

Court No. - 8

Case :- WRIT - A No. - 6929 of 2016

Petitioner :- Upvan Kanval

Respondent :- State Of U.P. Thru Prin.Secy. P.W.D. Govt.Of Up Lko.And Ors.

Counsel for Petitioner :- Dileep Kumar Pathak,Alok Kr. Misra,Ambuj

Prajapati,Arun Kumar Shukla,Dileep Kumar Pathak,Ganga Prasad

Srivastava,Pankaj Kumar Shukla,Rajiv Srivastava

Counsel for Respondent :- C.S.C.,Ashok Shukla,Raj Kumar Upadhyaya
(R.K.Upadhyaya)

Hon'ble Dinesh Kumar Singh,J.

1. Heard learned counsel appearing for the accused-petitioner, learned Additional Chief Standing Counsel appearing for the State and Sri R.K. Upadhyaya, learned counsel appearing for the U.P. Public Service Commission.

2. Present petition under Article 226 of the Constitution of India has been filed seeking quashing of the impugned Advertisement dated 19.02.2016 issued by U.P. Public Service Commission

3. The petitioner is a Diploma Holder in Electrical Engineering. The petitioner has also done apprentice between 1986-95. An Advertisement was issued on 27.05.1995 by the U.P. Subordinate Service Selection Commission for filling up 1573 posts of Junior Engineer (Electrical) and several other trades in various State Government's departments.

4. A Writ Petition No.4651(SS) of 1996 came to be filed by U.P. Berozgar Shishikshu Deploma Engineers Welfare Association against the advertisement dated 27.05.1995 before this Court. Said advertisement was, however, later on cancelled and U.P. Subordinate Selection Commission was abolished and the post of Junior Engineer came within the purview of the U.P. Public Service Commission.

5. The U.P. Public Service Commission issued fresh Advertisement No.3/1998-99 on 02.07.1998 for filling up 2593 vacancies of Junior Engineers in various departments including P.W.D. Said advertisement issued by the U.P. Public Service Commission was also challenged by filing Writ Petition No.4691(SS) of 1998 by the petitioner's Association.

6. Said writ petition was, however, dismissed vide judgment and order dated 02.12.1998. An Special Appeal No.283 of 1999 against the said

judgment and order dated 02.12.1998 came to be filed, which was disposed of vide judgment and order dated 01.10.1999.

7. The judgment and order dated 01.10.1999 passed in the Special Appeal was also challenged by the Association before the Supreme Court in Special Leave Petition No.3374 of 2000. The Supreme Court remanded the matter back vide order dated 14.03.2001 for deciding the case afresh.

8. On remand, the learned Single Judge decided the Writ Petition No.4691(SS) of 1998 afresh vide judgment and order dated 15.07.2009.

9. Apprentice Diploma Holders were permitted to appear in the upcoming recruitment process and it was said that if everything is equal, they should be given preference and age relaxation. Fresh advertisement No.6/2008-09 was issued on 29.12.2007 for filling up 876 posts of Junior Engineer (Electrical) in Public Works Department, Government of U.P. The petitioner participated in the said recruitment and selection, however, he could not qualify and, therefore, question of preference and age relaxation would not arise.

10. Once the petitioner did not qualify the examination for recruitment to the post of Junior Engineer (Electrical), question of giving preference and age relaxation would not arise. If the petitioner could have qualified the examination and all other things being equal, he should have been given preference in appointment. This stage could have come only if the petitioner would have qualify the examination. When the petitioner could not qualify, there is no question of giving preference and offering him appointment. In view thereof, I find no substance in the writ petition, which has remained pending since 2016. The petitioner would have been around 54 years of age as of today.

11. Dismissed.

(Dinesh Kumar Singh, J.)

Order Date :- 3.7.2023
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