
(2024) 03 UK CK 0063

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 411 Of 2024

Shobha Budhlakoti

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 15-03-2024

Acts Referred:

Citation : (2024) 03 UK CK 0063

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : B.P.S. Mer, R.C. Joshi

Final Decision : Allowed

Judgement

Pankaj Purohit, J

1. By means of this writ petition, petitioner has challenged the orders dated 12.02.2024 and 06.02.2024, annexure-9 to the writ petition, passed by Chief Education Officer, Nainital and Additional Director, Secondary Education, Kumaon Mandal, Nainital, respectively, whereby the study leave applied for by the petitioner w.e.f. 04.03.2024 to 22.05.2024 has not been granted.

2. Heard learned counsel for the parties.

3. The petitioner is presently posted as Assistant Teacher, L.T. Grade (Hindi). It is the case of the petitioner that petitioner is enrolled in Ph.D. course in subject Hindi and she has taken N.O.C. from the respondent-department, which is annexed as annexure-1 to the writ petition. For the purpose of pursuing the Ph.D. course, some intermittent leave, is required, therefore, she moved an application dated 29.02.2024 to the competent authority i.e. respondent nos.3 & 4 to grant her study leave for the period of 04.03.2024 to 22.05.2024. But, vide impugned orders the said application was rejected by the respondents; and the petitioner is before this Court.

4. On 14.03.2024, learned State Counsel was directed to seek instructions in the

matter as to why the leave was not sanctioned to the petitioner.

5. Today, written instructions dated 15.03.2024 have been supplied in the Court, which are taken on record. It is stated therein that as per Rule 84 of the Financial Hand Book Volume II (Parts 2 to 4), such leave is admissible to the Government Servants only for the purpose of scientific, technical or related study, but for the Ph.D. course, such leave cannot be granted.

6. From perusal of the impugned orders, it is reflected that in the instructions, the same reasons have been assigned which have been given while rejecting the application of the petitioner for study leave. Rule 84 of the U.P. Fundamental Rules is quoted hereunder:-

784. Leave may be granted to Government Servants, on such terms as the Governor may by rule or order prescribe, to enable them to study scientific, technical or similar problems or to undergo special courses of instruction. Such leave is not debited against the leave account.?

7. From perusal of the aforesaid Rule 84, it is reflected that if the rule is construed in its letter and spirit, the leave can be sanctioned for higher studies. The Rule cannot be restricted only to the scientific, technical and similar problems to undergo special courses of instruction. The Rule 84 should be construed liberally and to give meaning to it. In Hindi subject and like, no scientific and technical study can be pursued but Ph.D. would certainly be a higher study in the subject. Since the petitioner has already been registered in Ph.D. course and the NOC have already been granted by the respondent-department, such leave cannot be denied to her.

8. In this view of the matter, the writ petition is allowed. The orders dated 12.02.2024 and 06.02.2024, annexure-9 to the writ petition, passed by Chief Education Officer, Nainital and Additional Director, Secondary Education, Kumaon Mandal, Nainital, respectively are hereby quashed. A mandamus is issued commanding to the respondents to grant study leave to the petitioner w.e.f. 04.03.2024 to 23.05.2024 forthwith.