



HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Service Bench No. 363 of 2024

20th August, 2026

Ajaypal Aswal and others --Petitioners
Versus
State of Uttarakhand and others -Respondents

Presence:-
Mr. Yogesh Pacholia, Advocate for the petitioners.
Mr. Ganga Singh Negi, Additional Chief Standing Counsel for the State.

Coram :Hon'ble Manoj Kumar Tiwari, J.
Hon'ble Pankaj Purohit, J.

Hon'ble Manoj Kumar Tiwari, J. (Oral)

Petitioners were appointed as Regional Youth Welfare and Prantiya Rakshak Dal Officer, on the recommendation of Public Service Commission vide order dated 26.11.2008, while there were other group of persons, who were also appointed on the same day, but on the post of Vyayam Prashikshak (Physical Instructor). Petitioners have a grievance against giving a particular position to Vyayam Prashikshak, in the eligibility list for promotion to the next higher post, by amendment made in the Rules. Petitioners have challenged validity of Note appended to Rule 5(d)(ii) of Uttarakhand Youth Welfare and Prantiya Rakshak Dal Gazetted Officer Service (Amendment) Rule 2015, notified on 13.08.2015. Rule 5(d)(ii) of the said rules is extracted below:

COLUMN-1 Existing Clause	COLUMN-2 Clause as hereby substituted
5(d)(i) Fifty Percent posts by promotion through the Commission on the basis of seniority from amongst the substantively appointed Regional Youth Welfare and P.R.D. Officers and Vyayam Instructor who have completed minimum five years services on the first day of the year of recruitment.	5(d)(i) Fifty Percent posts by promotion through the Commission on the basis of seniority subject to the rejection of unfit, from amongst the substantively appointed Regional Youth Welfare & P.R.D. Officers and Vyayam Instructor who have completed minimum five years services on the first day of the year of recruitment.



(ii) Fifty Percent posts by direct recruitment through the Commission. Note: For the purpose of promotion for District Youth Welfare and P.R.D. Officers the names of eligible candidates will be put in order of seniority in their respective cadres and in the joint seniority list, they will be put in the following order:— (a) Regional Youth Welfare and P.R.D. Officers. (b) Vyayam Instructor.	(ii) Fifty Percent posts by direct recruitment through the Commission. Note: For the purpose of promotion for District Youth Welfare & P.R.D. Officers, a joint eligibility list of Regional Youth Welfare & P.R.D. Officers and Vyayam Instructor will be made in order to their substantive appointment date which are mentioned in their respective cadre seniority list. i.e. The officer whose substantive appointment date is prior to other officers his name shall be placed above to other officers in joint eligibility list.
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2. It is contended on behalf of petitioners that in the relevant Service Rules framed in 2014, it was provided that a combined list of eligible Regional Youth Welfare and Prantiya Rakshak Dal Officers and Vyayam Prashikshak shall be prepared for promotion to the post of District Youth Welfare and Prantiya Rakshak Dal Officer in which names will be arranged in the following order:

- a) District Youth Welfare and Prantiya Rakshak Dal Officer
- b) Vyayam Prashikshak

It is thus contended that earlier, Vyayam Prashikshak were to be placed en bloc below District Youth Welfare and Prantiya Rakshak Dal Officers in the eligibility list, as a result petitioners were to be given precedence in promotion to next higher post.

3. It is contended that by amendment made in 2015, the aforesaid position is altered and it is now provided that names in the eligibility list for promotion to the post of District Youth Welfare and Prantiya Rakshak Dal Officer shall be arranged on the basis of date of substantive appointment of Regional Youth Welfare and Prantiya



Rakshak Dal Officer and Vyayam Prashikshak and the preference available to petitioners in the matter of promotion is thus lost.

4. This according to petitioners would lead to stagnation amongst Regional Youth Welfare and Prantiya Rakshak Dal Officers, whose cadre strength is 95, while Vyayam Prashikshaks have cadre strength of only 13. Learned State Counsel, however, points out that after restructuring, strength of cadre of Vyayam Prashikshak has gone up from 13 to 63, in other words, there are as many as 63 sanctioned posts of Vyayam Prashikshak.

5. Learned State Counsel submits that the posts of Regional Youth Welfare and Prantiya Rakshak Dal Officer and Vyayam Prashikshak are both classified as Group 'C' and both posts are carrying same pay scale; since the persons holding the position of Vyayam Prashikshak were in a disadvantageous position earlier, as they were placed en bloc below Regional Youth Welfare and Prantiya Rakshak Dal Officer in the eligibility list due to which they had little chance of promotion, therefore, State Government considered the problem faced by them and decided to amend the rules providing for preparation of eligibility list based on date of order of substantive appointment of persons belonging to both the aforesaid cadres.

6. Learned State Counsel thus submits that amended rule is egalitarian and provides equal opportunity to members of both the cadres, while earlier Vyayam Prashikshak were in a disadvantageous position.



7. We do not find any infirmity in the rules which may warrant interference by this Court under Article 226 of the Constitution.

8. Law is well settled that mere chance or prospect of promotion is not a condition of service. State can amend the rules or restructure cadres, which may reduce or increase promotional avenues, without violating service conditions. Learned State Counsel is right in submitting that promotional avenue available to petitioners has not been curtailed or affected and 50% posts of District Youth Welfare and Prantiya Rakshak Dal Officers still are required to be filled by promotion and the remaining 50% by direct recruitment. Thus he submits that only the mode of preparing eligibility list has been tweaked to make it just and egalitarian.

9. The impugned recruitment rules are framed by the State in exercise of its power under proviso to Article 309 of the Constitution, which is plenary in nature. The scope for interference with subordinate legislation is limited which can be challenged only on the following grounds:

- i. Lack of legislative competence
- ii. Ultra vires
- iii. Violation of fundamental rights
- iv. Manifest arbitrariness
- v. Excessive delegation
- vi. Procedural impropriety

10. Petitioners have challenged amendment made in the Rules only on the ground that it is arbitrary. A challenge to subordinate legislation can be successful only if the person throwing the challenge is successful in demonstrating that



the subordinate legislation is manifestly arbitrary. This aspect was analyzed by Hon'ble Supreme Court in the case of Khoday Distilleries Limited and others Vs. State of Karnataka and others, reported as (1996) 10 SCC 304. Para 13 of the said judgment is extracted below:

“13. The tests of arbitrary action which apply to executive actions do not necessarily apply to delegated legislation. In order that delegated legislation can be struck down, such legislation must be manifestly arbitrary; a law which could not be reasonably expected to emanate from an authority delegated with the law-making power. In the case of Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India [(1985) 1 SCC 641 : 1985 SCC (Tax) 121 : (1985) 2 SCR 287] (SCR at p. 243) this Court said that a piece of subordinate legislation does not carry the same degree of immunity which is enjoyed by a statute passed by a competent legislature. A subordinate legislation may be questioned under Article 14 on the ground that it is unreasonable; “unreasonable not in the sense of not being reasonable, but in the sense that it is manifestly arbitrary”. Drawing a comparison between the law in England and in India, the Court further observed that in England the Judges would say, “Parliament never intended the authority to make such Rules; they are unreasonable and ultra vires”. In India, arbitrariness is not a separate ground since it will come within the embargo of Article 14 of the Constitution. But subordinate legislation must be so arbitrary that it could not be said to be in conformity with the statute or that it offends Article 14 of the Constitution.”

11. In the case of Sharma Transport represented by D.P. Sharma Vs. Govt. of A.P. and Others, reported as (2002) 2 SCC 188, Hon'ble Supreme Court explained the expression 'manifest arbitrariness' in the following words:

“25. In order to strike down a delegated legislation as arbitrary it has to be established that there is manifest arbitrariness. In order to be described as arbitrary, it must be shown that it was not reasonable and manifestly arbitrary. The expression “arbitrarily” means : in an unreasonable manner, as fixed or done capriciously or at pleasure, without adequate determining principle, not founded in the nature of things, non-rational, not done or acting according to reason or judgment, depending on the will alone.”



12. Learned counsel for the petitioners could not substantiate his contention that the note added in Rule 5(d) of the applicable recruitment rules by amendment, is manifestly arbitrary.

13. State as employer, has inherent right to alter recruitment policy or service rules to suit administrative needs and a State employee does not acquire an indefeasible or vested right under old or superseded rules, for future vacancies.

14. Since earlier mode of preparing eligibility list was causing injustice to Vyayam Prashikshak as they were placed en bloc below petitioners in the eligibility list, for promotion, even though both cadres were having the same status and pay scale, therefore, State Government tweaked the rules to make them just and egalitarian. Such amendment cannot be said to be manifestly arbitrary, especially when the cadre strength of Vyayam Prashikshak is now increased to 63 as against 95, which is the cadre strength of Regional Youth Welfare and Prantiya Rakshak Dal Officers. Thus the challenge thrown by petitioners to the rules, as amended vide notification dated 13.08.2015 is without any substance and none of their vested or accrued right is affected. Reduction in chance of promotion cannot be a valid ground for challenging Statutory Rules.

15. Learned counsel for the petitioners then drew attention of this Court to a letter issued by Special Principal Secretary, Youth Welfare and Prantiya Rakshak Dal Section, Government of Uttarakhand (Annexure 14 to the writ



petition), which provides that amongst the aforesaid two feeding cadres, eligibility list for promotion to the post of District Youth Welfare and Prantiya Rakshak Dal Officers, shall be prepared in the ratio 95:63 (4:3), out of which 4 signifies Regional Youth Welfare and Prantiya Rakshak Dal Officer and 3 signifies Vyayam Prashikshak.

16. Learned counsel for the petitioners submits that document enclosed as Annexure-14 was issued based on a decision taken in a meeting held on 08.08.2024.

17. We do not approve of any decision taken in that meeting, which is contrary to express provision of statutory service rules. Service Rules are law and no one can act contrary to law.

18. With the aforesaid observations, the writ petition stands disposed of.

(Pankaj Purohit, J.) (Manoj Kumar Tiwari, J.)
20.08.2026

Mahinder/