

WPSS No. 3682 of 2017

With

WPSS No. 1845 of 2012

Hon'ble Ravindra Maithani, J.

Mr. K.P. Upadhyay, Senior Advocate, assisted by Mr. Hemant Pant, Advocate for the petitioner in WPSS No. 1845 of 2012.

Mr. K.C. Tiwari, Advocate for the petitioner in WPSS No. 3682 of 2017.

Mr. P.C. Bisht, Additional C.S.C. for the State.

Mr. S.S. Yadav, Advocate for the respondent nos. 3 to 63.

This case relates to *inter se* seniority of Lecturers. It is between two groups, one, those who were promoted from Assistant Teacher, LT Grade and those, who were directly appointed.

It is the case of the petitioners that pursuant to the requisition and an advertisement of the year 2003, they appeared in the examination for appointment to the post of Lecturer and were appointed between 10.10.2005 and 20.11.2006. Till then, there was no dispute. It so happened that in the year 2010 and 2011, the Department sent a requisition to the Uttarakhand Public Service Commission for promotional exercise to the post of Lecturer and promotion orders were issued on 06.08.2010 and 20.07.2011. It was with regard to the requisition sent on 30.03.2010 and 25.04.2011 respectively.

The grievance of the petitioners begin from the point, when it is stated that the persons appointed by promotion were given seniority from some year prior to the appointment of the petitioners, thereby placing the petitioners below such Lecturers, who were promoted in the year 2010 and 2010.

It is the case of respondent no.2 on behalf of the State that the Assistant

Teachers, who were working as the Assistant Teachers, L.T. Grade were temporarily promoted on the post of Lecturers pursuant to the applicable Rules and prior to that they were already working, as Lecturer on *adhoc* basis, pursuant to their *adhoc* promotion made between 2001 and 2007.

During the course of argument, learned counsel for the petitioners raised the following arguments:-

- (i) All the Lecturers, who were appointed by way of promotion on 06.08.2010 and 22.07.2011 were not earlier working as *adhoc* Lecturers. Some of them were working as *adhoc* Lecturers, but some of them were appointed for the first time as Lecturers;
- (ii) Some of the Lecturers, who were promoted in the year 2010 and 2011, even did not have the requisite educational qualification of post graduation in the particular subject when they were promoted as *adhoc* Lecturer and/or;
- (iii) The period for which, the *adhoc* Lecturer had worked cannot be counted for the purpose of their seniority because their appointment as an *adhoc* Lecturer was not as per Rule 16 of the 1992 applicable Rules.

When asked, learned State counsel is not in a position to tell these things. There is no specific denial of the averments as made in para 22 of the writ petition with regard to the status of the *adhoc* Lecturers. Therefore, the Court directs the respondent no.2 to file a counter affidavit giving the following details:-

- (i) How many Lecturers were appointed by way of promotion in

the year 2010 and 2011. Alongwith it a breakup should given as to how many of them had already been working as *adhoc* Lecturers?

(ii) How such *adhoc* Lecturers were appointed as *adhoc* Lecturers? What procedure was adopted? If more than one procedure was adopted, the procedure that was adopted with regard to the number of candidates should be revealed and;

(iii) Whether all such Lecturers, who had been working as *adhoc* Lecturer prior to their appointment as Lecturer in the years 2010 and 2011 had the requisite qualification of Post Graduation when they were appointed as *adhoc* Lecturer?

Let a short affidavit be filed by the State within next four weeks to explain their point.

During the course of argument, Mr. K.C. Tiwari, learned counsel for the petitioner submits that similar matters were also decided by this Court which are Writ Petition (S/S) No. 1796 of 2012 and Special Appeal No.248 of 2015.

List in the week commencing 15.11.2021 alongwith Writ Petition (S/S) No. 1796 of 2012 and Special Appeal No.248 of 2015.

(Ravindra Maithani, J.)

08.10.2021