

(2018) 04 UK CK 0052

In the Uttarakhand High Court

Case No : Special Appeal No. 139 of 2018 With Delay Condonation Application
No. 2821 of 2018

STATE OF UTTARAKHAND AND OTHERS

APPELLANT

Vs

ASIF ALI

RESPONDENT

Date of Decision : 13-04-2018

Acts Referred:

Citation : (2018) 04 UK CK 0052

Hon'ble Judges : K.M. JOSEPH, C.J, SHARAD KUMAR SHARMA, J

Bench : Division Bench

Advocate : Pradeep Joshi, Deep Chandra Joshi

Final Decision : Allowed

Judgement

K.M. JOSEPH, C.J.Â Â Â Â Â

1. There is a delay of 284 days in filing the appeal.Â After hearing the learned counsel for the parties, we are of the view that the delay is to be

condoned.Â Accordingly, the delay will stand condoned and the Application for condonation of delay will stand allowed.Â Â

2. Appellants are the respondents in the writ petition.Â The writ petitioner sought a direction to the third respondent to allot him to Udham Singh

Nagar in view of his higher ranking in the select list according to the option and to appoint him as a Primary School Teacher in Udham Singh

Nagar.Â Â

3. Briefly put, the case of the writ petitioner is as follows:

Â Selection was held to the post of Primary School Teacher in terms of Government Order dated 31.01.2014.Â It contemplated preparation of a

combined merit list.Â Allotment of districts was to be made on the basis of the

select list.Â More meritorious candidates, in other words, would have better claim for allotment of district.Â Writ petitioner applied pursuant to the same.Â A final select list was up-loaded by the third respondent.Â The name of the writ petitioner was at Serial No. 368 among the successful candidates belonging to the General Category in Arts Branch.Â The name of the district allotted to him was mentioned as Almora.Â One Sandeep Saini, who was at Serial No. 504, has been allotted to Udham Singh Nagar; whereas, the name of the writ petitioner is shown against district Almora.Â There is reference to the names of various other persons, who have been allotted to Udham Singh Nagar, although they secured lesser quality marks.Â Writ petitioner ought to have been allotted to district Udham Singh Nagar, in short.Â Â

4. A counter affidavit was filed in the matter disputing the allegations.Â In the impugned judgment, what is stated is that, without taking into consideration the merit at the time of selection, the writ petitioner has been allocated to district Almora.Â It is further stated that it has come on record that persons lower in merit have been allocated stations of their choice.Â It is stated that the respondents should have considered the merit of the writ petitioner and that principles of reservation were also not followed.Â The writ petition was, accordingly, allowed and the respondents were directed to allocate district Udham Singh Nagar to the writ petitioner.Â Â

5. We have heard Mr. Pradeep Joshi, learned Standing Counsel for the State / appellants and Mr. Deep Chandra Joshi, learned counsel appearing for the respondent / writ petitioner.Â Â

6. We notice from the judgment that there is no consideration of the case set-up by the appellants.Â A counter affidavit was filed and a specific case was set-up in regard to the reason as to why the writ petitioner was allocated to district Almora.Â Learned Standing Counsel for the appellants would also point out that, by the time the judgment was rendered, three years had elapsed and, therefore, there have been subsequent developments in the form of recruitments.Â Â

7. After hearing the learned counsel for the parties, we are of the view that the judgment passed by the learned Single Judge cannot be sustained, as it does not reveal consideration of the contentions of the appellants.Â

Accordingly, the appeal is allowed; the judgment passed by the learned Single Judge is set aside; and the matter is remitted back to the learned Single

Judge for fresh consideration.Â It will stand listed in the Daily Cause List before the learned Single Judge on 23.04.2018.Â We request the learned

Single Judge to dispose of the matter at the earliest.Â We make it clear that we have not expressed any view regarding the merits of the matter.Â Â

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