

(2023) 12 UK CK 0102

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 2260 Of 2023

Ram Lal Bhatt And Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 18-12-2023

Acts Referred:

Citation : (2023) 12 UK CK 0102

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Niranjan Bhatt, V.S. Rawat

Final Decision : Allowed

Judgement

Pankaj Purohit, J

1. The petitioner has sought the indulgence of this Court for a direction to the respondent no. 3 to consider the candidature of the petitioners for promotion on the post of Assistant Teachers L.T. Grade (Physical Education) under 30% promotion quota against the vacancies of the year 2019.

2. It is the contention of the petitioner that the petitioners were initially appointed as Assistant Teacher, Primary School for the respondent State and the petitioners were holding the qualification of D.P. Ed. It is further submitted that the advertisement was issued by the respondent no. 3 – Regional Additional Director, Madhyamik Shiksha Garhwal on 19.06.2019 by which the applications were invited from the Assistant Teacher, Primary School for promotion on the post of Assistant Teacher, L.T. Grade under 30% quota. The petitioner submitted his candidature pursuant to the aforesaid advertisement dated 19.06.2019 for the post of Assistant Teacher, L.T. Grade, (Physical Education), but, subsequently, the respondents brought about amendment in Uttarakhand Subordinate Education ((Trained Graduate Grade) Services Rules, 2014 vide Uttarakhand Subordinate Education (Trained Graduate Grade) (Amended) Service Rules, 2019 w.e.f 23.12.2019, wherein, the amendment was incorporated with regard to the

educational qualification, whereby the qualification for the post of Assistant Teacher, L.T. Grade (Physical Education) is changed and it is provided that the candidate must possess the B.P. Ed. Degree or equivalent from any Institution recognized by the National Council for Teachers Education. It is submitted by the learned counsel for the petitioners that now pursuant to the aforesaid advertisement, counselling is scheduled to be held for the Assistant Teachers of Physical Education on 20.12.2023 as per letter issued by the respondent no. 3 – Regional Additional Director, Madhyamik Shiksha Garhwal on 08.12.2023 (Annexure-10 to the writ petition). The petitioners further inquired for their names in the list of counselling for the said post, but, their name do not figure there in the list. There is apprehension in the mind of the petitioners that simply for the reason that the qualification was subsequently amended by the Amending Rule of 2019, the name of the petitioners are not in the list of the counselling scheduled to be held on 20.12.2023. It is strongly submitted by learned counsel for the petitioners that petitioners have applied pursuant to the advertisement, which was issued prior to the coming into enforcement of the Amended Rules of 2019 and therefore, such ground is not available with the respondent State for depriving the petitioners to participate in the selection process or ensuing counselling w.e.f 20.12.2023.

3. The attention of this Court was also drawn to the fact that the said controversy has been decided by this Court in various writ petitions, wherein, it has been held that the qualification will be considered on the date of issuance of the advertisement or till the last date of submission of application form and, therefore, any qualification which was substituted subsequent to the advertisement, that will not come in way in the selection of the petitioners.

4. Per contra, the learned counsel for the State does not dispute this fact, as stated by the petitioners as well as the controversy has been decided by this Court in WPSS No. 825 of 2020 and connected writ petitions.

5. Having heard the learned counsel for the parties and having gone through the amended rules as well as the earlier rules governing the services of the petitioner as well as the entire material on record and the previous order passed by this Court by which the controversy has set at rest by this Court as well as the Coordinate Bench of this Court. There is no denying of this legal principle that eligibility is to be seen only on the date of issuance of the advertisement. Since, the petitioners were holding the educational qualification which was under the Rules of 2014 and were holding the qualification of D.P. Ed, which was the qualification for appointment on the post of Assistant Teacher, L.T. Grade (Physical Education), which has admittedly amended only by Amending Rules of 2019 w.e.f. 23.12.2019. The advertisement having been issued on 19.06.2019, the petitioners are fully eligible for consideration of their case for promotion on the post of Assistant Teacher, L.T. Grade.

6. In such view of the matter, the writ petition is allowed and the respondents are directed to permit the petitioners to participate in the ongoing counselling

scheduled to be held on 20.12.2023 for the promotional exercise pursuant to the advertisement dated 19/20.06.2019 and consider their case for promotion on the post of Assistant Teacher, L.T. Grade (Physical Education) as per Uttarakhand Subordinate Education ((Trained Graduate Grade) Services Rules, 2014.