



IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE ACTING CHIEF JUSTICE SRI MANOJ KUMAR TIWARI
AND
HON'BLE SRI JUSTICE PANKAJ PUROHIT

WRIT PETITION (S/B) NO. 277 OF 2021

12TH DECEMBER, 2024

Sanjay Kumar Tripathi Petitioner

Versus

Uttarakhand Ayurved University
and others Respondents

WITH

WRIT PETITION (S/B) NO. 349 OF 2021

Birendra Kumar Petitioner

Versus

Uttarakhand Ayurved University
and others Respondents

Counsel for the petitioner : Mr. Pradeep Kumar Chauhan, learned
counsel

Counsel for the respondents : Mr. C.S. Rawat, learned Chief Standing
Counsel with Mr. K.N. Joshi, learned
Deputy Advocate General for the State

: Mr. Sandeep Kothari, learned counsel for
respondent-University

WITH

WRIT PETITION (S/B) NO. 412 OF 2021

Umapati C. Baragi Petitioner

Versus

Uttarakhand Ayurved University
and others Respondents



2024:UHC:9406-DB

Counsel for the petitioner : Mr. Sarang Malhar, learned counsel holding brief of Mr. Shaildenra Nauriyal, learned counsel

Counsel for the respondents : Mr. C.S. Rawat, learned Chief Standing Counsel with Mr. K.N. Joshi, learned Deputy Advocate General for the State

: Mr. Sandeep Kothari, learned counsel for respondent-University

The Court made the following:

JUDGMENT: (per Hon'ble The Acting Chief Justice Sri Manoj Kumar Tiwari)

1. Since common questions of law and facts are involved in all these writ petitions, therefore, they are being heard and decided together. However, for the sake of brevity Writ Petition (S/B) No. 349 of 2021, shall be the leading case.

2. Petitioner in WPSB No. 349 of 2021 is serving as Associate Professor in department of Rasa Shashtra and Bhaishjaya Kalpana, in Gurukul Campus of Uttarakhand Ayurveda University, Dehradun. According to him, he was given ad-hoc appointment as Lecturer in Government Ayurvedic College, Gurukul Kangri, Haridwar on 24.10.2008 and he was regularly appointed on the said post on the recommendation of Uttarakhand Public Services Commission w.e.f. 19.02.2010. According to him, he was promoted as Associate Professor on 29.12.2014 and is holding said position ever since then. The order of promotion dated 29.12.2014 is on record, as Annexure-2 to the writ petition.

3. Perusal of promotion order dated 29.12.2014 reveals that personal promotion under Career Advancement Scheme was given to petitioner which is different from vacancy based



promotion as is given in other government departments. Career Advancement Scheme was introduced by University Grants Commission, as teachers serving in the Universities were facing acute stagnation for want of promotional avenue, as all teaching positions, including Associate Professor and Professor were required to be filled by open selection alone.

4. Under Career Advancement Scheme, a person directly appointed as Lecturer/Assistant Professor, can be given designation and pay-scale admissible for the next higher post of Associate Professor, after putting in certain years of service, however it is a personal promotion and upon retirement, resignation or death of the teacher, who was given personal promotion, the post on which he was appointed by open selection, will fall vacant and not the post which he was holding before his death, resignation or retirement. Thus, a teacher promoted under Career Advancement Scheme, carries the induction level post, on which he was appointed by open selection, with him upon promotion to a higher position.

5. In this writ petition, petitioner contends that he is serving as Associate Professor w.e.f 29.12.2014, therefore, he is eligible for regular promotion to the post of Professor, but Uttarakhand Ayurveda University has not concluded promotion exercise initiated on 14.02.2020, in which, petitioner also participated.

6. Grievance raised by petitioner is that in the advertisement dated 09.07.2021, issued by Uttarakhand Ayurveda University, not a single post of Professor Rasa



Shashtra was reserved for Scheduled Caste category candidates, which is in violation of reservation policy.

7. In the counter affidavit, filed by Dr. Rajesh Kumar, Associate Professor on behalf of respondent No. 1, it is stated that in the department of RAS SHASHTRA, one post of Professor is held by a person appointed by open selection and Professor is promoted from the post of Associate Professor under Career Advancement Scheme and the remaining vacancies shall be filled as per norms.

8. In para 5 of counter affidavit, it is stated that process of personal promotion under Career Advancement Scheme is proposed and it will be initiated as per Clause 35 and 36(i) of the University Byelaws-2015.

9. Learned counsel for petitioner submitted that since post of Professor is lying vacant, therefore, University is under a duty to constitute departmental promotion which shall consider claim of the petitioner for promotion as Professor. Petitioner has relied upon Uttarakhand Ayush (Ayurvedic College Teachers) Service Rules, 2011 in support of his claim for promotion. The said Service Rules, however, are applicable only to teachers serving in Government Ayurvedic Colleges, while petitioner is serving in Uttarakhand Ayurveda University, which is an autonomous body.

10. Learned counsel for petitioner submitted that there are as many as 43 sanctioned posts of Professor in different departments of Uttarakhand Ayurveda University, however, persons belonging to scheduled caste category are not adequately represented as per reservation policy applicable



in the State. He further submitted that University issued an advertisement on 11.02.2020, whereby applications were invited for appointment against 26 posts of Professor in the University, out of which 8 posts were reserved for candidates belonging to scheduled caste category.

11. He submitted that aforesaid advertisement was cancelled and another advertisement was issued on 09.07.2021 by which, only 16 vacancies on the post of Professor were notified, out of which 5 were reserved for scheduled caste candidates. Thus, according to petitioner, reservation policy is violated by the University by reserving less number of posts of Professor in the University than required, thus the impugned advertisement dated 09.07.2021, is liable to be set aside.

12. However, when a pointed query was put to learned counsel for petitioner as regards the total posts presently occupied by persons belonging to scheduled caste category, in the cadre of Professor, learned counsel for petitioner could not give any reply. He also could not answer our query regarding the quota, if any, fixed for promotion from Associate Professor to the post of Professor. The writ petition is also silent on these aspects. In the absence of these necessary particulars, the contention raised by petitioner regarding breach of reservation of policy, cannot be examined.

13. Petitioner has also sought a direction to consider his claim for promotion. According to him, in the promotion exercise, initiated on 14.02.2020, he was called for interview. Learned counsel for University, however, submits



that petitioner is a teacher serving in University and vacancy based promotion is not available to teachers of University and they are only given personal promotion under Career Advancement Scheme. He submits that under Career Advancement Scheme, a teacher, if recommended for promotion in his first attempt is given personal promotion from the date he became eligible for such promotion and no loss is suffered by the concerned teacher on account of delay in completing promotion exercise.

14. Learned counsel for the University has referred to Clause 36 of the Uttarakhand Ayurveda University Statute, 2015, which provides that academic qualification for appointment to teaching positions would be such as is prescribed by University Grants Commission / Central Council for Indian Medicine / Central Homeopathic council /State Government, and he submits that the Rules framed by these agencies have been adopted by Uttarakhand Ayurved University. He further submits that the Career Advancement Scheme floated by University Grants Commission, as adopted by State of Uttarakhand, is applicable in the matter of promotion in the University.

15. In the absence of any statutory provision creating right of vacancy based promotion in favour of petitioner, no direction can be issued to University to promote petitioner to the post of Professor.

16. As submitted by learned counsel for University, petitioner can be considered only for personal promotion under Career Advancement Scheme introduced by University Grants Commission, therefore, his claim will be considered



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as per the said Scheme as and when he becomes due for such promotion.

17. The Writ Petition is, accordingly, disposed of in aforesaid terms.

MANOJ KUMAR TIWARI, A.C.J.

PANKAJ PUROHIT, J.

Dt: 12TH DECEMBER, 2024
Mahinder/