

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. 113 OF 2023

28TH APRIL, 2023

BETWEEN:

Rajpal Singh Rawat & others Appellants.

And

State of Uttarakhand & others Respondents.

Counsel for the Appellants : Mr. Vinay Kumar, learned counsel.

Counsel for the State : Mr. S.S. Chauhan, learned Deputy Advocate General.

Counsel for the Respondent No.3 : Mr. Nishant Krishna Adhikari, *proxy* counsel for Mr. Ramji Srivastava, learned counsel.

Counsel for the Respondent No.4 : Mr. Shivanand Bhatt, learned counsel.

The Court made the following:

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

Issue notice. Learned counsels appear and accept notice on behalf of the respondents.

2. The present special appeal is directed against the common judgment dated 27.03.2023, rendered by the learned Single Judge, in Writ Petition (S/S) No.338 of 2022 and other similar writ petitions.

3. The learned Single Judge has rejected the primary submission of the appellants with regard to the application of the amended Rules for the post of Radiography Technicians, which were brought into force after issuance of the original advertisement and were sought to be made applicable by

issuance of a corrigendum. The effect of the corrigendum was to make other candidates eligible for the said post on the basis of the experience gained by them through internship.

4. The petitioners had offered their candidature on the basis of the experience gained by them by serving as Technicians in Government Medical Colleges on contract basis. They were aggrieved by the expansion of the pool for consideration on the ground that the amended Rule was not retrospective in operation. The learned Single Judge has rejected this submission and, in our view, rightly so. The learned Single Judge has placed reliance on the judgment of the Supreme Court in ***Aarya Zonal Manager, Bank of India vs. K. Babu & another, (2019) 8 SCC 587***, which, in our view, is squarely attracted in the facts of the present case.

5. The submission of Mr. Kumar, learned counsel for the appellants, is that, at the same time, the learned Single Judge has acknowledged that the past experience gained by the candidates by serving in Government Medical Colleges should be utilized in public interest, and the State Government may take a decision in that regard.

6. However, the grievance of the appellants is that the said weightage has been left for being considered for future selections, and not for the ongoing selection process.

7. Mr. Kumar submits that the selection process is still ongoing, inasmuch, as the answer keys were published on 12.04.2023 and objections were called. The objections had to be submitted by 25.04.2023.

8. We dispose of this appeal with a direction to the State Government to take a decision on the representation of the appellants before the conclusion of the selection process in the way.

9. The special appeal is disposed of in the aforesaid terms.

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

(VIPIN SANGHI, C.J.)

(RAKESH THAPLIYAL, J.)

Dated: 28th April, 2023

NISHANT