

Reserved on: 10.06.2025
Delivered on: 16.06.2025

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Service Bench No. 91 of 2016

Pramod Kumar alias Promod Kumar -----Petitioner

Versus

State of Uttarakhand & others ---Respondents

Presence:-

Mr. C.D. Bahuguna, Senior Advocate, for the petitioner.

Mr. P.S. Bisht, Additional Chief Standing Counsel, for the State /
respondents.

Hon'ble Manoj Kumar Tiwari, J.

Hon'ble Subhash Upadhyay, J.

(Per: Hon'ble Manoj Kumar Tiwari, J.)

JUDGMENT

Petitioner possesses B. Tech. (Mining Engineering) qualification. By means of this writ petition, he has sought the following reliefs:-

I. Issue a writ, order or direction in the nature of Mandamus declaring "The Uttarakhand Geology and Mining Service (Second Amendment), Rules 2015", as arbitrary, illogical, unreasonable and discriminatory, and violative of Article 14 and 16 of the Constitution of India and, therefore, deserves to be struck down; and may accordingly be struck down.

II. Alternatively, Issue a writ, order or direction in the nature of Mandamus declaring Para. "Three" of the sub-rule (6) of Rule 8 of the rule "The Uttar Pradesh Geology and Mining Service Rules, 1983" as introduced by "The Uttarakhand Geology and Mining Service (Second Amendment) Rules, 2015" as arbitrary, illogical, unreasonable and discriminatory, and thus violative of Article 14 and 16 of the Constitution of

India.

III. Issue a writ, order or direction in the nature of Mandamus, declaring that the qualification of 'Master's degree in geology', introduced by clause "Three" of sub-rule (6) of Rule 8 of the "The Uttarakhand Geology and Mining Service (Second Amendment) Rules, 2015", for the post of "Mines officer" is not a befitting qualification for the post of "Mines officer".

IV. Issue a writ, order or direction in the nature of Mandamus, declaring that the steps taken by the State Government to reduce the opportunities of appointment, on the post of "Mines officers", for the persons belonging to Mines branch; and introducing additional opportunity of appointment for the persons belonging to Geology branch, on the strength of the Second Amendment Rules of 2015, is wholly unreasonable and arbitrary, and, therefore, is violative of Article 14 and 16 of the Constitution of India."

2. According to the petitioner, earlier only a candidate having degree or diploma in Mining Engineering was eligible for appointment as Mines Officer in Geology and Mining Department of the State Government, however, by an amendment made in 2015 in Uttarakhand Geology and Mining Service Rules, a candidate having Master's Degree in Geology was also declared eligible for appointment as Mines Officer.

3. Petitioner contends that since candidates with Master's Degree in Geology are eligible for appointment as Assistant Geologist in State Geology and Mining Department, therefore, opening of additional avenue of appointment for Geology qualification holders is arbitrary and irrational. It is further contended that Geology qualification holders have appointment opportunities in other departments viz. State Public Works Department, Central Public Works Department etc. whereas persons

with degree in Mining Engineering do not have such appointment opportunities and they can be considered for appointment only in Department of Geology and Mining. Thus, it is contended that the Second Amendment Rules, notified on 23.12.2015, are violative of Article 14 & 16 of the Constitution of India, thus ultra vires.

4. This Court do not find any scope for interference with the impugned provision in the recruitment Rules. Every employer is entitled to prescribe the qualifications needed for appointment to a particular post, as he knows the job requirement and he has to take work from the employees. This right, which is available to every employer, cannot be denied to State Government.

5. In the case of Chief Manager, Punjab National Bank and another v. Anit Kumar Das, (2021) 12 SCC 80, Hon'ble Supreme Court has held as under:-

“17.3. Thus, as held by this Court in the aforesaid decisions, it is for the employer to determine and decide the relevancy and suitability of the qualifications for any post and it is not for the courts to consider and assess. A greater latitude is permitted by the courts for the employer to prescribe qualifications for any post. There is a rationale behind it. Qualifications are prescribed keeping in view the need and interest of an institution or an industry or an establishment as the case may be. The courts are not fit instruments to assess expediency or advisability or utility of such prescription of qualifications. However, at the same time, the employer cannot act arbitrarily or fancifully in prescribing qualifications for posts. In the present case, prescribing the eligibility criteria/educational qualification that a graduate candidate shall not be eligible and the candidate must have passed 12th standard is justified and as observed hereinabove, it is a conscious decision taken by the Bank which is in force since 2008. Therefore, the High Court has clearly erred in directing the appellant Bank to allow the respondent-original writ petitioner to discharge his duties as a

Peon, though he as such was not eligible as per the eligibility criteria/educational qualification mentioned in the advertisement.”

6. In the case of Maharashtra Public Service Commission through Secretary v. Sandeep Shriram Warade and others, (2019) 6 SCC 362, Hon’ble Supreme Court has held as under:-

“9. The essential qualifications for appointment to a post are for the employer to decide. The employer may prescribe additional or desirable qualifications, including any grant of preference. It is the employer who is best suited to decide the requirements a candidate must possess according to the needs of the employer and the nature of work. The court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being on a par with the essential eligibility by an interpretive re-writing of the advertisement. Questions of equivalence will also fall outside the domain of judicial review. If the language of the advertisement and the rules are clear, the court cannot sit in judgment over the same. If there is an ambiguity in the advertisement or it is contrary to any rules or law the matter has to go back to the appointing authority after appropriate orders, to proceed in accordance with law. In no case can the court, in the garb of judicial review, sit in the chair of the appointing authority to decide what is best for the employer and interpret the conditions of the advertisement contrary to the plain language of the same.”

7. Learned counsel for petitioner relied upon a Constitution Bench judgment rendered by Hon’ble Supreme Court in the case of E.P. Royappa v. State of Tamil Nadu and another, (1974) 4 SCC 3. The principle laid down in the said judgment is not applicable here, as prescription of educational qualification for appointment to a post is the sole prerogative of employer. Petitioner is desirous of appointment as Mines Officer in a State Department known as ‘Geology and Mining Department’. Thus, it cannot be argued that a degree in Geology is

wholly irrelevant for appointment to a post in the said department. The relevance of a particular qualification for appointment as 'Mines Officer' or 'Geologist' is to be decided by the employer i.e. State and the decision taken by employer regarding weightage, which is to be given to a particular qualification, is not justiciable.

8. Learned counsel for petitioner also relied upon the judgment rendered by Hon'ble Supreme Court in the case of Indian Express Newspapers (Bombay) Private Ltd. and others v. Union of India and others, (1985) 1 SCC 641. The principle laid down in the said judgment also do not help the case of petitioner. Addition of Master's Degree in Geology as one of the qualification needed for appointment as Mines Officer cannot be said to be arbitrary merely because it may have the effect of reducing the chance of appointment of a candidate with degree in Mining Engineering.

9. Learned counsel for petitioner also relied upon the judgment rendered by Hon'ble Supreme Court in the case of Air India v. Nargesh Meerza and others, reported in (1981) AIR SC 1829, which is also not applicable to the facts of the present case.

10. It is not a case where right to be considered for appointment has been altogether taken away from candidates having degree in Mining Engineering.

Petitioner himself admits that with degree in Mining Engineering, he is eligible for appointment as Mines Officer. His only grievance is that Geology qualification holders should not be considered for appointment as Mines Officer, as the said post was earlier earmarked for Mining Engineering graduates/ diploma holders.

11. Since the employer has taken a conscious decision to include Geology qualification holders in the field of eligibility for appointment as Mines Officer, therefore, in the absence of any valid ground for challenging such inclusion, this Court do not find any reason to interfere.

12. Thus, the writ petition fails and is dismissed.

(Subhash Upadhyay, J.) (Manoj Kumar Tiwari, J.)

16.06.2025

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