

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI

AND

HON'BLE SRI JUSTICE RAKESH THAPLIYAL

SPECIAL APPEAL NO. 69 OF 2023

23RD MAY, 2023

BETWEEN:

Tejpal Singh Chauhan

.....Appellant.

And

State of Uttarakhand & others

....Respondents.

Counsel for the Appellant : Mr. Sahil Mullick, learned counsel.

Counsel for the State : Mr. K.N. Joshi, learned Deputy Advocate General.

The Court made the following:

JUDGMENT:(per Hon'ble The Chief Justice Sri Vipin Sanghi)

The appellant has preferred the present special appeal with the delay of 752 days. The explanation furnished by the appellant to explain the delay is that, he had entrusted the file to one Advocate namely Mr. Sushant Pandey in Dehradun for filing the appeal after the impugned judgment was rendered by the learned Single Judge on 14.02.2019. The appellant claims that the said Advocate took his signatures on *Vakalatnama* and some other pages along with the advance money and promised to file the special appeal before this Court. The appellant claims that he called the said counsel, who informed the appeal had been filed, and was pending in this Court, and he was informed that the date of hearing would be informed as and when fixed. He claims that only in January, 2023, when a relative of the appellant

searched the case online, he learnt that the appeal had not been preferred.

2. There is no averment that any action has been taken by the appellant against Mr. Sushant Pandey. It is very convenient for a party to make allegations against a counsel behind his/ her back. We are not satisfied with the explanation furnished by the appellant to explain the enormous delay of 752 days.

3. Even on merits, we find no substance in the present appeal. The claim for promotion made by the appellant was turned down by the respondents on the ground that he did not have the minimum qualification of intermediate for promotion from Group 'D' to Group 'C' post.

4. The submission of learned counsel for the appellant is that the appellant had filed the supplementary affidavit in the writ petition, which had not been considered. Learned counsel had drawn our attention to the said supplementary affidavit. It is stated therein that the appellant had cleared the examination in the year 2006 conducted by the Bhartiya Shiksha Parishad, Uttar Pradesh, which was considered as equivalent to Intermediate, i.e. 12th standard examination. At the same time, the appellant states that this Court had held that the 12th standard examination certificate issued by the

said Institution, namely Bhartiya Shiksha Parishad, is not valid.

5. The submission of learned counsel for the appellant is that since he had obtained the certificate in the year 2006, and the judgment of this Court was rendered in 2009, it would not apply to this case.

6. We find absolutely no merit in this submission. Firstly, it is clear that the appellant did not inform his employer that he had obtained any such certificate from the Bhartiya Shiksha Parishad, as the respondents claimed that the appellant was not an intermediate. Moreover, the judgment of this Court holding that the certificates issued by the Bhartiya Shiksha Parishad are not recognized and not valid, would apply to all such cases, whether issued before or after the date of the judgment.

7. We accordingly find no merit in this appeal, and the same is dismissed.

8. Pending application, if any, also stands disposed of.

(VIPIN SANGHI, C.J.)

(RAKESH THAPLIYAL, J.)

Dated: 23rd May, 2023

NISHANT