

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/S) No. 2223 of 2023

Santosh Prakash Naudiyal
and Others

.....Petitioners

Versus

State of Uttarakhand and Others

.....Respondents

Present:-

Mr. Anil Anthwal, Advocate for the petitioners.
Mr. V.S. Rawat, Brief Holder for the State.

Hon'ble Pankaj Purohit, J. (Oral)

The petitioners have moved this Court by filing the present writ petition challenging the Government Order No. 1356/XVI(I(-(2)/2018-03(2)/2016 dated 11.05.2015 and Government Order No. XVIII-B-1/21-03(02)/2016 dated 30.11.2021 (Annexures-11 and 12 to the writ petition), whereby, the respondent Government directed to fill the post of Data Entry Operators/Junior Assistant/Computer Operators and Multi-purpose Workers (Peon) in District Emergency Operation Center, Disaster Management Authority by outsourcing.

2. It is the case of the petitioners that the petitioner nos. 1 to 3 have been given contractual appointment with the respondent department as Junior Assistants/Data Entry Operators and petitioner no. 4 was appointed as Anusewak i.e. Multipurpose Worker with the District Disaster Management Authority, Rudraprayag in the year 2009. It is the case of the petitioners that the petitioners fulfil the requisite eligibility for being appointed in the post held by them and their contractual appointment was renewed time to time till September, 2023.

3. Suddenly, vide order dated 20.10.2023, the District Disaster Management Authority, Rudraprayag under the hand of District

Disaster Management Officer has put to an end the contractual appointment of the petitioners w.e.f. 30.09.2023 saying that the post held by the petitioners shall be deemed to be vacant till clear instructions are received from the State Government.

4. It is the contention of the petitioner that the respondent cannot abruptly put to an end the services rendered by them since 2009 continuously more so when they are having the qualification and are eligible for that post. It is contended by the learned counsel for the petitioner very strenuously relying upon the judgment of the Hon'ble Supreme Court and the High Court saying that the contractual employee cannot be substituted by another set of contractual or daily wagger or outsource agency and this would amount to malpractice on the part of the respondent-State.

5. Per contra, the learned State Counsel armed with the instruction sought from him by the previous order dated 14.12.2023 submitted that vide Government Order dated 30.11.2021 impugned in the writ petition, the contractual employee were not liable to be continued. However, it is fairly submitted by learned Additional Chief Standing Counsel for the State that the proposal regarding the services of the petitioner/contractual employees is pending with the State Government and it is only for that reason, the posts held by the petitioners were kept vacant.

6. At this stage, the learned counsel for the petitioners submitted that since the matter has not attained finality at the level of the State Government, he may be given a liberty to submit a detailed representation to the State Government through District Disaster Management Authority ventilating their grievance and the respondents be directed to decide the same within a time-frame in order to get justice. The petitioner has also relied upon Government Order dated 21.03.2022.

The proposal so made by the petitioner's counsel is not opposed by the learned State counsels.

7. Having heard the learned counsel for the parties and going through the record of the case, I am of the view that the innocuous prayer made by the petitioners cannot be ignored simply for the reason that the matter is still pending consideration with the State Government.

8. The writ petition is finally disposed-off and it is provided that the petitioners shall move a detailed representation to the respondent no. 1 through respondent no. 4 ventilating their grievance within a period of fifteen days from the date of receipt of certified copy of this order and the respondent no. 1 shall decide the representation so received by him within a period of four weeks from the date of receipt of the representation by passing a well-reasoned speaking order, keeping in view the long uninterrupted contractual services of the petitioner, especially in the light of the Government Order no. 233/XVIII-B-1/22-15(25)/2021 dated 21.03.2022.

(Pankaj Purohit, J.)
19.12.2023

Ujjwal