



2025:UHC:3907-DB

**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**HON'BLE JUSTICE SRI MANOJ KUMAR TIWARI AND  
HON'BLE JUSTICE SRI ASHISH NAITHANI**

**Writ Petition (S/B) No. 172 of 2020**

Manoj Kumar

-Petitioner

**Versus**

Uttarakhand Public Service

Commission and others

--Respondents

**Presence:-**

Mr. C.D. Bahuguna, Senior Advocate assisted by Mr. Chandra Shekhar Dalakoti,  
Advocate for the petitioner

Mr. Devender Singh Bora, Standing Counsel for the State

Mr. Pankaj Miglani, Advocate for the Uttarakhand Public Service Commission

**The Court made the following:**

**JUDGMENT:** (per Hon'ble Justice Sri Manoj Kumar Tiwari)

1. Uttarakhand Public Service Commission issued an advertisement dated 04.08.2017, inviting applications for appointment against 877 vacancies on the post of Assistant Professor in different Government Degree Colleges. The selection was to be made on the basis of interview alone; however, a screening test was to be held for the purpose of short listing, if number of applications received was large. Petitioner applied for the post of Assistant Professor (History), pursuant to the said advertisement and claimed benefit of reservation available to Scheduled Caste persons.

2. According to petitioner, he secured more marks than the private respondents in the screening test and was called for interview, however, in interview, he was wrongly given less marks than private respondents. Since petitioner was not selected for appointment, therefore, he filed this writ petition, challenging selection and appointment of private respondents for the post of Assistant Professor (History). The reliefs sought in writ



petition are extracted below:-

I. Issue a writ, order or direction, summoning the records of proceedings of selection made on the post of Assistant Professor, History; and issue a writ in the nature of Certiorari, quashing the impugned orders dated 22-05-2020 and 17-02-2020, contained in Annexure-1 & 2 to this petition.

II. In the alternative, Issue a writ, order or direction in the nature of Certiorari, quashing and setting aside selection and appointments of respondent nos. 5 to 12 on the post of Assistant Professor, History.

III. Issue a writ, order or direction in the nature of mandamus, commanding the respondent nos. 1 to 4 to select and appoint the petitioner against the vacant post of Assistant professor, History with all consequential benefits of service including continuity in service.

IV. In the alternative, Issue a writ, order or direction in the nature of mandamus, commanding the respondent nos. 1 to 4 to hold fresh selection on the post of Assistant Professor, History within a reasonable period of time.

V. Issue a writ, order or direction in the nature of Mandamus, commanding and declaring that entire selection process for making selection on the post of Assistant Professor, History, stands vitiated in law, on ground of not following the Selection procedure established by law and not assessing suitability of the petitioner in accordance with law.

VI. Issue a writ, order or direction in the nature of Mandamus, declaring clause (e) of Rule 9 of Uttaranchal Higher Education (Group-A) Service Rules, 2003 (as amended in 2011), as bad in law, inasmuch as it suffers from the vice of lack of guidelines.

VII. Issue a writ, order or direction in the nature of Mandamus, declaring sub-rule (2) and (3) of Rule 15 of the Service Rules of 2003 as arbitrary and illegal inasmuch as it suffer from the vice of excessive legislation.

VIII. Issue a writ, order or direction in the nature of Mandamus, declaring sub-rule (2) and (3) of Rule 15 of Uttaranchal Higher Education (Group-A) Service Rules, 2003, as bad in law inasmuch as the said provisions commands the Commission to assess and adjudge suitability of candidates for direct recruitment on the basis of marks obtained in Interview alone.

IX. Issue a writ, order or direction in the nature of Mandamus, declaring sub-rule (e) of Rule 7 of Uttarakhand Public Service Commission Preparation of Examination Result Procedure Rules, 2012 (as amended in 2015) as bad in law inasmuch it suffers from the vice of lack of guidelines."



3. Mr. Rajendra Kumar, Secretary, Uttarakhand Public Service Commission has filed counter affidavit stating that the marks obtained in screening test are not to be added in the marks scored by a candidate in interview and selection is to be made solely on the basis of performance of a candidate in interview. It is further stated that based on performance of petitioner in interview, he secured 51 marks while private respondents scored more marks in interview because of their better performance. Regarding petitioner's claim for bonus marks for teaching experience in terms of Rule 9(e) of Uttaranchal Higher Education (Group-A) Service Rules 2003, it is stated that he was given 2 percent of the total marks obtained in interview, as bonus marks, as he had served as part-time Lecturer only for 2 academic sessions till the last date of submission of application.

4. It is further stated in the counter affidavit filed by the Commission that selection was held in a fair and transparent manner as per laid down norms and allegation of favouritism and nepotism made in the writ petition is false and further that the allegation against fairness of members of Interview Board is without any substance. It is further stated that challenge to the Recruitment Rules and other applicable statutory provisions, made by petitioner is unsustainable, as after participating in the selection with eyes wide open, he cannot question rules of the game, which were applied, in the selection process.

5. Learned Senior Counsel for the petitioner has drawn attention of this Court to a list of candidates who were



declared successful in the screening test, which is on record as Annexure-6 to the writ petition. By referring to the said list, learned counsel for the petitioner contends that bonus marks were given to the candidates at the stage of screening test while such bonus marks were to be given only after interview.

6. Learned Senior Counsel for the petitioner submits that as per Rule 9(e) of Uttaranchal Higher Education (Group-A) Service Rules, 2003, as amended from time to time, a candidate who has served as part time Lecturer in a Government College in the State, shall get maximum ten percent of the total marks obtained by him in Examination/Interview as bonus marks. He further submits that since screening test is qualifying in nature, therefore, bonus marks for experience can be given to a candidate depending upon his performance in the interview.

7. Learned counsel appearing for Uttarakhand Public Service Commission, however, submits that every candidate, who appeared in the screening test for Assistant Professor (History) was given 2 bonus marks, as two questions asked in the screening test were found to be erroneous. Thus he submits that 2 marks indicated in 7<sup>th</sup> Column of the list under the caption 'bonus', refer to the marks which were given across the board to all candidates for 2 erroneous questions and the said marks have nothing to do with experience and these bonus marks are not referable to Rule 9(e) of Uttaranchal Higher Education (Group-A) Service Rules, 2003.

8. We find substance in the said contention. Upon



careful perusal of the list of candidates declared successful in the screening test (Annexure-6 to the writ petition) we find that eight candidates, who were seeking appointment as Assistant Professor (Sanskrit), were given 5 bonus marks each and thereafter all candidates who appeared in the screening test for Assistant Professor (History), were given 2 bonus marks each.

9. Since length of teaching experience is different for every candidate, and as per rules, a candidate is entitled to 1 percent bonus marks for teaching experience of one year, subject to a maximum of 10 percent marks, therefore, 2 marks given to each candidate who appeared in the screening test for History subject, clearly indicates that these 2 marks were given for some mistake in two questions. The screening test consisted of multiple choice questions, in which the examinee has to indicate the correct answer out of the many options given in the question paper.

10. Petitioner cannot raise the grievance that bonus marks in screening test were wrongly given to other candidate, as he was also given such bonus marks for wrong question. Based on his performance in screening test, petitioner was called for interview. The Interview Board after assessing petitioner's performance awarded 51 marks to him while other candidates who were declared successful, were given much more marks than the petitioner. The subjective assessment made by Interview Board, based on objective standards, is not open to judicial review.

11. The Interview Board consists of experts and the



members of Interview Board are renowned academicians drawn from different Universities and in the absence of any definite proof of nepotism or favouratism, the assessment made by Interview Board is not justiciable, therefore cannot be interfered with.

12. Law is well settled that in academic matters, opinion of subject experts has to be respected and in the absence of any glaring illegality, it would be wise to adopt hands-off approach.

13. Learned counsel for the petitioner then contended that petitioner was not given any bonus marks for experience even though he had teaching experience of 2 years till submission of application pursuant to the advertisement.

14. Learned counsel for Uttarakhand Public Service Commission, in reply, refers to para 14 of the counter affidavit filed by the Commission where it is stated that petitioner was given 2 percent of total marks scored by him in interview, for teaching experience.

15. Learned counsel for the petitioner then referred to a decision taken by a committee of the Commission on 24.08.2017 for contending that the mark sheet should indicate the bonus marks given to every candidate.

16. Learned counsel for the Uttarakhand Public Service Commission, however, submits that this argument is being raised in the absence of any pleading in the writ petition. He further submits that the selection has to be held as per the applicable Rules and terms and conditions set out in advertisement and not as per some



decision taken by a Committee after initiation of selection process. He submits that the advertisement, whereby selection process was set in motion, was issued on 04.08.2017, and learned counsel for the petitioner himself admits that the decision was taken on 24.08.2017, therefore the said decision cannot be made applicable to ongoing selection. He further submits that whatever marks, petitioner was entitled to for experience, were given to him and in the absence of any prejudice caused to him, due to non-disclosure of bonus marks in the mark sheet, the complaint made by the petitioner is unsustainable.

17. This Court finds substance in the submission made by learned counsel for the Commission. The decision taken by a Committee of the Commission on 24.08.2017 cannot be applied to a selection which was set in motion by an advertisement issued earlier. Even otherwise also, petitioner was given 2 percent of the total marks scored by him in interview, as bonus marks for experience, therefore, mere non-mentioning of bonus marks in the mark sheet is of no consequence. No prejudice is caused to the petitioner due to non-disclosure of bonus marks in the mark sheet issued to him. Petitioner has alleged that he was wrongly given less marks for interview. The assessment made by experts who were members of interview board is not open to judicial review.

18. From the relief clause, it is revealed that petitioner has thrown challenge to the Recruitment Rules and also to the Uttarakhand Public Service Commission Preparation of Examination Result Procedure Rules, 2012.



19. After participating in the selection, petitioner cannot challenge the statutory provisions which governed the selection. In the advertisement, there is a clear stipulation that selection shall be held as per the Recruitment Rules and the Uttarakhand Public Service Commission Preparation of Examination Result Procedure Rules, 2012. Challenge to aforesaid statutory provisions could have been entertained only if petitioner had approached this Court before submitting application in response to the advertisement. After being declared unsuccessful in the selection, such challenge cannot be entertained.

20. Thus, we are of the considered opinion that the contentions raised by petitioner for challenging the selection and appointment of private respondents as Assistant Professor (History) are without any substance.

21. Therefore, the Writ Petition is liable to be dismissed and is hereby dismissed. No order as to costs.

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**MANOJ KUMAR TIWARI, J.**

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**ASHISH NAITHANI, J.**

Dt: 14<sup>th</sup> May, 2025  
*Mahinder*