
(2022) 09 UK CK 0075

In the Uttarakhand High Court

Case No : Special Appeal No. 147 Of 2017

Yogendra Singh Chauhan

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 15-09-2022

Acts Referred:

Citation : (2022) 09 UK CK 0075

Hon'ble Judges : Vipin Sanghi, CJ;R.C. Khulbe, J

Bench : Division Bench?

Advocate : A.S. Rawat, Shailendra Nauriyal, Pradeep Joshi, Dharmendra Barthwal, N.S. Pundir, Shobhit Saharia

Final Decision : Dismissed

Judgement

Vipin Sanghi, CJ

1. The present Special Appeal is directed against the order dated 17.04.2017, rendered by the learned Single Judge, in Writ Petition (S/S) No.1862 of 2016, preferred by the respondent no.5 herein Mr. Manoj Kumar.

2. By the impugned order, the learned Single Judge allowed the said writ petition, and set-aside the selection of the appellant herein, who was respondent no.5 in the writ petition, on the ground that he did not possess the minimum essential educational/ technical qualification from an institution recognized by the State Government, and directed that the writ petitioner Mr. Manoj Kumar be granted appointment as Assistant Storekeeper since he was at Sl. No.2 in the merit list. The impugned order is a short order, and reads as follows:-

"The petitioner and the respondent no.5 have participated in the selection process for the post of Assistant Store Keeper, under the physical disability category. The essential educational/ technical qualification for filling up the post was the computer certificate course of one year's duration from a computer institute recognized by the Government of Uttarakhand. The petitioner has obtained his diploma in Computer Science from Dr. Ambedkar Institute of

Technology for Handicapped, Kanpur in the year 2002, which is recognized by the State of Uttarakhand. However, the respondent no.5, who is at Sl. No.1 in select/merit list has obtained the computer certificate from the Uttaranchal Computer Training Institute, who is a Society.

There is no material placed on record to establish that the Uttaranchal Computer Training Institute is duly recognized by the Government of Uttarakhand. Merely that Society is registered under the Societies Registration Act or under the Local Act would not suggest even remotely that Institution is recognized by the State Government. The candidate must possess the essential educational/ technical qualification as provided by the Recruitment or Promotional Rules or in the advertisement. The respondent no.5 did not possess the minimum essential educational/ technical qualification from the institution recognized by the State Government.

Accordingly, the writ petition is allowed. The selection of respondent no.5 to the post of Assistant Store Keeper is quashed and set-aside. The respondents are directed to issue appointment letter to the petitioner, who was at Sl. No.2 in the merit list within a period of eight weeks from today."

3. The submission of the learned Senior Counsel appearing for the appellant is that, in fact, the State Government does not provide any recognition to an educational/ training institution which grants a one year certificate course in computer training.

4. The further submission of the learned Senior Counsel is that the respondent no.5 Mr. Manoj Kumar did not have the requisite qualification as laid down in the advertisement, inasmuch as, he had been granted the one year diploma by Dr. Ambedkar Institute of Technology for Handicapped, Kanpur, Uttar Pradesh, in the year 2005, whereas the Uttarakhand Board of Technical Education had been setup by an Act of 2003. Learned Senior Counsel submits that the stand taken by the respondent-authority is that they continued to recognize the diplomas which were recognized by the Uttar Pradesh Board of Technical Education before the creation of the Uttarakhand Board of Technical Education and, therefore, the diploma obtained by respondent no.5 could not have been accepted as a validly recognized diploma, since the same was obtained only in the year 2005.

5. Learned Senior Counsel further submits that since the Uttaranchal Computer Training Institute- wherefrom the appellant obtained the certificate of undertaking one year certificate course in Computer Applications (from 01.04.2005 to 30.03.2006), is a duly registered society, registered under the Societies Registration Act, 1860, that, by itself, tantamounts to recognition by the State of the certificate course undergone by the appellant.

6. On the other hand, learned counsels for the respondents have drawn the attention of the Court to the order dated 08.11.2017, passed in these proceedings, and the affidavit filed in response thereto in the present appeal. The order dated 08.11.2017 reads as follows:-

"Mr. Devesh Ghildiyal, Advocate for the appellant.

Mr. Pradeep Joshi, Standing Counsel for the State of Uttarakhand / respondent No. 1

Mr. Alok Mahra, Advocate for respondent No. 5.

Mr. Pradeep Joshi, learned Standing Counsel would submit that the courses, which are run by the ITI (both private and Government), National Council for Vocational Training, State Universities, Technical Education Board, School Education Board, are all recognised by the Government. The case of the writ petitioner is that his Diploma has been recognised by the U.P. Technical Education Board. Learned Standing Counsel would ascertain whether the Diploma recognised by the U.P. Technical Education Board before the creation of the Uttarakhand Technical Education Board is being treated as a qualification, which is recognised by the Government of Uttarakhand.

An affidavit will be filed on the above lines on or before 27th November, 2017.

List on 27th November, 2017 in the Daily Cause List. The interim order will continue till the next date of listing."

7. The affidavit filed in response to the aforesaid order by Mr. Vedi Ram, Joint Secretary, Department of Technical Education & Training, Government of Uttarakhand, Dehradun, disclosed that the essential qualification for the post of Assistant Storekeeper, inter alia, is one year Computer Certificate Course from a Computer Institute recognized by the Government of Uttarakhand. It is further stated that the Government of Uttarakhand does not directly recognize any institute for conducting the computer certificate courses. The certificate courses being recognized in the State are those which are issued by I.T.I.s (Government and Private) which are recognized/ affiliated to the Uttarakhand State Council for Vocational Training, and National Council for Vocational Training. Apart from this, the computer courses conducted by the State Universities, Board of Technical Education, Board of School Education, or the institutions which are affiliated with them are deemed to be recognized certificates by the Government of Uttarakhand.

8. The submission is that mere registration of a society, which runs the institute wherefrom the appellant claims to have undergone the one year certificate course in computer, as a registered society under the Societies Registration Act, would not tantamount to the recognition of the institute which is imparting the one year computer course, or recognition of the course itself.

9. Our attention has also been drawn to the certificate dated 05.09.2016, issued by the Society, namely Srijan Educational Society, wherefrom the appellant claims to have undergone the one year certificate course in computer, which reads as follows:-

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Uttaranchal Computer Training Institute (UCTI)

10. Thus, even the said society has clarified that its one year certificate course in computers is not recognized by the Government of Uttarakhand.

11. We have considered the submissions of learned counsels, and also perused the record, including the impugned order.

12. The prescription in the advertisement to the effect that the candidate should have undergone one year computer certificate course from recognized computer institute, as recognized by the Uttarakhand Government, though not happily worded, is an essential qualification, which could not be waived. As noticed hereinabove, the State Government has clarified that the State does not grant recognition to any institution, which is providing one year diploma course in computer. The condition imposed in the advertisement reads as follows:-

13. The aforesaid condition has been explained to mean the qualification of one year computer certificate courses being conducted through I.T.I. (Government & Private) which are recognized/ affiliated to Uttarakhand State Council for Vocational Training (S.C.V.T.), or National Council for Vocational Training (N.C.V.T.). Apart from this, the computer courses conducted by the State Universities, Board of Technical Education, Board of School Education, or the institutions which are affiliated with them are deemed to be recognized certificates by the Government of Uttarakhand.

14. The importance of the said stipulation as an essential qualification lies in the fact, that if such stipulation were not to be made, any candidate who may have actually not undergone a course from a recognized institution, may offer his candidature on the basis of the certificate obtained from any paper institution, which may actually not be imparting the education/ training that it claims to be doing.

15. We cannot lose sight of the fact that hundreds of paper Universities and other Institutions had mushroomed all over the Country. The requirement that one year computer certificate course should be obtained from a recognized institution ensures that the certificate is not produced by a candidate from an institution over which there is absolutely no regulation or oversight with regard to its conducting the course with certain minimum standards.

16. Since the appellant did not obtain the certificate of undergoing the one year computer course from a recognized institution, he was rightly held to be disqualified by the learned Single Judge.

17. We also do not find any merit in the submission of the learned Senior Counsel appearing for the appellant that the respondent No. 5 was disqualified, since he had undergone the one year computer certificate course- as recognized by the Uttar Pradesh Board of Technical Education, in the year 2005, and not earlier. The respondent No. 5 has the educational qualification of B.Tech from the G.B. Pant University in Computer Science of the year 2010. Moreover, he had

undertaken the one year diploma course in Computers from Dr. Ambedkar Institute of Technology for Handicapped, Kanpur (U.P.)- which course he joined in the year 2002, and completed in the year 2005. Firstly, he joined the course in the year 2002, which was before the Uttarakhand Board of Technical Education was setup. Secondly, merely because the Uttarakhand Board of Technical Education was setup by an Act of 2003, it would not mean that the recognition granted in respect of the one year certificate course obtained from an institution recognized by the U.P. Board of Technical Education would suddenly lose its efficacy.

18. For the aforesaid reasons, we do not find any merit in this special appeal, and the same is, hereby, dismissed.