

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI
AND
HON'BLE SRI JUSTICE RAKESH THAPLIYAL

28TH AUGUST, 2023

WRIT PETITION (S/B) No. 199 OF 2021

Rahul Singh.

...Petitioner

Versus

State of Uttarakhand and others.

...Respondents

Counsel for the petitioner. : Mr. Arvind Vashistha, learned Senior Counsel assisted by Mr. Shubham Saharawat and Mr. Brijesh Kashyap, learned counsels.

Counsel for respondent no. 1. : Mr. Amarendra Pratap Singh, learned Additional Advocate General for the State of Uttarakhand.

Counsel for respondent no. 2. : Mr. Shobhit Saharia, learned counsel.

Counsel for respondent no. 3. : Mr. Lalit Belwal, learned counsel.

JUDGMENT : (per Sri Vipin Sanghi, C.J.)

The petitioner has preferred the present Writ Petition to assail the order contained in Letter No. 1045/UHC/XIII-b-1/Admin.A/2019 dated 22.02.2020 (Annexure No. 6), and Letter No. 3014/XIII-b-1/Admin.A/2019 dated 07.07.2020. The writ petitioner is, primarily, aggrieved by the rejection of his candidature for the direct recruitment post of Higher Judicial Service in the State of Uttarakhand.

2. The High Court of Uttarakhand, vide notification dated 10.04.2019, invited applications from practicing Advocates to fill up six vacant posts of Additional District and Sessions Judge in the Uttarakhand Higher Judicial Service. One post was open to be filled by General category candidates. The petitioner applied in response to the said advertisement, and offered his candidature as a General category candidate. The petitioner also participated in the selection process, and was placed at Serial No. 1 in the order of merit. However, subsequently, his candidature was cancelled by the impugned communications.

3. The advertisement provided, in Clause 5(viii) that *"candidates are warned that they should not furnish any particulars that are false or suppress any material information while filing up the application form"*.

4. The petitioner, in his application form, provided the information, in response to Clause 12 - which reads *"Any other relevant information, which is deemed fit to be mentioned"*, by stating that he *"Served in U.P. Judicial Service as Judicial Magistrate – 1st (From 04-06-2013 TO 27-09-2014)"*.

5. It appears that this Court sent a communication to the Allahabad High Court on 02.12.2019 seeking information regarding the extent of involvement of the petitioner, an ex-Judicial Officer of the U.P. Judicial Service, in the incident, which resulted in termination of his probation, and his discharge simpliciter by the State of Uttar Pradesh. In response to the said communication, the Allahabad High Court, acting through Shri Sushil Kumar Rastogi, H.J.S., I/c Registrar General, vide confidential communication dated 10.01.2020, stated as follows :-

Sushil Kumar Rastogi, H.J.S.
I/c Registrar General

"CONFIDENTIAL"
D.O. No. C-70/Cf.(A)/2020
Dated: Alld. Jan. 10, 2020

Dear Sri Bonal,

I am desired to refer to your letter dated 02.12.2019 seeking information regarding the extent of involvement of Sri Rahul Singh, an ex-Judicial Officer of U.P. Judicial Service in the incident which resulted in the termination of his probation, and to inform you that Sri Rahul Singh was discharged simpliciter from service vide Government Office Memorandum No.769/Do-4-2014-15(9)/2014 dated 22.9.2014 and a Writ Petition No. 1653/SB/14- Rahul Singh Vs. State of U.P. and others is pending before the Hon'ble High Court, Lucknow Bench, Lucknow in the matter. I am further to inform you that Sri Rahul Singh, alongwith other fellow probationers, visited Charan Club & Resort, Faizabad Road, Lucknow in the evening of 7.9.2014 and had liquor and dinner there and afterwards, a fellow probationer was manhandled by him alongwith other probationers at I.J.T.R.

With kind regards,

Yours sincerely,

(Sushil Kumar Rastogi)

6. At this stage, we may also take note of the developments, which took place *qua* the petitioner, while he was serving as a Judicial Officer in the State of Uttar Pradesh.

7. It appears that 11 Judicial Officers, in the Judicial Service of the State of Uttar Pradesh, were discharged on 22.09.2014 by the State of Uttar Pradesh.

The discharge order reads as follows :-

**“उत्तर प्रदेश शासन
नियुक्ति अनुभाग-4
संख्या-769/दो-4-2014-15(9)/2014
लखनऊ, दिनांक 22 सितम्बर, 2014**

कार्यालय-ज्ञाप

कार्यालय ज्ञाप संख्या संख्या-768/ दो-4-2014-15(9)/2014, दिनांक 19 सितम्बर, 2014 के द्वारा 11 प्रशिक्षु न्यायिक अधिकारियों की सेवायें तत्काल प्रभाव से समाप्त किये जाने की स्वीकृति प्रदान की गयी थी। इसके उपरान्त महानिबंधक, मा. उच्च न्यायालय के अर्द्ध शा. पत्र संख्या-14020/CF(A)/2004, दिनांक 20 सितम्बर, 2014 द्वारा यह अवगत कराया गया कि शासन का उक्त कार्यालय ज्ञाप दिनांक 19.09.2014 मा. फुलकोर्ट के रिजोलूशन (Resolution) दिनांक 15.09.2014 के अनुसार नहीं है तथा यह आग्रह किया गया है कि मा. फुलकोर्ट के रिजोलूशन (Resolution), जिसमें कहा गया है कि “the aforesaid probationer Judicial Officers were recommended to be discharged simpliciter from services for having failed to give satisfaction, as stipulated in Rule 24(4) of the Uttar Pradesh Judicial Service Rules, 2001”, के अनुसार संशोधित आदेश जारी किये जाये।

2- अतएव कार्यालय ज्ञाप संख्या-768/दो-4-2014-15(9)/2014 दिनांक 19 सितम्बर, 2014 को अवक्रमित करते हुये महानिबंधक, उच्च न्यायालय, इलाहाबाद के अर्द्धशासकीय पत्र संख्या-सी-1210/सीएफ(ए)/2014, दिनांक 16-09-2014 द्वारा प्राप्त मा0 उच्च न्यायालय, इलाहाबाद की संस्तुति के आधार पर उ0प्र0 न्यायिक सेवा नियमावली, 2001 के नियम-24(4) के अन्तर्गत निम्नलिखित 11 प्रशिक्षु न्यायिक अधिकारियों को नोटिस देने के एवज में भत्तों सहित एक माह का वेतन देने के साथ उनकी सेवायें तत्काल प्रभाव से समाप्त किये जाने की श्री राज्यपाल सहर्ष स्वीकृति प्रदान करते हैं।

(1) श्री अखिलेश कुमार शर्मा, अपर सिविल जज (जूनियर डिवीजन), आजमगढ़

- (2) श्री आशाराम पाण्डेय, सिविल जज (जूनियर डिवीजन)
- (3) श्री आशुतोष त्रिपाठी, अपर सिविल जज (जूनियर डिवीजन), आजमगढ़
- (4) श्री अश्वनी पंवार, अपर सिविल जज (जूनियर डिवीजन), लखीमपुर खीरी
- (5) श्री भानू प्रताप सिंह, अपर सिविल जज (जूनियर डिवीजन), बहराइच
- (6) श्री क्षितीश पाण्डेय, अपर सिविल जज (जूनियर डिवीजन), फतेहपुर
- (7) श्री राहुल सिंह, ज्यूडिशियल मजिस्ट्रेट, औरैया
- (8) श्री रवि कुमार सागर, अपर सिविल जज (जूनियर डिवीजन), गाजीपुर
- (9) श्री संदीप सिंह, अपर सिविल जज (जूनियर डिवीजन), कन्नौज
- (10) श्री सुधीर मिश्रा, अपर सिविल जज (जूनियर डिवीजन), फैजाबाद
- (11) श्री विनीत कुमार, अपर सिविल जज (जूनियर डिवीजन), पीलीभीत

राजीव कुमार
प्रमुख सचिव

8. Mr. Arvind Vashistha, learned Senior Counsel for the petitioner submits that, since the discharge of the petitioner was simpliciter, this Court should not have acted on the basis of the confidential communication dated 10.01.2020 issued by the Allahabad High Court.

9. It has been argued on behalf of the respondents that the petitioner lacked the requisite experience of continuous seven years' practice as an Advocate, when he applied for the post in question in response to the aforesaid advertisement. We are, however, not going into the said issue, as we do not consider it necessary to examine the same.

10. We have considered the submissions of the learned counsels.

11. Clause 5(viii), extracted hereinabove, clearly put all the candidates to notice that they should not furnish any particulars that are false, or suppress any material information, while filling up the application form. Despite being a man of law, having practiced as an Advocate, and, thereafter, served as a Judicial Officer, the petitioner chose to suppress the information that he had been discharged from service by the State of Uttar Pradesh on 22.09.2014. He also failed to enclose a copy of the said discharge order. That, by itself, in our view, was sufficient to reject the candidature of the petitioner. Moreover, the petitioner was aware of the confidential communication dated 10.01.2020 issued by the Allahabad High Court to this Court, in response to its letter dated 02.12.2019, seeking information *qua* the petitioner.

12. Despite that being the position, the petitioner has not chosen to challenge the said communication, which could have been challenged only before the Allahabad High Court, as the said communication emanated from that Court. So far as the Uttarakhand High Court is concerned, it could not have ignored the said confidential communication dated 10.01.2020, only

because the discharge of the petitioner, while he was a probationer, was a simpliciter discharge. We, therefore, do not find the action taken by the Uttarakhand High Court to be either illegal, or unreasonable, in rejecting the petitioner's candidature.

13. For the aforesaid reasons, we do not find any merit in the present Writ Petition, and dismiss the same, leaving the parties to bear their respective costs.

14. Consequently, pending application(s), if any, also stand disposed of accordingly.

VIPIN SANGHI, C.J.

RAKESH THAPLIYAL, J.

Dt: 28th AUGUST, 2023
Rahul