
(2019) 05 UK CK 0301

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 210 Of 2019

Tarun Kumar Dhiman

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 29-05-2019

Acts Referred:

Citation : (2019) 05 UK CK 0301

Hon'ble Judges : Ramesh Ranganathan, CJ;N.S. Dhanik, J

Bench : Division Bench

Advocate : S.S. Yadav, Paresh Tripathi, Lalit Samant, Bhupesh Kandpal

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. Heard Sri S.S. Yadav, learned counsel for the petitioner, Sri Lalit Samant, learned Standing Counsel for the second respondent and Sri Bhupesh Kandpal, learned counsel for the third respondent and, with their consent, this writ petition is being disposed of at the stage of admission.

2. This is the third round of litigation. The petitioner has filed this writ petition seeking a writ of mandamus directing the third respondent to permit him to submit an application form for fresh recruitment against the advertisement issued by the third respondent; a writ of mandamus directing the second and the third respondents to give him some bonus and relaxation marks in the regular selection, taking into consideration his five years satisfactory service in the institution; and a writ of mandamus directing the second and the third respondents to take a sympathetic decision on the fresh representation of the petitioner.

3. A Division Bench of this Court had earlier, by its order in Writ Petition (S/B) No. 568 of 2017 and batch dated 31.05.2018, quashed the order impugned in the said writ petition. Aggrieved thereby, the third respondent filed Special Leave

to Appeal (C) Nos.18848-18867/2017, and when the said SLPs were listed on 25.09.2018, certain directions were issued by the Supreme Court. The petitioner also preferred a Special Leave petition against the order of the Division Bench in Writ Petition (S/B) No. 125 of 2014, which was disposed of in terms of the order passed by the Supreme Court on 25.09.2018.

4. Thereafter, the petitioner again invoked the jurisdiction of this Court by way of Writ Petition (S/B) No. 175 of 2019. We had, in our order passed in the said writ petition dated 08.05.2019, observed that the only direction issued by the Supreme Court was for payment of salary and other benefits to the teachers for the period for which they worked; and the third respondent had issued an advertisement, inviting applications to the posts of Assistant Professors, in accordance with the directions of the Supreme Court in its order dated 25.09.2018. The petitioner was permitted to submit a representation to the third respondent seeking payment of the amounts which he claimed he was entitled to for the period for which he worked. The third respondent was directed to consider the said representation in accordance with law.

5. Having failed in his attempts to secure any relief from this Court, including to continue him on a contractual basis, the petitioner has again invoked the jurisdiction of this Court, by way of the present writ petition, seeking a direction that he be permitted to participate in the regular process of selection pursuant to the advertisement issued by the third respondent in the month of January, 2019.

6. Sri S.S. Yadav, learned counsel for the petitioner, would fairly state that the last date for submission of applications, in terms of the said advertisement, expired on 06.02.2019. He would now seek a direction to permit him to participate in the selection process contending that interviews are yet to be held. No such relief was even sought in Writ Petition (S/B) No. 175 of 2019, which was disposed of by our order dated 08.05.2019. Not only has the petitioner sought a direction to the third respondent to be permitted to participate in the fresh selection process, he also seeks a direction to the second and the third respondents to provide him relaxation marks, in the regular selection, taking into account the five years' contractual service rendered by him.

7. Sri Bhupesh Kandpal, learned counsel for the third respondent, would submit that, pursuant to the advertisement, all the applications, which were received, have been processed; call-letters have also been issued to the eligible candidates to participate in the interview; and the only reason why interviews could not be held so far, is because of the model code of conduct, which continued to remain in force till a few days ago.

8. The question whether or not any marks should be awarded for the service rendered by an employee, such as the petitioner, on contractual basis with the third respondent-Institute earlier, is for the third respondent to decide, and not for this Court to direct. Since an advertisement has already been issued, without providing for any relaxation marks, this Court, at this stage, would not direct the

respondents to consider the petitioner's claim for relaxation or bonus marks, for the service rendered by him in the third respondent-Institute on a contractual basis. Even with regards his request to be now permitted to participate in the selection process, the last date for submission of applications, pursuant to the said advertisement, expired on 06.02.2019. It would be wholly inappropriate for this Court, therefore, to now direct the third respondent to permit the petitioner to submit his application form, and participate in the process of selection.

9. When we expressed our disinclination to interfere, Sri S.S. Yadav, learned counsel for the petitioner, would request this Court to at least permit the petitioner to make a representation to the third respondent, leaving it open to the third respondent to consider his request.

10. While we may not be understood to have held that the petitioner is entitled to participate in the selection process, now underway, even without his having submitted an application form, pursuant to the advertisement (the last date of receipt of applications expired on 06.02.2019 nearly four months ago), suffice it to make it clear that the order now passed by us shall not disable the petitioner from making a representation to the third respondent, and for the third respondent, if it so chooses, to consider the same strictly in accordance with law.

11. The writ petition, however, fails and is, accordingly, dismissed.