

| No | Date | Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures | COURT'S OR JUDGES'S ORDERS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|    |      |                                                                                                  | <p>WPSS No. 419 of 2017<br/> <u>Hon'ble Manoj Kumar Tiwari, A.C.J.</u></p> <p>(1) Mr. Sanjay Bhatt, learned counsel for the petitioner.</p> <p>(2) Mr. P.S. Bisht, learned Additional C.S.C. for the State of Uttarakhand.</p> <p>(3) Mr. I.P. Gairola, learned counsel for respondent nos. 4 to 7.</p> <p>(4) By means of this writ petition, petitioner has sought the following relief:-</p> <p>i) Issue a writ, order or direction, in the nature of certiorari quashing the impugned order dated 22.12.2016 issued by respondent no. 2 contained as Annexure No. 1 to the writ petition.</p> <p>ii) Issue a writ, order or direction, in the nature of mandamus commanding the respondents not to interfere or create any obstructions in the functioning of the petitioner as Group Instructor/Principal I.T.I. Maldhanchaur, Ramnagar, District Nainital, during the pendency of the writ petition.</p> <p>(5) According to petitioner, he was initially appointed on daily wage basis as Instructor (Stenography) in Industrial Training Institute run by Social Welfare Department. Upon State re-organization, petitioner was given designation of Group Instructor on 06.11.2001 by the Additional Director. Subsequently, Director, Social Welfare passed an order on 22.08.2003, whereby services of petitioner were regularised on the post of Instructor. The very next day, i.e. on 23.08.2003, Additional Director passed an order, whereby designation of petitioner was changed to Group Instructor. Subsequently, seniority lists of Group Instructors and Instructors were prepared by Director, Social welfare, which were issued on 22.12.2016 and petitioner was placed in the seniority list of Instructor and not Group Instructor.</p> <p>(6) Thus, feeling aggrieved by inclusion of his name in the seniority list of Instructor, petitioner has filed this writ petition with the contention that since he was given designation of Group Instructor by Additional Director vide order dated 23.08.2003, therefore, he should have</p> |

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|  |  | <p>been placed in the seniority list of Group Instructor and inclusion of his name in the other list is wrong.</p> <p>(7) Learned State Counsel, however, submits that the order passed by Additional Director, Social Welfare on 23.08.2003, relied by petitioner, was issued due to mistake, which was subsequently rectified vide order dated 30.08.2003. He further submits that the order passed by Director has not been challenged by the petitioner before any forum, therefore, the said order has attained finality. In support of this contention, he has referred to paragraph 12 of its counter affidavit, which reads as under:</p> <p>“12. That it is clarified here that only in the order dated 23.08.2003 the petitioner was wrongly shown as Group Instructor by the Incharge Additional Director and the said mistake was rectified by the Additional Director, herself by issuing the order dated 30.08.2003, by which the petitioner was shown as Instructor in place of Group Instructor. The said order dated 30.08.2003 has not been challenged by the petitioner at any point of time. It is future submitted that in the view of facts and circumstances of the case as stated above; the writ petition being devoid of merit and liable to be dismissed.”</p> <p>(8) This Court finds substance in the submission made by learned State Counsel. Since petitioner was regularised on the post of Instructor by the Director, therefore Additional Director could not have upgraded his designation, that too the next day of passing of regularisation order. Moreover, the Appointing Authority for the post of Group Instructor is Director, therefore, Additional Director could not have changed the designation of petitioner, as given in the regularisation order. Petitioner has not challenged the order dated 30.08.2003, by which his designation as Instructor was restored. Thus, he cannot have any grievance against placement of his name amongst Instructors.</p> <p>(9) Thus, there is no scope for interference in the matter. Accordingly, writ petition fails and is hereby dismissed.</p> <p style="text-align: right;">(Manoj Kumar Tiwari, A.C.J.)<br/>19.12.2023</p> <p><i>Aswal</i></p> |
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