

HIGH COURT OF UTTARAKHAND AT NAINITAL

(1) Writ Petition (S/S) No.1302 of 2022

Champa Uniyal Petitioner

Versus

State of Uttarakhand and another Respondents

(2) Writ Petition (S/S) No.1025 of 2022

Rashmi Chauhan Petitioner

Versus

State of Uttarakhand and others Respondents

(3) Writ Petition (S/S) No.1030 of 2022

Munni Adhikari & others Petitioners

Versus

State of Uttarakhand and others Respondents

(4) Writ Petition (S/S) No.1069 of 2022

Veneeta Gairola Petitioner

Versus

State of Uttarakhand and others Respondents

(5) Writ Petition (S/S) No.1111 of 2022

Savityri Kharayat Petitioner

Versus

State of Uttarakhand and others Respondents

(6) Writ Petition (S/S) No.1205 of 2022

Anju Kandari & others Petitioners

Versus

State of Uttarakhand and others Respondents

(7) Writ Petition (S/S) No.1206 of 2022

Meeta Phartyal & others Petitioners

Versus

State of Uttarakhand and others Respondents

(8) Writ Petition (S/S) No.1255 of 2022

Pushpa Awasthi & others Petitioners

Versus

State of Uttarakhand and others Respondents

And

(9) Writ Petition (S/S) No.2312 of 2022

Chandra Kala Petitioner

Versus

State of Uttarakhand and others Respondents

Presence:-

Mr. Himanshu Aswal, Mr. Prabhat Bohra, Mr. Sachin, Mr. Manoj Bhatt and Mr. Navnish Negi, learned counsel(s) for all the writ petitioners.

Mr. Narayan Dutt, learned Standing Counsel for the State.

Mr. Nishant K. Adhikari, learned counsel holding brief of Mr. Ramji Srivastava, learned counsel for respondent no.4- Selection Board.

Hon'ble Pankaj Purohit, J. (Oral)

Since a common question of law and fact is involved in all these writ petitions, hence these are being taken up together and decided by this common order.

2. In nutshell, the grievance of the writ petitioners is to struck down the condition of upper age

limit of 42 years for applying for the selection on the post of Uttarakhand Health Worker (Female) Examination-2022, which was inserted vide Clause 7 of the advertisement dated 15.03.2022. According to Clause 7 of the impugned advertisement, the age of a candidate as on cut-off date should not be less than 21 years and more than 42 years.

3. It is the case of the petitioners that the Uttarakhand Medical Service Selection Board had conducted the last examination in the year 2016 and since then, despite there being an advertisement in the year 2018, the same was challenged before this Court and during the pendency of this writ petition, a statement was made by learned State Counsel before the Division Bench of this Court that the State Government has decided to withdraw the aforesaid advertisement. It is the case of the petitioners that due to the inaction on the part of the respondents in cancelling the earlier advertisement and not filling up the vacancies on yearly basis, petitioners became overage since they crossed the upper age limit of 42 years as on the cut-off date.

4. Petitioners thereafter knocked the doors of this Court and by way of interim protection they were directed to provisionally appear in the examination. According to petitioners, they were eligible in earlier recruitment of year 2018 and filled up application forms in earlier round of recruitment but due to withdrawal of advertisement, in pursuance of order dated 15.06.2020, they became overage to apply in present advertisement.

5. In addition to above, in respect of WPSS No.2312 of 2022, petitioner therein mistakenly entered

incorrect date of birth in her online application form. Even after the request of petitioner, she was not permitted to correct her mistake. Being consistent, she knocked the door of this Court and was granted interim protection by this Court, pursuant to which, she sat in the examination.

6. In respect of WPSS No.1030 of 2022, petitioner nos.1 & 2 did not fill up the application form pursuant to the earlier advertisement. They earlier filed WPSS No.2491 and 2551 both of 2017, challenging the validity of Rule 8(2)(iii) of the Uttarakhand, Health & Family Welfare Department-Health Worker & Health Supervisor (Male and Female) Service Rules, 2016 besides the earlier advertisement. Rest of the petitioners i.e. nos.3 to 6 filled up forms in the earlier round of recruitment but due to withdrawal of advertisement by the State, they were overage in present advertisement.

7. The challenge raised in all these writ petitions is no more *res integra* in view of the judgment passed by this Court in WPSS No.134 of 2023 (*Deepak Bhandari & others vs. State & others*) and batch, which were decided by a common judgment dated 30.10.2023 passed by this Court holding that the selfsame Condition no.7 of the advertisement dated 03.01.2023 challenged therein was held to be illegal, since petitioners therein had applied pursuant to the advertisement were below the upper age on the date when first advertisement was notified.

8. Learned counsel for the parties also fairly concede that the controversy raised in these writ petitions is also one and the same and these petitions may also be decided in terms of the aforesaid judgment dated 30.10.2023.

9. Following the said ratio, the present writ petitions are also allowed. Condition no.7 of the impugned advertisement *qua* the writ petitioners is relaxed. The respondent-Board is directed to treat the petitioners within the maximum age limit in the selection process held vide the subject advertisement and to hold them eligible for the said posts insofar as their upper age is concerned. The respondent-Board is further directed to declare the result of the petitioners and accordingly, if they fall within the zone of consideration and are found otherwise qualified in all other aspects, they shall be recommended and offered the appointment(s). No order as to costs.

10. Pending application(s) if any stands disposed of accordingly in all these matters.

(Pankaj Purohit, J.)
21.11.2023

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