

**SUPREME COURT OF INDIA**

Uttar Pradesh Public Service Commission

Vs.

Surendra Kumar

C.A.No.11149 of 2018

(Uday Umesh Lalit and R.Subhash Reddy,JJ.,)

22.11.2018

**JUDGMENT**

**R.Subhash Reddy,J.,**

SLP(C)No.27778 of 2018

1. We have heard Sh. Rajiv Yadav, learned counsel for appellant and Sh. Alok Singh, learned counsel for respondents.

2. This appeal is filed by the Uttar Pradesh Public Service Commission, aggrieved by the judgment and order dated 18.05.2018 passed by the High Court of Allahabad in Writ Petition No.10180 of 2014. Necessary facts in brief, for disposal of this appeal are as under:

U.P. Subordinate Service Selection Commission had initiated the process for selection of 178 posts of Sub Deputy Inspector of Schools. The said Commission advertised by issuing advertisement dated 04.08.2006 in various newspapers for selecting the candidates.

4. After initiating the process of selection, U.P. Subordinate Service Selection Commission was dissolved by the order of the State Government, and the said process was entrusted to the appellant, U.P. Public Service Commission. After completing the selection process, the results were declared on 06.05.2010 and recommendations were made by the appellant Commission to State Government in respect of selected candidates by various letters in following manner:

Sl. No.	Date	Letter No.	No. of Posts
1.	12-8-2010	26/3/E-3/2007-2008	0156
2.	9-5-2011	26/3/E-3/2007-2008	08
3.	4-5-2012	26/3/E-3/2007-2008	011
4.	28-8-2012	26/11/E-3/2007-2008	01

5. Altogether recommendations were made to fill up 176 vacancies. As evident from the counter affidavit, filed before the High Court, two posts were not filled, in view of directions issued by the High Court in Writ Petition No.32960 of 2010. After receipt of recommendation for 176 candidates, the State Government issued appointment letters to them, but 7 out of them did not join. Therefore, their candidature was cancelled by order dated 18.04.2013.

6. By letter dated 30.04.2013, Director of Education (Basic), requested the appellant-Commission to send the names of 7 candidates in order of merit for appointment. The said request has been turned down by the appellant- Commission vide letter dated 23.07.2013, stating that recommendation was mainly forwarded by the Commission on 12.08.2010 and the wait-list is to be operated within a period of one year, and the request for 7 more persons has been sent after 2 years 11 months.

7. Referring to G.Os dated 29.08.1992, 31.01.1994 and 15.11.1999, it is stated that wait-list can be operated only for a period of one year and as the said period is expired, therefore, request from the Director of Education (Basic) for sending 7 more names was not accepted.

8. The first respondent herein, has filed Writ Petition before the High Court of Allahabad, for quashing of the communication dated 23.07.2013 issued by the appellant- Commission with a further direction to the appellant to forward additional names from the wait-list prepared for the post of Sub Deputy Inspector of Schools.

9. The High Court, by judgment and order dated 18.05.2018, allowed the Writ Petition by quashing the communication dated 23.07.2013 and issued further direction to send the names of requisite number of candidates to Director of Education (Basic).

10. In this appeal, it is the case of the appellant- Commission that, for substantial number of vacancies recommendations were made vide letter dated 12.08.2010 and the life of wait-list is only one year, and such period has to be computed from the initial recommendation dated 12.08.2010. It is contended that High Court has committed error by computing the period of one year from the last recommendation made, vide letter dated 28.08.2012.

11. On the other hand, it is contended by the learned counsel Sh. Alok Singh, appearing for the respondent/original petitioner that the requisition was made for making selections for 178 number of posts and in the recommendation made vide letter dated 12.08.2010 only 156 names are recommended and thereafter further recommendations were made. As such, the period of one year is to be computed from the last recommendation but not from 12.08.2010. In support of his case, learned counsel also relied on judgment of this Court dated 16.02.2004 rendered in C.A. No.1035 of 2004 (*Sheo Shyam and Ors. Vs. State of U.P. and Ors<sup>1</sup>*.)

12. Having heard the learned counsels on both sides, we have perused the order dated 18.05.2018 passed by the High Court and other material placed on record. For the purpose of operating wait-list, Government of Uttar Pradesh has issued instructions from time to time. It is clear from the various Government Orders that wait-list period is valid only for a period of

one year. Though requisition is made for making selection for 178 number of posts, but appellant- Commission, after delcaring results of the examination, has made initial recommendation for substantive number of posts, i.e., 156 posts vide letter dated 12.08.2010. It appears that the said list is prepared by including candidates who have submitted all the requisite documents within the period prescribed. Further recommendations were also made, but there is no reason for not computing the period of one year from 12.08.2010. When recommendations were made for substantive number of posts on 12.08.2010, we are of the view that period of one year for operating wait-list is to be computed from 12.08.2010 but not from the last recommendation made for one post, vide letter dated 28.08.2012. The reason for restricting 156 names in the initial recommendation vide letter dated 12.08.2010, is explained in paragraph 11 of the counter affidavit filed before the High Court.

13. We have also perused the judgment of this Court in Civil Appeal No.1035 of 2004 dated 16.02.2004, relied on by the learned counsel for the respondent no.1 but same would not render any assistance in support of his case having regard to fact situation in the said case. Office Memorandum dated 14.01.1999 which was interpreted, was categorical to the effect that period of one year is to be reckoned from last date of taking names from the waiting list. As such, it cannot be applied to the facts of the case at hand.

14. For the aforesaid reasons, the appeal is allowed. Accordingly, the judgment and order dated 18.05.2018 passed by the High Court of Allahabad in Writ Petition No.10180 of 2014 is set aside. There will be no order as to costs.

Judgment Referred.

<sup>1</sup>*C.A.No.1035 of 2004*