
(2019) 11 UK CK 0140

In the Uttarakhand High Court

Case No : Writ Petition No. 450 Of 2018 (S/S)

Sandeep Kumar Mishra

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 19-11-2019

Acts Referred:

Citation : (2019) 11 UK CK 0140

Hon'ble Judges : Lok Pal Singh, J

Bench : Single Bench

Advocate : K.P. Upadhyaya, Hemant Pant, K.N. Joshi, N.S. Pundir

Final Decision : Allowed

Judgement

Lok Pal Singh, J

1. By means of present writ petition, petitioner has sought writ in the nature of the certiorari, seeking quashing of the order dated 29.01.2018 passed by Uttarakhand Technical Education Board (respondent no. 3 herein) and subsequent order dated 12.03.2018 issued by the Chief Education Officer, Almora.

2. Facts, in brief, are that post of Assistant Teacher L.T. Grade in various subjects at Kumaon Region and Garhwal Region was issued by Uttarakhand Technical Education Board on 23.02.2014. The petitioner, being eligible candidate, submitted his application form for the post of Assistant Teacher L.T. Grade (Mathematic), submitted his first option for Kumaon Region and second for Garhwal Region. As per merit list, prepared by the examining body, he was selected for Kumaon Region and was given appointment as Assistant Teacher L.T. Grade (Mathematic) in Kumaon Region; he joined his duties as Assistant Teacher L.T. Grade (Mathematic) at Government Inter College, Kanara, District Nainital. While he was serving as Assistant Teacher L.T. Grade (Mathematic) in said College, one Sri Chandra Shekhar Bhatt raised his grievance before respondent no. 3 that as per his merit and option, he should have been allotted college in Kumaon Region but his case was not considered then he constrained to file WPSS

No. 64 of 2018, Chandra Shekhar Bhatt vs. State of Uttarakhand & others. Petitioner herein was not made party to the said writ petition. Respondent no. 3, pursuant to the directions issued by this Court vide order dated 09.01.2018, held that candidates namely, Sri Girija Shankar Pant, Sri Chandrashekhar Kandpal, Sri Sandeep Kumar Mishra (petitioner herein) and Sri Kamal Kapri who were lower in merit they have been allocated in Kumaon Region and Mr. Chandra Shekhar Bhatt who was higher in merit, has been given appointment in Garhwal Region. Having considered the fact that merit of Sri Chandra Shekhar Bhat was higher than Sri Girija Shankar Pant, Sri Chandrashekhar Kandpal, Sri Sandeep Kumar Mishra (petitioner herein) and Sri Kamal Kapri, respondent no. 3 passed the order dated 29.01.2018 directing that petitioner shall join in Garhwal Region and pursuant to order dated 29.01.2018, relieving order dated 12.03.2018 was passed.

3. In the counter affidavit, filed on behalf of respondent no. 5, it is submitted that the order dated 29.01.2018 has been passed, as per the direction of the Court's order dated 09.01.2018. It is further submitted that the representation of Mr. Chandra Shekhar Bhatt has been decided as per law, as he is higher in merit to the petitioner, therefore, appointment of the petitioner in Garhwal Region has been affected. It is also submitted that the petitioner, who is low in merit, has rightly been transferred to Garhwal Region.

4. Heard learned counsel for the parties and perused the entire material available on record.

5. Mr. K.P. Upadhyaya, learned Senior Advocate appearing for the petitioner would contend that order dated 29.01.2018 has been passed by respondent no. 3 without affording opportunity of hearing to the petitioner, which ultimately affects his valuable rights. He would further contend that firstly petitioner was not impleaded as party by Sri Chandra Shekhar Bhatt to the aforementioned writ petition; further the Co-ordinate Bench of this Court has only issued direction to respondent no. 3 to take decision on the representation of Mr. Chandra Shekhar Bhatt as per law but respondent no. 3 while deciding representation of Sri Chandra Shekhar Bhatt, has passed the punitive order against the petitioner without affording opportunity of hearing to him, which violated the fundamental rights of natural justice. It is also submitted that the petitioner was appointed as per the prepared list and was given appointment in the College allotted to him.

6. On the other hand, Mr. N.S. Pundir, Advocate appearing for respondent no. 3 would submit that since directions were issued to respondent no. 3 to take decision on the representation, therefore, respondent no.3 has no option except to decide the representation of Mr. Suresh Chandra Bhatt.

7. Mr. K.N. Joshi, learned Dy. Advocate General would submit that since recommendation was received from respondent no. 3, respondent no. 3 had passed the order dated 12.03.2018.

8. Having considered submissions of the learned counsel for the parties, it is

evidently clear that the impugned order has been passed against principle of natural justice, which ultimately affects the rights of the petitioner. Thus, the orders impugned are unsustainable in the eye of the law, and the same are liable to be set aside.

9. In view of the above, writ petition is allowed. Impugned order dated 29.01.2018 and 12.03.2018 are hereby set aside. However, respondents would be at liberty to pass an appropriate order, if needed, after giving opportunity of hearing to the petitioner.

10. In the facts and circumstances, parties shall bear their own costs.