

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/S) No. 2058 of 2023

Bhagwan Chandra Pant & othersPetitioners

Versus

State of Uttarakhand and anotherRespondents

With

Writ Petition (S/S) No. 2147 of 2023

Vijay Kumar JoshiPetitioner

Versus

State of Uttarakhand and anotherRespondents

Present:-

Mr. I.P. Gairola, learned counsel for the petitioners.

Mr. Pradeep Hairiya, learned Standing Counsel for the State.

Hon'ble Pankaj Purohit, J.

Since common question of law and facts are involved in these writ petitions, therefore these are being heard and decided by this common judgment, however for the sake of brevity facts of WPSS No.2058 of 2023 alone are being considered and discussed.

2. By means of this writ petition, the petitioners have challenged the order dated 16.10.2023 (annexure no.10), whereby Ist A.C.P. has been denied to the petitioners after completion of ten years of regular and satisfactory service and a mandamus is also sought to provide benefit of Ist A.C.P. to the petitioners.

3. Facts of the case shorn-off unnecessary details are that petitioners were initially appointed as Technician in Teletronics Ltd. and Kumaon Television Ltd; both are the subsidiary companies of K.M.V.N. (Kumon Mandal Vikas Nigam). Both the companies wound up in the year 1996 and thereafter the petitioners, being retrenched

employee of the aforesaid company, have been adjusted with the respondent-Department as Instructor. There is no dispute with regard to the fact that petitioners were given appointment with the respondent-Department in the month of December, 2005.

4. After completion of regular and satisfactory ten years of service as Instructor with the respondent-Department, petitioners raised a claim for grant of Ist A.C.P. which was not paid to the petitioners. Feeling aggrieved, petitioners moved this Court by filing several writ petitions and this Court vide order dated 04.09.2023, directed respondent no.2 to decide representation of the petitioners regarding the grant of Ist A.C.P.

5. The representation of the petitioners was rejected vide impugned order dated 16.10.2023 and the petitioners are again before this Court.

6. A counter affidavit has been filed and in the counter affidavit only this plea has been taken by the respondent in para no.11 of the counter affidavit that the petitioners have not undergone C.T.I. Training during their entire service tenure and therefore by virtue of sub-Rule 2 of Rule 19(1) of the Service Rules, 2003, the petitioners were not given permanent status and since the petitioners have not been given permanent status they are not entitled to get benefit of Ist A.C.P.

7. It is contended by learned counsel for the petitioners that the reasons which has been assigned by the respondent for denying the benefit of Ist A.C.P. to them is totally bereft of merit as for entitlement of grant of Ist A.C.P. only ten years regular and satisfactory service are required, which the petitioners do have to their credit.

8. In this view of the matter, the ground which has been taken by the respondent-State in denial of the Ist A.C.P. to the

petitioners is bereft of merit. Government Orders' dealing grant of ACP nowhere speak about permanent status. The only requirement is ten years regular continuous and satisfactory service for Ist A.C.P. Thus the reason for rejecting representation of the petitioners' is fallacious and is hereby rejected being devoid of merits.

9. Consequently, the writ petition is allowed.

10. The impugned order dated 16.10.2023 (annexure no.10 to the writ petition) is hereby quashed and the respondents are directed to grant Ist A.C.P. to the petitioners' w.e.f. from the date of their entitlement after completion of ten years regular continuous and satisfactory service within a period of not later than eight weeks from today.

11. No order as to costs.

(Pankaj Purohit, J.)
20.07.2024

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