



2025:UHC:1580-DB

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			WPSB No. 402 of 2016 with WPSB No. 32 of 2017 <u>Hon'ble Manoj Kumar Tiwari, J.</u> <u>Hon'ble Vivek Bharti Sharma, J.</u> Mr. Shashank Pandey & Mr. Akshay Pradhan, Advocate for the petitioner. 2. Mr. Ashish Joshi, Advocate for the respondent nos. 1 & 2. 3. Mr. D.S. Bora, Standing Counsel for the State of Uttarakhand / respondent no. 3. 4. Mr. I.D. Paliwal, Standijng Counsel for the State of Uttar Pradesh/ respondent no. 4. 5. Mr. Anil Anthwal, Advocate, holding brief of Mr. C.S. Rawat, Advocate for respondent no. 5. 6. Uttarakhand Sanskrit University issued an advertisement on 22.04.2015 inviting applications for various faculty positions, including two posts of Assistant Professor (Education), which were reserved for Scheduled Caste category. Petitioner, who belongs to Scheduled Caste category, participated in the selection process. Upon conclusion of selection process, two candidates namely (i) Mr. Dinesh Kumar; and (ii) Ms. Meenakshi were recommended for appointment against posts reserved for Scheduled Caste category. Appointment letter offered to these two candidates selected for the post of Assistant Professor (Education) indicated joining time upto 30.09.2016. Ms. Meenakshi joined duties well within the deadline indicated in the appointment order. The other candidate, selected for the post of Assistant Professor (Education), namely Mr. Dinesh Kumar,



		however, could not join duties within the time indicated in the appointment order, therefore, he sought extension of time by making an application. Such application was made on 08.11.2016 and the Vice Chancellor of the University accepted the request made by Mr. Dinesh Kumar and Mr. Dinesh Kumar ultimately joined duties as Assistant Professor (Education) on 11.11.2016. 7. Learned counsel for the petitioner contends that as per Section 31 (7-B) of the State Universities Act, 1973, the Selection Committee is required to prepare a waiting list. He further contends that the Selection Committee prepared a merit list, in which, Mr. Dinesh Kumar was placed on top by virtue of his score of marks, Ms. Meenakshi stood second in order of merit and petitioner stood third immediately after Ms. Meenakshi. He contends that since Mr. Dinesh Kumar failed to join duties within given time, therefore, one out of the two reserved vacancies on the post of Assistant Professor (Education) ought to have been offered to petitioner, as he was the next candidate in order of merit. 8. Petitioner filed Writ Petition (S/B) No. 402 of 2016 seeking a direction to the respondents to prepare a waiting list for the post of Assistant Professor (Education). He also filed Writ Petition (S/B) No. 32 of 2017 seeking a direction to respondent nos. 1 & 2 to cancel the appointment of Mr. Dinesh Kumar on the post of Assistant Professor. 9. Law is well settled that mere selection does not confer indefeasible right of appointment, as held by Constitution Bench of Hon'ble Supreme Court in the case of Shankarsan Dash v. Union of India, (1991) 3 SCC 47. Para 7 of the said judgment is extracted
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below:-

7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court, and we do not find any discordant note in the decisions in *State of Haryana v. Subash Chander Marwaha* [(1974) 3 SCC 220: *Neelima Shangla v. State of Haryana* [(1986) 4 SCC 268, or *Jatinder Kumar v. State of Punjab* [(1985) 1 SCC 122 .

10. Learned counsel for the petitioner contends that extension of joining time sought by Mr. Dinesh Kumar should not have been granted; offer of appointment made to Mr. Dinesh Kumar, thus, is liable to be cancelled and appointment should be offered to the petitioner, as he was next in order of merit.

11. We are not impressed by the said submission. Every employer has an inherent right to indicate the time within which a selected candidate should join duties in the letter of appointment and also to extend the joining time, if need be. In the present case, Vice Chancellor of the University was competent to fix the time within which a selected candidate should join duties, therefore, there is nothing wrong if Vice Chancellor exercised his right of extending joining for permitting Mr. Dinesh Kumar to join duties on the post of Assistant Professor (Education).

12. Thus, there is no scope for interference in the matter. Both the writ petitions fail and are dismissed.

(Vivek Bharti Sharma, J.) (Manoj Kumar Tiwari, J.)

07.03.2025



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