
(2024) 08 UK CK 0149

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 2152, 2168, 2197 Of 2022, 339 Of 2021, 121, 2026 Of 2023

Suresh Nautiyal And Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 21-08-2024

Acts Referred:

Citation : (2024) 08 UK CK 0149

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Shubhang Dobhal, B.M. Pingal, Rajeev Singh Bisht, Bhupendra Koranga, Bhupendra Singh Bisht, Pankaj Chaturvedi

Final Decision : Allowed

Judgement

Pankaj Purohit, J

1. Since common question of law and fact are involved in these writ petitions, therefore they are heard together and are being decided by a common judgment. However, for the sake of brevity, facts of Writ Petition (S/S) No.2152 of 2022 are considered and discussed.

2. In all these writ petitions, the petitioners have mainly prayed for their regularization with the respondent-State. According to them, they are working with the Department since long as daily wage employees, therefore, there is employer-employee relationship between the parties herein. The petitioners made several representations from time to time seeking regularization but the same could not get any favourable result. The petitioners in this petition have even prayed for grant of minimum of pay scale to them. However, by the impugned order, their representation has been turned down. Hence this petition.

3. It is contended by the petitioner in the writ petition that the petitioner has completed more than 14 years continuous service with the respondent Department and as per existing Regularization Rules 2013 they became eligible

to be regularized on the post of Junior Assistant/Assistant Computer Operator.

4. Respondents have filed their counter affidavit in the matter in which they mainly pleaded that there were never appointed by respondent no.2, rather they were engaged through contractor by respondent no.4.

5. A rejoinder affidavit has been filed on behalf of petitioners in which it is stated that in view of judgment passed by this Court on 22.02.2024 in WPSB No.616 of 2018 (Narendra Singh v. State), petitioners, who have put in more than 10 years' service, are entitled for regularization.

6. Heard learned counsel for the parties.

7. Learned counsel for the petitioners further stated that the status of the petitioners at the time of promulgation of Regularization Rules of 2013 would be relevant for the purpose of regularization. It was further argued that the respondent-department has not denied that the petitioners have been working with the Department since long, which fact makes it clear that there is a necessity of work, which is perennial in nature, hence, still the services of the petitioner are needed. It was further pointed out that now, WPSB No.616 of 2018 (Narendra Singh v. State), has been finally decided by a Division Bench of this Court vide judgment and order dated 22.02.2024, whereby, Regularization Rules of 2013 was upheld and are back in the statute book. Now, the services of the petitioners can be considered for regularization under those Rules by the respondent-department.

8. Per contra, learned counsel for the respondent strongly supported the contention raised in the counter affidavit. Apart from this, though, it is admitted that the controversy with regard to the validity of the Regularization Rules of 2013 has been put to an end by the Division Bench of this Court vide judgment and order dated 22.02.2024, it is argued by the learned counsel for the respondent that by the said judgment, in place of 5 years, requirement for Daily Wager Services, 10 years have been replaced by a Division Bench of this Court and in that view of the matter, in order to avail the benefits of Regularization Rules of 2013, the petitioners should have completed at least 10 years of service on the date of commencement of the Regularization Rules of 2013.

9. Having heard learned counsel for the parties and especially, in view of new fact that the Regularization Rules of 2013, namely, Uttarakhand Regularization of Daily Wager, Work Charge, Contract, Fixed Salary, Part-time and Ad-hoc appointed employees Rules, 2013, challenged Narendra Singh (Supra), have now been revived, as the said writ petition is decided by the Division Bench of this Court by reason of a judgment and order dated 22.02.2024, whereby, the Regularization Rules of 2013 was upheld and are back in the statute book, the services of the petitioners can be regularized under Regularization Rules of 2013. The respondent cannot take other plea to deprive the petitioners of their right to claim regularization with the respondent-Department

10. Accordingly, all these writ petitions are allowed. A writ of mandamus is issued commanding the respondents to consider the case of petitioners of all these writ petitions for regularization with the respondent-department under the Regularization Rules of 2013, as early as possible but not later than six weeks' from the date of receipt of certified copy of this order. No order as to costs.

11. Pending application(s), if any, stands disposed of accordingly.