
(2023) 11 UK CK 0130

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1452 Of 2021

Suresh Chandra Sharma

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 29-11-2023

Acts Referred:

Citation : (2023) 11 UK CK 0130

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Ganesh Kandpal, Narayan Dutt, S.K. Mandal

Final Decision : Allowed

Judgement

Pankaj Purohit, J

1. By means of this writ petition, petitioner has challenged the advertisement dated 26.03.2021 issued by the respondent no.4, annexure-5 to the writ petition, qua the post of Lecturer (English).

2. Heard learned counsel for the parties.

3. It is the case of the petitioner that respondent no.4 (hereinafter referred as "the Institution") is a Non-Government Aided Intermediate College. The respondent issued the impugned advertisement supplying the vacancies on the post of different Lecturers including the post of Lecturer (English) along with Assistant Teacher, L.T. Grade (Maths) and one of Junior Assistant in the institution.

4. The impugned advertisement is challenged by the petitioner mainly on the ground that in the said institution, there are four sanctioned posts of Lecturer and out of these four posts, as per Regulation 4(2)(a) of Chapter 2 of the Regulations, 2009, 50% of the total sanctioned post of the Lecturer shall be filled up by promotion from the post of Assistant Teacher, L.T. Grade working in the institution and such promotion shall be made on the availability of such teacher

for promotion and as per the eligibility on the date of vacancy. 50% of the total sanctioned post of the Lecturer shall be filled up by Direct Recruitment.

5. It is submitted by learned counsel for the petitioner that by the impugned advertisement, respondent no.4 has advertised the post which falls within 50% of the promotional quota of the Lecturer. He further submits that out of four sanctioned posts, as referred above, one Lecturer is working who has been promoted on the post of Lecturer from the post of Assistant Teacher L.T. Grade and one direct recruited Lecturer is also working on the post of Lecturer. Thus, only one post for direct recruitment and one post for promotion are left to be filled by respondent no.4.

6. It is also submitted by learned counsel for the petitioner that by the impugned advertisement, instead of one post of direct recruitment of the Lecturer, two posts have been advertised for direct recruitment, which is illegal and against the Regulations as mentioned hereinabove and exceeds the promotion quota of 50% meant for promotion.

7. Per contra, learned counsel for respondent no.4 submits that the petitioner is not yet fall within the zone of consideration for promotion simply for the reason that he has not completed five years regular service from the date of substantive appointment as he was appointed as Assistant Teacher, L.T. Grade (English) only on 10.08.2016 and the vacancy arose on 13.04.2017 and the advertisement was issued on 26.03.2021. He further submits that petitioner obtained a degree of post graduation in the year 2019 and he was not even educationally qualified to be appointed as Lecturer when the vacancy on the post of Lecturer (English) arose in the institution. He also submits that the direct recruitment is resorted to by the institution in the interest of the education of the students studying in the college.

8. Be that as it may, having considered the submissions made by learned counsel for the parties, one thing is clear that the post which has been earmarked to be filled up only by promotion cannot be filled up through direct recruitment. In any manner, there is nothing in Rules/Regulations which permits the management to convert the promotional post to be filled up by direct recruitment. Therefore, the advertisement issued by respondent no.4 is arbitrary, illegal and are against the rules and the same cannot sustained.

9. In this view of the matter, the writ petition is allowed. The impugned advertisement dated 26.03.2021, annexure-5 to the writ petition, is quashed only to the extent by which the promotional post of Lecturer is being advertised. No order as to costs.