



2026:AHC:91783

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 19246 of 2023

Yashwant Chauhan And 11 Others

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	G.K. Srivastava, J.P. Singh
Counsel for Respondent(s)	:	Abhishek Srivastava, C.S.C.

Court No. - 32

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Heard Sri J.P. Singh, learned counsel for petitioners and Sri Abhishek Srivastava, learned counsel for respondent - Power Corporation.

2. The petitioners have participated in a recruitment process against 623 vacancies of Technical Grade-II (Apprentice) - Eletrical for U.P. Power Corporation Ltd in pursuance of an advertisement dated 03.05.2016. The petitioners have claimed that they were selected and were appointed also, however, when a revised list was published on 12.12.2017 their names and others were deleted. The petitioners and others have filed various writ petitions against revised select list, however, it was dismissed vide a judgment dated 08.03.2018 passed by a Single Bench of this Court.

3. Some of the aggrieved persons have filed numbers of Special Appeals before Division Bench of this Court. It is not clear that petitioners have filed Special Appeals or not. All Special Appeals filed by aggrieved persons were dismissed vide a judgment dated 04.04.2018.

4. Admittedly, petitioners have not challenged any order before the Supreme Court, however, some of aggrieved persons have filed SLP (C) No. 18020 of 2022 (Civil Appeal No. 7194/2022). Said Appeals along with intervention applications were finally allowed on 12.10.2022 exercising jurisdiction under Article 142 of Constitution, whereby it was directed that 39 appellants/intervenors should be given appointment on above referred post within two months from date of order. Admittedly, petitioners were not part of said judgment i.e. they were neither appellants

therein nor they have filed any intervention application.

5. The petitioners being fence-sitters have filed a Writ Petition (C) No. 1047/2022 subsequently before Supreme Court to take benefit of above referred judgments, however, it was dismissed as withdrawn on 07.12.2022. Subsequently, petitioners have filed a Misc. Application No. 132/2023 in above referred Civil Appeal No. 7194/2022 which was disposed of by following order dated 07.02.2023 :-

"Benefit which was given to persons who were similarly situated to the applicant was under Article 142 of the Constitution of India. However, these applicant(s) before us never approached this Court for about 2 ¹/₂ years after the cause arose and now seek the same benefit.

We are not inclined to once again exercise jurisdiction under Article 142 of the Constitution of India but if what the applicant(s) claim, i.e., vacancies are available and if the respondent feel it can accommodate them, we are not coming in the way of that accommodation being made by the respondent.

Miscellaneous application stands disposed of accordingly.

IA NO. 12582/2023 FOR IMPLEADMENT

In view of the order passed in the miscellaneous application, the application for impleadment stands disposed of in the same terms and observations as set out above."

6. In aforesaid circumstances, petitioners have filed a representation before respondent - Power Corporation that their respective case for appointment be considered in the light of above referred order passed by Supreme Court, however, same was rejected vide impugned order dated

01.09.2023 and relevant part thereof is mentioned below :-

"अभिलेखों की जाँच के समय ऐसे अभ्यर्थियों, जो हाईस्कूल में विज्ञान एवं गणित विषय, में ग्रेस मार्क्स के साथ उत्तीर्ण घोषित किये गये थे, को विज्ञापन के प्रस्तर-2 के अनुसार अर्ह न मानते हुये चयन परिधि से बाहर कर दिया गया था। इन्ही व्यथित अभ्यर्थियों द्वारा विभिन्न याचिकाएं (22) मा० उच्च न्यायालय इलाहाबाद एवं खण्ड पीठ लखनऊ में योजित की गयी थी. जो प्रमुख रिट याचिका सं०-58918/2016 (सुनील कुमार एवं 46 अन्य बनाम स्टेट ऑफ यू०पी० एवं अन्य) के साथ सम्बद्ध थी। मा० उच्च न्यायालय इलाहाबाद द्वारा वाद सं०-58918/2016 में दिनांक 07.10.2017 को पारित निर्णय द्वारा घोषित चयन सूची दिनांक 09.12.2016 को निरस्त कर दिया गया था। तदोपरान्त मा० न्यायालय के आदेश के अनुपालन में गणित या विज्ञान या दोनों में ग्रेस मार्क से हाईस्कूल उत्तीर्ण अभ्यर्थियों को सम्मिलित करते हुये लिखित परीक्षा एवं अभिलेखों के सत्यापन के उपरान्त श्रेष्ठता के आधार पर पुनरीक्षित चयन सूची दिनांक 12.12.2017 को निर्गत की गई थी, जिसमें दिनांक 09.12.2016 को घोषित चयन सूची में चयनित 99 अभ्यर्थी चयन परिधि से बाहर हो गये थे।

चयन परिधि से बाहर हुये अभ्यर्थियों में से श्री दुर्गेश कुमार श्रीवास्तव द्वारा मा० उच्चतम् न्यायालय नई दिल्ली में योजित स्पेशल लीव पिटीशन (सिविल) डायरी नं०- 31612/2019 (दुर्गेश कुमार श्रीवास्तव बनाम विद्युत सेवा आयोग एवं अन्य) में पारित निर्णय दिनांक 12.10.2022 के अनुपालन में 39 नग वादीगणों को चयनित घोषित कर नियुक्ति प्रदान की गई।

कालान्तर में आप एवं 12 अन्य व्यथित अभ्यर्थियों द्वारा सिविल अपील संख्या-7194/2022 (डायरी सं०-31612/2019), दुर्गेश कुमार श्रीवास्तव बनाम विद्युत सेवा आयोग, उ०प्र० पा०का०लि० एवं अन्य में मिसलेनियस अप्लीकेशन सं०-132/2023 दाखिल कर, सिविल अपील सं०-7194/2022 में दिनांक 12.10.2022 को पारित निर्णय की भाँति ही आदेश निर्गत करने की प्रार्थना की गई जिसपर मा० उच्चतम् न्यायालय द्वारा आदेश दिनांक 07.02.2023 पारित किया गया जिसके मुख्य अंश निम्नवत् है:-

"Benefit which was given to persons who were similarly situated to the applicant was under Article 142 of the Constitution of India. However, these applicant (s) before us never approached this court for about 212 years after the cause arose and now seek the same benefit.

We are not inclined to once again exercise jurisdiction under Article 142 of the

Constitution of India but if what the applicant(s) claim, i.e., vacancies are available and if the respondent feel it can accommodate them, we are not coming in the way of that accommodation being made by the respondent.

Miscellaneous application stands disposed of accordingly..."

सूच्य हैं कि रिक्त पदों के सापेक्ष बिना नियत चयन प्रक्रिया का पालन किए समायोजित किये जाने के संदर्भ में वर्तमान विनियमावली में कोई प्राविधान नहीं हैं।

उपरोक्त तथ्यों के दृष्टिगत आपके द्वारा प्रस्तुत प्रत्यावेदन पर मा० उच्चतम् न्यायालय द्वारा पारित निर्णय दिनांक 07.02.2023 के आलोक में राज्यक विचारोपरान्त अवगत कराना है कि आपका प्रत्यावेदन विचार किये जाने योग्य नहीं है।"

7. Learned counsel for petitioners submits that reasons assigned in aforesaid order are not correct. The petitioners have participated in recruitment process and were appointed also though later on, their appointment were cancelled, however, when similarly situated persons were granted benefit from Supreme Court and since the petitioners have approached Supreme Court by way of filing a Misc. Application which was disposed of with certain directions, therefore, their claim, on a factually incorrect reason, cannot be rejected on a ground that they were not part of recruitment process.

8. Learned counsel further submits that according to information given under RTI Act, presently 98 posts are still vacant and he refers a judgment of Supreme Court in **Vikas Pratap Singh and others vs. State of Chhattisgarh and others, (2013) 14 SCC 494.**

9. Per contra, learned counsel for respondent- Power Corporation submits that Supreme Court in above referred order has not passed any direction. Claim of petitioners for parity was rejected except that petitioners can approach concerned respondents, however, it would be the complete discretion of Corporation to appoint them or not and in given circumstances, said discretion was not exercised.

10. I have considered above submissions and perused the records.

11. From facts referred above, it is not much under dispute that petitioners were fence-sitters. They have not approached Supreme Court either by way of filing SLP or by way of any Intervention Application at relevant stage, therefore, an order passed by Supreme Court on 12.10.2022, would not be applicable to them and that was the purport of subsequent order dated 07.02.2023 passed in Misc. Application No. 1332/2023 that said benefit cannot be granted to petitioners, however, a window was left open that if respondents feel to accommodate petitioners on vacant posts, they can do so, therefore, there was no direction of Supreme Court even to consider claim of the petitioners.

12. The respondents were left with a complete discretion to consider the case of petitioners or not, therefore, even reasons assigned in impugned order may not happily worded, still, once on basis of instructions, it is specifically denied that petitioners cannot be accommodated even vacancies are available, Court cannot sit on orders passed by Supreme Court and to direct the respondents to follow such directions which was passed under Article 142 of Constitution by the Supreme Court since it was limited to only 39 appellants/intervenors in Civil Appeal No. 7194/2022, therefore, there is no illegality in impugned order.

13. So far as above referred judgment is concerned, it would not be helpful to petitioners in given set of circumstances.

14. Accordingly, writ petition lacks merit, hence, it is **dismissed**.

(Saurabh Shyam Shamshery,J.)

April 23, 2026

N. Sinha