
(2015) 01 UK CK 0056

In the Uttarakhand High Court

Case No : Writ Petition (S/S) Nos. 1563, 1564, 1566, 1567 and 1568 of 2014

Ramanand Rana

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 15-01-2015

Acts Referred:

Citation : (2015) 1 UC 799

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Sanjay Bhatt, for the Appellant; R.P. Sharma, Brief Holder, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Sudhanshu Dhulia, J.

1. All the petitioners before this Court are Assistant Teachers in Junior High School or Head Masters in Primary School. "Elementary Education" is divided into "Primary Elementary Education" (from Class I to V) and "Senior Elementary Education" (from Class VI to VIII). The entry level post in elementary school is an Assistant Teacher, who can thereafter be promoted to the post of Head Master in Elementary School or Assistant Teacher in Senior Elementary School, as the case might be. In these writ petitions all the petitioners were appointed as Assistant Teachers in Primary School way back in the year 2000 or 2001. In this matter counter and rejoinder affidavits have been exchanged. Heard learned counsel for the parties and perused the record.

2. At this juncture it is necessary to state that Assistant Teacher in Elementary School is a district cadre post. All the petitioners claimed to be permanent resident of Dehradun. They have, however, got appointment in another district i.e. District Udham Singh Nagar and presently posted as Assistant Teacher or Head Master in Elementary School because of the fact that after the initial appointment, they have got promotion on the next higher post. All the

petitioners by means of these writ petitions before this Court seek transfer to Dehradun, which is their home district. This is, however, being objected and denied by the respondents/State who have filed their counter affidavit wherein reference has been taken of Rules known as "Uttarakhand Teachers (School Education) First Appointment, Promotion and Posting on Transfer Rules, 2013" (hereinafter referred to as "Rules of 2013"), particularly Rule 16 of Rules of 2013. As per Rule 16 of Rules of 2013, only Assistant Teachers, Primary School can be transferred that too on limited grounds to another district if she/he has put in five years of service. There is no provision for transferring of either Head Master Primary School or Assistant Teacher, Junior High School. Although no explanation for this is coming forward from the respondents, however, it has been argued before this Court that the reason is evident that the vires of the Rules of 2013 were challenged before this Court in WPSS No. 750 of 2013 (Decided on 30.07.2013) and this Court has already upheld the vires of the Rules of 2013. Moreover, even under Rule 16 of the Rules of 2013 transfer from one district to another district is permissible in case of Assistant Teacher of Primary School on extremely limited grounds. These grounds are as under:-

(a) that he/she is suffering from serious illness.

(b) that after securing her appointment in a particular district, she is married to a person, who resides in another district.

(c) that her husband/spouse posted in another district.

3. The above conditions are applicable to those who have put in five years of service in an initial appointment in a particular district.

4. In the present writ petitions, all the petitioners have already put in about 14 years of service as of now in a same district. It is not their case that any of them is suffering from serious illness. None of them is a woman teacher so that she can be covered under the above rules. Therefore, even if it is assumed for the sake of arguments that the petitioners' candidatures were liable to be considered under Rule 16 of the Rules of 2013 where transfer from one district to another district is permissible, the petitioners are not covered under the said Rules.

5. In view of the above discussion, the writ petitions fail and are hereby dismissed. No order as to costs.