27.12.2005, and she should have been given 20 marks, as per the norms fixed in the advertisement, but she has been awarded only 10 marks by the respondents.

6. Learned Counsel for the petitioner has also invited my attention towards the experience certificate (Annexure No. 5 to the writ petition), issued by the authority concerned, as well as towards condition No. 5, of directions issued for calculating quality marks, which was published in Uttarakhand Extra-Ordinary Gazetted dated 10th July 2009.

7. The condition No. 5 of the aforesaid directions specifically provides that the candidate shall not be eligible to obtain any marks on the basis of his/her experience of less than six months, but the experience of more than six month, shall make him/her entitled to obtain marks for one year's experience. The experience certificate issued by the authorities to the petitioner is for a period 1.12.2003 to 27.12.2005, i.e. for the academic session 2003-04 and 2004-05.

Therefore, on the basis of the experience certificate Annexure No. 5, issued by the authorities and counter-signed by Additional District Education Officer, Udham Singh Nagar, the petitioner was entitled to get the marks for two academic sessions.

8. The learned Standing Counsel has not disputed the experience certificate (Annexure No. 5) issued in favour of the petitioner.

9. Therefore, after having considered the submissions of learned Counsel for the parties and perusing the experience certificate issued by the authorities in favour of the petitioner, the petitioner was entitled for 20 marks towards teaching experience, but the respondents have wrongly awarded her only 10 marks under this head. If these 20 marks are added in the final select list, then the total marks of the petitioner becomes 108.84. Annexure No. 6 to the writ petition makes it clear that the candidates who have obtained less marks than 108.84, have been selected for B.T.C. Training. Therefore, the petitioner is entitled to be admitted in the B.T.C. Training.

10. In view of discussions made above, the writ petition is allowed. The respondents are directed to allow the petitioner for B.T.C. Training in her category in the current training course. The attendance of the petitioner up-to her admission in the B.T.C. Training, be condoned.