

IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL

Special Appeal No. 380 of 2023

Sandeep Kumar Chamoli ... Appellant

Versus

State of Uttarakhand & Others ... Respondents

Mr. B.M. Pingal, Advocate, for the appellant.
Mr. S.S. Chaudhary, Advocate, for respondent
no. 1 and 2.
Mr. Nishant Krishna Adhikari, Advocate, i/b Mr.
Ramji Srivastava, Advocate for the respondent
no. 3.

J U D G M E N T

Hon'ble Manoj Kumar Tiwari, A.C.J.
Hon'ble Vivek Bharti Sharma, J.

(Per: Hon'ble Manoj Kumar Tiwari, A.C.J.)

Appellant filed Writ Petition (WPSS No. 1987 of 2023), challenging the decision taken by Uttarakhand Medical Service Selection Board on 05.10.2023, whereby his candidature for the post of Technician, Central Sterile Supply Department ('C.S.S.D.' for short) was rejected.

2. The said writ petition was dismissed by learned Single Judge vide judgment dated 06.11.2023. This intra-court appeal is filed by the appellant challenging the said judgment rendered by learned Single Judge. Relevant extract of the impugned judgment is reproduced below:-

"10. Having considered the rival contention of learned counsel for the parties, there is no illegality in the order impugned as the petitioner, admittedly, submitted his application form for the post of C.S.S.D. Technician and it is also

undisputed that petitioner is not having the qualification of C.S.S.D. diploma/degree.”

3. Learned counsel for appellant submits that he is educationally qualified for appointment as C.S.S.D. Technician as per Rule 8 of the Uttarakhand Medical Education Department Technician (Lab/O.T./C.S.S.D., Dental Etc.) Cadre Service Rules, 2020; he further submits that the educational qualification prescribed for the said post in the advertisement is in variance with the qualification required as per the Recruitment Rules, therefore, he has to be treated as eligible for appointment to the post of C.S.S.D. Technician. English Translation of the relevant clause of Rule 8 of the Recruitment Rules, dealing with qualification, is reproduced below:-

Designation	Educational Qualification
O.T./C.S.S.D. Technician	1. The candidate should have passed intermediate examination in Science from the Board of Secondary, Education, Uttarakhand or any examination recognized equivalent to it by the Government.
	2. The candidate should have degree/diploma in O.T./C.S.S.D. from an institute eligible for registration in Uttarakhand Para-Medical Council.
	3. The candidate should have a certificate of registration in Uttarakhand State Medical Faculty or Uttarakhand Para-Medical Council.
	4. It is mandatory for the candidate to have at least 02 years of work experience in related work in a medical institution recognized by the State Government.

4. By relying upon Rule 8 of the Recruitment Rules, learned counsel for appellant submits that a candidate having

degree or diploma in O.T./C.S.S.D. is eligible for appointment as O.T. Technician and also C.S.S.D. Technician. He submits that in the advertisement qualification for both the posts is separately indicated as degree/diploma in related branch, which cannot be in variance with the Recruitment Rules. He further submits that since he is qualified for appointment as O.T. Technician, therefore, he has to be treated as eligible for appointment as C.S.S.D. Technician also.

5. Perusal of the advertisement reveals that O.T. Technician and C.S.S.D. Technician have been dealt with separately and the academic qualification needed for two posts have also been mentioned separately. Learned Single Judge has considered the matter in great detail and held that for appointment as O.T. Technician, one needs to have degree/diploma in O.T. Technician Course.

6. We concur with the view expressed by learned Single. In the Recruitment Rules, although qualification needed for both the posts has been dealt with together, however, the fact remains that O.T. and C.S.S.D. are different branches altogether and separate course of study is prescribed for both these branches. Merely because Rule 8 together deals with the educational qualification needed for the two posts, however, the Rules nowhere indicate that a candidate with degree/diploma in O.T. Technician course can also be

appointed against the post of C.S.S.D. Technician. Thus, the Rules have to be construed in such a manner which does not lead to absurd result and we find that the view taken by learned Singe judge was correct and the interpretation sought to be given by the appellant to the Rules would lead to absurd result. Since appellant was not having degree/diploma in the concerned branch, therefore, he cannot be held to be eligible for appointment as Technician C.S.S.D.

7. Thus, there is no scope for interference with the impugned judgment. Accordingly, the appeal is dismissed.

(Vivek Bharti Sharma, J.)

(Manoj Kumar Tiwari, A.C.J.)

December 29, 2023

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