
(2018) 04 UK CK 0060
In the Uttarakhand High Court
Case No : Writ Petition No. 51 (SS) of 2017

SMT REKHA

APPELLANT

Vs

STATE OF UTTARAKHAND AND OTHERS

RESPONDENT

Date of Decision : 17-04-2018

Acts Referred:

Citation : (2018) 04 UK CK 0060

Hon'ble Judges : ALOK SINGH, J

Bench : Single Bench

Advocate : Alok Mehra, K.N. Joshi, V.D. Bisen

Final Decision : Dismissed

Judgement

1. Heard Mr. Alok Mehra, Advocate for the petitioner and Mr. K.N. Joshi, Deputy Advocate General with Mr. V.D. Bisen, Brief Holder for the

State of Uttarakhand.Â

2. Petitioner is a Science Graduate and B. Ed. (with Specialization in Educational Computing). An advertisement was published in newspaper on

24.02.2014 inviting applications for the post of Assistant Teacher (LT Grade) in various streams. Pursuant to the advertisement, petitioner applied for

the post of Assistant Teacher (Science). The essential qualification for the post of Assistant Teacher (Science) as per advertisement is " Science

Graduate with Chemistry, Botany or Zoology from a University established by law in India and B.Ed. Degree from a University established by law in

India.Â Â

3. Petitioner qualified the written examination but could not get appointment. Her candidature was cancelled only on the ground that she has obtained

B.Ed (with Specialization in Educational Computing) whereas requirement, as per

advertisement, is plain B.Ed. The subjects taught in plain B.Ed. are different from the subjects taught in B.Ed with specialization in Educational Computing.Â Â

4. Mr. K.N. Joshi, Deputy Advocate General for the State of Uttarakhand has placed reliance on the judgment rendered by Honâ??ble Supreme

Court in the case of State of Uttarakhand Vs. Deep Chandra Tewari reported in 2013 (15) SCC 557 dealing with the same controversy. The

Honâ??ble Supreme Court in the case of Deep Chandra Tewari (supra) in paragraphs 9, 10 and 11 has held as under:

Â â??9. We notice that the appointment of Assistant Teacher L.T. Grade is made to impart education to the students in schools on the subjects which

are being sanctioned in the schools. When the advertisement simply says ""B.Ed. degree"", it reveals what the appointing authority meant and what is

meant is said, written and shown in the advertisement. If we go through para 5 of the notification in its entirety, we find wherever specialization is

required, it has been specifically mentioned in the advertisement.Â

10. We notice, however, for the post in question i.e. Assistant Teacher (General), the qualification is simply Bachelor degree in any of two subjects,

Geography, Economics, Political Science and History from any university established by law in India, or L.T. Diploma from any training

institution/degree college. If B.Ed. with Specialization in Vocational Education was the required qualification, then it would have been specifically

mentioned in the notification, which has not been done. Consequently, we have to take it that the B.Ed. degree mentioned in the advertisement is

B.Ed. degree simpliciter and not B.Ed. with Specialization in Vocational Education. The post to be filled up i.e. Assistant Teacher (General) nowhere

indicates that for the purpose of appointment to the said post, specialization in vocational education is a necessary requirement.

11. We are conscious of the principle that when particular qualifications are prescribed for a post, the candidature of a candidate possessing higher

qualification cannot be rejected on that basis. No doubt, normal rule would be that candidate with higher qualification is deemed to fulfill the lower

qualification prescribed for a post. But that higher qualification has to be in the same channel. Further, this rule will be subject to an exception. Where

the prescription of a particular qualification is found to be relevant for

discharging the functions of that post and at the same time, the Government is able to demonstrate that for want of said qualification a candidate may not be suitable for the post, even if he possession ""better"" qualification but that better"" qualification has no relevance with the functions attached with the post.â??

5. Since the petitioner did not fulfil the required essential qualification, therefore, her candidature was rejected. I do not find any illegality in the action of the respondents. Accordingly, writ petition fails and is hereby dismissed. No order as to costs.Â