



qualification was Post Graduation degree on that subject (which was Geography in their case), and B.Ed. was only a desirable (not an essential qualification), as per the Rules of 1992 Rules. Thereafter, in the year 2008 Rules known as “Uttarakhand Special Subordinate Education (Lecturer’s Cadre) Service Rules, 2008” came into force on 30.01.2008 by which in Uttarakhand for the post of Lecturer, B.Ed. was made an essential qualification.

4. Thereafter, a clarification dated 31.12.2010 came into force which said that the teachers who have been promoted prior to 2008 (i.e. prior to enforcement of 2008 Rules) to the post of Lecturer will be governed by the Rules of 1992 (referred above). In spite of this, impugned order was passed on 14.03.2012 by the Director of Education (Annexure No. 1 to the writ petition) whereby the *inter se* seniority of petitioners in the Geography subject have been given and the name of the petitioners, who are General candidates finds at item No. 10 and 21 respectively and their substantive appointment was considered from the year 2010-2011.

5. The petitioners are aggrieved by this order, as for all practical purposes they were substantively appointed in the year 2001 and 2003 respectively. Although orders have been perused by which the petitioners have been promoted which was on temporary basis, however, it is undisputed that the post on which they were temporarily promoted was a substantive post, and it was a substantive appointment for all practical purposes. In the counter affidavit the only reason assigned for calculating the substantive appointment of the petitioners from the year 2010-2011 is that at the

relevant time when the Rules of 2008 came into force Lecturer must have B.Ed. qualification, which is an essential qualification, and as the petitioners do not have this qualification their seniority has been calculated from a later date.

6. This argument is bereft of any logic and liable to be rejected at the very threshold. When petitioners were promoted as Assistant Teacher L.T. Grade, they were having all the eligible qualification for promotion to the post of Lecturer, as provided in the Rules of 1992, which were prevalent at the relevant time. Merely because such Rules have been amended, now it would not mean that the petitioners have become ineligible for the post of post of Lecturers. In fact there is absolutely no logic or reason in considering the substantive order of appointment from the year 2010-2011. The date of substantive appointment the petitioners have been wrongly calculated for wholly arbitrary reasons.

7. For the reasons stated above, the writ petition is allowed. The order dated 14.03.2012 passed by the respondents is hereby quashed. A mandamus is issued to the respondent to treat the petitioners for the substantive promotions from the date of their appointments i.e. 02.11.2001 and 24.06.2003 respectively. The writ petitions stands allowed.

**(Sudhanshu Dhulia, J.)**

09.07.2014

Aswal