

(2019) 05 UK CK 0124

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 3703, 3725, 3727, 3728, 3729, 3731, 3755, 3756, 3757, 3758, 3761, 3803, 3804, 3805, 3806, 3823, 3912, 3913, 3914, 3915, 3916, 3917, 3918, 3919, 3920, 3934, 3935, 3937, 3938, 3939, 3942, 3960, 3961, 3962, 3963, 3964, 3965, 3966, 396

Sunita Dasila

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 08-05-2019

Acts Referred:

Citation : (2019) 05 UK CK 0124

Hon'ble Judges : Manoj K. Tiwari, J

Bench : Single Bench

Advocate : D.S. Bohra, Paresh Tripathi, Sushil Vashishta, V.S. Rawat, J.S. Bisht

Final Decision : Dismissed

Judgement

Manoj K. Tiwari, J

1. Since common questions of fact and law are involved in these petitions, therefore all these petitions are clubbed together and are being heard & decided together. However, for the sake of convenience, facts of WPSS No. 3703 of 2018 are being considered.

2. Petitioner participated in a selection for the post of Auxiliary Nurse Midwife (A.N.M.)/Health Worker (Female), which was held pursuant to advertisement dated 15.03.2016 issued by Director General, Medical, Health & Family Welfare, Uttarakhand. Petitioner possessed Intermediate (Science) qualification alongwith Health Worker (Female) Certificate issued by Uttarakhand State Medical Faculty.

3. Petitioner was declared successful in the said selection, however, she was not being appointed in view of pendency of Writ Petition (S/S) No. 809 of 2016 and other connected matters before this Court, in which the issue was whether candidates possessing Intermediate Arts qualification are eligible for appointment as ANM/Health Worker (Female), or not. The said writ petition was decided by a

Co-ordinate Bench of this Court vide judgment dated 11.04.2017. Operative portion of the said judgment is extracted below:

"Accordingly, the writ petition is allowed. The qualification of Intermediate in Arts is declared illegal. The respondents are directed to confine the selection process only to the Intermediate with Science and to do the needful in accordance with law.

It is made clear by way of abundant precaution that this judgment is qua the advertisement dated 15.03.2016 only."

4. The judgment rendered by learned Single Judge was challenged by the Intermediate (Arts) qualification holders by filing Special Appeals, which were dismissed by the Division Bench of this Court, vide judgment & order dated 07.07.2017. The Intermediate (Arts) qualification holders, thereafter, approached Hon'ble Supreme Court by filing S.L.P.'s and Hon'ble Supreme Court passed an order on 18.05.2018 in Special Leave to Appeal (C) Nos. 6919-6922/2018, which is extracted below:

"I.A. NO.70388/2018 IN SLP(C) Nos. 6919-6922/2018

I.A. No.70338/2018 is allowed.

Learned counsel for the applicant(s) points out that the applicant(s) are from the Science stream and there cannot be any objection with regard to their appointment. It is also pointed out that they have already been appointed in March, 2018 but they are not assigned any work or paid salary.

The respondent(s) are directed to assign work to the applicant(s) and similarly situated nurses and pay their salary as well.

Diary No(s). 18889/2018

Permission to file special leave petition is granted.

Delay condoned.

Issue notice.

In case the appointments are made, 19 posts may be kept unfilled for the time being.

Tag with SLP(C) Nos.6919-6922/2018"

5. Since the Competent Authority in Medical Department was not issuing appointment letter to the petitioner despite order of Hon'ble Supreme Court, therefore, petitioner approached this Court seeking the following reliefs:

"(i) Issue a writ, order or direction in the nature of mandamus commanding the respondents to give joining to the petitioner on the post of Health Worker (Female)/ANM and pay her salary at par similarly situated persons.

(ii) Issue a writ, order or direction in the nature of the mandamus directing the respondents to give her seniority from the date when the similarly situated persons appointed in the respondent department."

6. This Court passed interim order directing the respondents to give appointment to the petitioners. Consequently, all the petitioners have now been given appointment and they are discharging duties as A.N.M./Health Worker (Female) and they are also being paid salary.

7. Since the principal relief sought in the writ petition was for giving joining to the petitioners which, according to the petitioners, has already been given therefore nothing survives in these writ petitions.

8. Accordingly, the writ petitions are dismissed as infructuous. However, it is made clear that the question whether Intermediate (Arts) qualification holders are also eligible for appointment as A.N.M./ Health Worker (Female), or not, is pending consideration before Hon'ble Supreme Court in Special Leave to Appeal

(C) Nos. 6919-6922/2018 and, as per the statement made by learned Chief Standing Counsel, a vigilance enquiry has also been ordered to look into the allegation of lack of qualification by some of the selected candidates, therefore, the appointment given to the petitioners shall be subject to final outcome of the vigilance enquiry and the S.L.P.'s pending before Hon'ble Supreme Court.

9. Learned counsel for the petitioners submits that he is not pressing the relief regarding seniority at this stage, therefore, petitioners shall be at liberty to raise seniority dispute at an appropriate stage before appropriate Forum.

10. All pending applications stand disposed of.