

(2019) 11 UK CK 0038

In the Uttarakhand High Court

Case No : Writ Petition (S/S) 1031 Of 2019, Special Appeal No. 894 Of 2019

Rakesh Singh Negi And Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 06-11-2019

Acts Referred:

Citation : (2019) 11 UK CK 0038

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

Bench : Division Bench

Advocate : B.D. Upadhyay, Naveen Tiwari, Vikas Pandey

Final Decision : Disposed Of

Judgement

Ramesh Ranganathan, CJ

1. The delay of 103 days in preferring the Special Appeal is not opposed by Sri Vikas Pandey, learned Standing Counsel for the State Government, and the Application (CLMA No. 13298 of 2019) seeking condonation of delay is, therefore, ordered, and the delay is condoned.

2. The appellants herein are the petitioners in Writ Petition (S/S) No. 1031 of 2019, wherein they sought a mandamus directing the respondents to decide their representation.

3. In the order under appeal dated 08.05.2019, the learned Single Judge non-suited the appellants-writ petitioners on the ground of undue delay and laches holding that the seniority list, issued in the year 2009, was subjected to challenge after ten years.

4. Sri B.D. Upadhyay, learned Senior Counsel appearing on behalf of the appellants-writ petitioners, would draw our attention to Paragraph-13 of the writ affidavit to submit that, since the appellants-writ petitioners were not provided any opportunity of hearing, they were not aware of the seniority list as they had already been promoted as Lecturers, and as they were working in the remote

areas of Pauri Garhwal district, they could not gather information about the said seniority list.

5. While the above assertion in Paragraph-13 may necessitate inquiry, we are satisfied that the appellants-writ petitioners ought to have been non-suited on the ground that they had an effective and efficacious alternative remedy of approaching the Public Services Tribunal under the provisions of the Uttar Pradesh Public Services (Tribunal) Act, 1976.

6. Sri B.D. Upadhyay, learned Senior Counsel, would fairly state that, since such a remedy is available, the appellants-writ petitioners be permitted to approach the Public Services Tribunal.

7. Sri Vikas Pandey, learned Standing Counsel for the State Government, would submit that the limitation for approaching the Public Services Tribunal is one year.

8. It is not in dispute that the Public Services Tribunal has the power to condone the delay in invoking its jurisdiction, if it is satisfied that the applicants before it were justified in invoking its jurisdiction belatedly.

9. Suffice it, in such circumstances, to set aside the order under appeal, restore the writ petition to file, and dismiss it on the ground that the petitioners have an effective alternative remedy of approaching the Public Services Tribunal.

10. We make it clear that we have not expressed any opinion on whether the writ petition, as filed, is hit by undue delay and laches, or whether the Tribunal should entertain the writ petition questioning the seniority list after several years, for these are all matters for the Public Services Tribunal to examine in accordance with law.

11. The Special Appeal stands disposed of. No costs.