

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE CHIEF JUSTICE SRI VIPIN SANGHI
HON'BLE JUSTICE SRI RAKESH THAPLIYAL, J.

October 11, 2023

Special Appeal No. 346 of 2023

Vikram Negi

.....Appellant.

Versus

Uttarakhand Public Service Commission & Ors.

.....Respondents.

Counsel for the applicant:

Mr. Sandeep Tiwari

Counsel for the respondents:

Mr. Ashish Joshi for respondent no. 1
Mr. B.C. Pande, for respondent no.
2&3.

**Upon hearing the learned Counsel, the Court made the following Order:
(per Sri Rakesh Thapliyal, J.)**

1. By the instant special appeal, the present appellant/petitioner is assailing the judgment and order dated 19.09.2023, passed by the learned Single Judge in Writ Petition (S/S) No. 1753 of 2023, Vikram Negi vs. Uttarakhand Public Service Commission & others, whereby the learned Single Judge has dismissed the writ petition.

2. The facts of the case are that, an advertisement was issued by the Uttarakhand Public Service Commission (hereinafter referred to as Commission) on 14.10.2022 for filling up total 563 posts out of which 391 posts were of Revenue Sub Inspector/Patwari and 172 posts were of Lekhpal. The scheme of the examination was two tier schemes consisting of objective type question followed by physical examination. The petitioner, being fully eligible for the post, submitted the application form for District Tehri Garhwal, having 45 posts of Revenue Sub-Inspector (Patwari). The examination, so held by the Commission on 12.02.2023,

is of 100 marks which comprises of objective type questions with multiple choice answers, consists of General Hindi, General Knowledge and General awareness and each question carries 01 mark and there was negative marking of 0.25 marks for each wrong answer. Respondent no. 4 also participated in the examination and found place at serial no. 6 in the merit list of Patwari in respect of Tehri Garhwal.

3. The learned counsel for the appellant submits that respondent no. 4 was not having eligibility requirement as per the conditions of the advertisement wherein hill certificate is also one of the eligibility requirement, which was issued to respondent no. 4 after last date of filling up of the application form. In reference to this, hill certificate of respondent no. 4 is also enclosed in the petition which was issued on 29th December 2022. The learned counsel for the appellant also submits that as per the advertisement, issued by the Commission, the last date to fill up the form was 04.11.2022, and the hill certificate was issued in the favour of the respondent no. 4 after the last date of submitting the examination form, i.e. on 29.12.2022, and, as such, the Commission has committed illegality in recommending the name of respondent no. 4 for selection on the post of Revenue Sub-Inspector (Patwari) in District Tehri Garhwal.

4. In addition to challenge the selection of respondent no. 4 on the aforesaid post, a writ of mandamus was also sought by the petitioner/appellant that respondent no. 1 be directed to declare the result afresh for the one post of Revenue Sub-Inspector (Patwari) District Tehri

Garhwal, considering the candidature of the petitioner/appellant.

5 The learned Single Judge in its judgment dated 19.09.2023, has observed that the arguments advanced by the learned counsel for the petitioner is hyper-technical and it will not make any difference that a candidate is given certificate of hill district of Uttarakhand after the last date of submission of the application form, as there would not be any change in the height and physical specification of the candidate.

6. At this juncture, it is necessary to reproduce condition no. 2 of the advertisement dated 14.10.2022, issued by the Commission as under:-

“2. अभ्यर्थी यह सुनिश्चित कर लें कि वह ऑनलाइन आवेदन- पत्र भरने की अन्तिम तिथि अर्थात् दिनांक 04 नवम्बर 2022 तक विज्ञापन में वर्णित अनिवार्य शैक्षिक अर्हताएं एवं अन्य अर्हताएं अवश्य धारित करते हों। अभ्यर्थी की शैक्षिक अर्हता के सम्बन्ध में परीक्षा परिणाम घोषित होने की तिथि (Result Declaration Date). वह मानी जायेगी जो अंक पत्र निर्गत होने की तिथि (Marksheet Issuing Date) हो। अतः अभ्यर्थी यह सुनिश्चित कर लें कि ऑनलाइन आवेदन पत्र के शैक्षिक अर्हता (Qualification Details) के विवरण में (Result Declaration Date) के कॉलम में, संबंधित शैक्षिक अर्हता के अंक-पत्र निर्गत होने की तिथि (Marksheet Issuing Date) का अंकन हो। विज्ञापन की शर्तानुसार वांछित अर्हताओं की पूर्ति न होने पर अभ्यर्थन निरस्त कर दिया जायेगा, जिसकी जिम्मेदारी पूर्णतः अभ्यर्थी की होगी।

7. By referring condition no. 2 of the advertisement, learned counsel for the appellant submits that as per this condition, respondent no. 4 should furnish the required certificate on or before 04.11.2022. This argument is totally misconceived and not tenable. From the plain language of condition no. 2, it clearly stipulates that till the last date the candidate should have all eligibility requirements for the post in question. This condition no. 2 does not stipulate that the certificate should be issued

on or before the last date and it only provides that candidate should be eligible for the post in question on the last date of submission of application form. Apart from this, the requirement of hill certificate is only meant for relaxation in the physical specification. It is not disputed that respondent no. 4 admittedly belongs to the Hill District of Rudraprayag, and, merely on the ground that hill certificate was issued on 29th December 2022, it cannot be presumed that respondent no. 4 is not eligible and certificate which was issued on 29th December 2022 cannot be taken into consideration.

8. The argument, as advanced by the learned counsel for the appellant cannot be accepted, as, respondent no. 4 belongs to the Hill District and merely on the ground that hill certificate was issued after the last date he cannot be treated to be non eligible for the post in question. Further, under Rule 13 of the Uttarakhand Revenue sub-Inspectors (Patwari) Service (First Amendment) Rules, 2015, the candidates of the Hill District of Uttarakhand have been provided relaxation in respect of the physical specification towards height and chest. This fact is not disputed that the respondent no. 4 belongs to the Hill District of Uttarakhand, and, therefore, the Commission has rightly recommenced respondent no. 4 for selection.

9. The learned Single Judge has dealt with all the aspects in the impugned judgment including 2015 Rules as well as the condition as stipulated in the advertisement, and the learned Single Judge has rightly come to the conclusion that the arguments as advanced by the learned counsel for the petitioner is hyper-

technical. Apart from this, the certificate, as required, is only for the purpose of relaxation in the physical standards.

10. In view of this, we do not find any merit on the submission of the learned counsel for the appellant. Further, we do not find any infirmity in the judgment passed by the learned Single Judge.

11. Thus, the present special appeal is dismissed, and the judgment dated 19.09.2023, passed by the learned Single Judge is hereby affirmed.

12. No order as to costs.

VIPIN SANGHI, C.J.

RAKESH THAPLIYAL, J.

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