

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/S) No.956 of 2020

Ajay Kumar Sharma & another Petitioners

Versus

State of Uttarakhand and others Respondents

Presence:-

Mr. C.D. Bahuguna, learned senior counsel for petitioners.

Mr. Ashish Joshi, learned Counsel for respondent no.1-Commission.

Mr. K.N. Joshi with Ms. Mamta Bisht, learned Dy.A.G. for State.

Coram: Hon'ble Manoj Kumar Tiwari, ACJ
Hon'ble Pankaj Purohit, J.

Hon'ble Manoj Kumar Tiwari, ACJ (Oral)

1. Heard learned counsel for the parties.
2. In a nutshell, case of petitioners is that in a selection for the post of Additional Private Secretary held by Uttarakhand Public Service Commission, their candidature was rejected only on the ground that they were not having Computer course of one year duration. Learned Senior Counsel for petitioners submits that petitioner nos.1 and 2 pursued Computer Application Course of three-year and two-year duration, respectively. Thus feeling aggrieved, petitioners have approached this Court challenging the order passed by the selecting body whereby their candidature has been rejected.
3. Learned Senior Counsel for the petitioners contends that the ground taken for rejecting petitioners' candidature is unjust and unsustainable, inasmuch as, their certificate in Computer Application Course is duly recognized by the State Government, and there is no other infirmity in their certificate which may warrant rejection of their candidature. It is further submitted that the certificate awarded, after pursuing a Course of

longer duration, will make a candidate more suitable for a given job, thus, insistence by selecting body on having certificate of 'one-year course duration' has no nexus with the object sought to be achieved. He further submits that holders of certificate in Computer Application with longer course duration cannot be discriminated against when one-year course certificate holders are being treated as eligible.

4. Mr. Ashish Joshi, learned counsel, appearing for selecting body, submits that since the Rules provide 'Certificate in Computer Application of One-year duration', therefore, candidature of petitioners was rejected.

5. The objection raised by the selecting body regarding candidature of petitioners, is illogical, therefore unacceptable to this Court. It is not the case of selecting body that the certificate(s) possessed by petitioners is not from a recognized institution, or the Course content of their Certificate is different from what is required for appointment to the post, in question.

6. Learned counsel for selecting body further submits that earlier, a list of ineligible candidates was issued on 14.10.2019 whereby objections were invited from concerned candidates, however, petitioners did not submit any objection within stipulated time i.e. upto 04.11.2019.

7. Mr. C.D. Bahuguna, learned Senior Counsel appearing for writ petitioners, has however, referred to Annexure No.SA4 to the supplementary affidavit filed on behalf of petitioners (paper no.42 of the paper book), which is the objection submitted by petitioners on

30.10.2019, which shows that it was personally served in the office of Selecting Body on 30.10.2019. Thus, it is apparent that the objection, filed by petitioners, is well within time.

8. As already discussed above, objection against candidature of petitioners is without any rationale, and in fact, it is too technical an objection which cannot be sustained before a Court of Law. A candidate who has pursued a course with longer course duration will make him/her more suitable for a given job. Therefore, such candidate cannot be discriminated against in the matter of appointment only on the ground that his course duration is more than what is prescribed in the advertisement.

9. The writ petition is, accordingly, allowed. Impugned rejection order dated 07.01.2020 (Annexure No.7 to the petition) is quashed qua petitioners. The selecting body is directed to declare final result of petitioners within three weeks, and to recommend their name(s) for appointment, if they otherwise are eligible and in the merit list for appointment, to the post in question.

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

(Pankaj Purohit, J.)

(Manoj Kumar Tiwari, ACJ)

22.12.2023

Rdang