

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			WPSS No.2331 of 2023 <u>Hon'ble Pankaj Purohit, J.</u> 1. Mr. M.C. Pant, learned counsel for the petitioner appearing through video conferencing. 2. Mr. Sushil Vashistha, learned Standing Counsel for the State. 3. Mr. Nishant Adhikari, learned counsel holding brief of Mr. Ramji Srivastava, learned counsel for respondent no.3. 4. Petitioner has filed this writ petition for the following relief:- “I. Issue a writ, rule, order or direction in the nature of mandamus to direct the respondents to declare the result of the petitioner so that her candidature can be considered at par to the other persons who were given appointment after granting age relaxation in view of the order and judgment dated 30.10.2023 of the Hon'ble High Court passed in Writ Petition No.134 of 2023 (S/S), after calling the entire record from the respondents, and/or to mould the relief appropriately by safeguarding the interest of the petitioners keeping in view the facts highlighted in the body of petition.” 5. Brief facts of the case are that petitioner holds Diploma in General and Nursing Midwifery Course and was duly certified by the Uttarakhand Nurses and Midwives Council. On 12.12.2020 an advertisement was issued by Uttarakhand Technical Education Board for 1238 posts for Staff Nurses (Male/Female). The petitioner submitted her candidature. In the said advertisement the cut-off date for determination of age was 01.01.2020.

			Petitioner applied for the post but unfortunately no examination was conducted by the respondent. Subsequently a fresh advertisement was issued by Uttarakhand Technical Education Board for the same vacancies. Meanwhile corrigendum dated 09.02.2021 was issued. The date of examination was fixed for 18.04.2021 which was postpone to 15.06.2021. On 21.09.2021 Government of Uttarakhand made a major change in the recruitment process by changing the recruitment agency. Now the process of recruitment was conducted by the Uttarakhand Medical Service Selection Board. Uttarakhand Medical Service Selection Board published a fresh advertisement inviting applications from the candidates for the vacancy on the post of Nursing Officer (Female/Male) on 03.01.2023. According to which the age of a candidate shall be reckoned from 01.07.2022 and on that date the candidate must have attained minimum age of 21 years and maximum of 42 years. 6. Being aggrieved some of the candidates filed WPSS No.134 of 2023 along with connected matters, in which an interim order was granted on 18.01.2023 and a general order was passed directing the respondents to accept application forms of all such candidates who initially responded to the advertisement dated 02.12.2020 and who were within age-limit as per aforesaid advertisement. The petitioner falls within this category of candidates. The petitioner filed a representation on 30.01.2023 to the Secretary, Uttarakhand Medical Health and Family Welfare stating therein that she may be considered for Nursing Officer, Recruitment-2023. In the said representation she has also stated that by the order of this Court in Writ Petition (S/S) Nos. 134/135/129 of 2023 similarly situated persons were given appointment after declaring their result
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			and were also allowed the age relaxation. But in the instant case result of the petitioner is withheld and her appointment is still pending. 7. Learned counsel for the petitioner submits that petitioner is entitled to the same benefit which the similarly situated person got. He further submits that case of the petitioner is covered by the same judgment as given by this Court in Writ Petition Nos. 134 of 2023. 8. The learned counsel for the selecting body, though admitted that the controversy involved in the present petition is squarely covered by the judgment and order rendered by this Court in WPSS No.134 of 2023 and batch of writ petitions but the petitioner is not entitled to get any relief for the reason that she is a fence-sitter. 9. I have considered the rival contentions made by the parties. I do find that the case of the petitioner is covered by the aforesaid judgment inasmuch as she is a candidate, who submitted her candidature for the post of Nursing Officer (Male/Female) pursuant to the advertisement dated 03.01.2023, owing to the general order passed by this Court vide interim order dated 18.01.2023 her candidature was accepted by the selecting board and she was permitted to participate in the selection process. Now the writ petitions referred hereinabove have already been allowed by this Court and relaxation having been granted to the petitioners of those writ petitions in upper age limit, and their results have been directed to be declared, the petitioner is also entitled to the same relief. 10. So far as the argument raised by the selecting body of the petitioner being fence-sitter is concerned the same will not be applicable in the present case simply for the reason that the petitioner has approached this Court almost after two months after passing of the judgment in the writ petitions on 30.10.2023.
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