

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Civil Misc. Writ Petition No. 617 (S/S) of 2004

Uttaranchal Medical & Public Health
Ministerial Association, Uttaranchal, Dehradun
Head Office-Doon Hospital Premises, Dehradun
Through its Provincial General Secretary Sri R.P. Juyal.

.....Petitioner.

Versus

- (1) State of Uttaranchal through Principal Secretary,
Medical, Health & Family Welfare,
Uttaranchal Sashan, Dehradun.
- (2) Director General, Medical, Health & Family Welfare
Uttaranchal, Dehradun.

.....Respondents.

Sri M.C. Kandpal, Senior Advocate, assisted by Sri S.S. Chaudhary,
Learned counsel for the petitioner.
Learned Standing Counsel for the Respondents.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the petitioner and learned
Standing Counsel for the respondents.

(2) By means of this writ petition, the petitioner has sought
following reliefs: -

*"(I) Issue a writ, order or direction the
nature of Mandamus Commanding and
Directing to the respondent authorities to
frame the Uniform Service Rules regarding the
employees working in the clerical cadre in the*

Directorate Level to Subordinate Offices including PHCs by wiping of the distinction between the clerks of the Directorate to the Subordinate Offices including PHCs to make the one cadre of the clerks.

(II) Issue a writ, order or direction in the nature of Mandamus Commanding and directing to the respondents authorities to post the employees belonging to the clerical cadre of the Subordinate Offices including the PHCs in Directorate, Medical, Health & Family Welfare, Uttaranchal, Dehradun on the basis of the seniorities of the clerical cadre in the Subordinate Offices and Primary Health Centers (PHCs).

(III) Issue any other writ which this Hon'ble Court may think deem fit and proper in the Circumstances of the case.

(IV) Award of the Cost."

(3) Brief facts of the case are that before creation of State of Uttaranchal on 09.11.2000, there existed two kinds of Service Rules applicable to the ministerial employees of Medical, Health and Family Welfare Department. One applicable to those working in the field / Districts and other applicable to those working in the Directorate. The Rules applicable to the Directorates are known as Uttar Pradesh Medical, Health & Family Welfare Directorate Ministerial

Service Rules, 1994, while those applicable to the ministerial employees of the Department in the Districts/ field are known as Uttar Pradesh Medical, Health and Family Welfare Department (Sub-ordinate Offices) Ministerial Service Rules, 1994. Grievance of the petitioner who is an Association of Ministerial Staff of Medical and Health Department of State of Uttaranchal (now Uttarakhand) is that the respondents are arbitrarily taking the employees from the filed/Districts in the newly created Directorate by picking and choosing them. It is argued on behalf of the petitioner that uniform Service Rules are required to be made, which is applicable to the employees of Directorate as well as to those working in the fields.

(4) In the counter affidavit filed on behalf of respondents, it is admitted that there exist two kinds of Rules applicable to the employees of the two categories as mentioned in the writ petition. However, it is stated in the counter affidavit that for sooth functioning of the Directorate the employees were taken from the filed level staff. It is further stated that the two cadres being different, uniform rules cannot be framed, applicable to them.

(5) Having considered the submissions of learned counsel for the petitioner and learned Standing Counsel, this Court is of the view that it is the policy decision of the Executive to constitute a single cadre or to continue with the two separate cadres, as it existed prior to the creation of the State and it is not desirable for the Court to direct the respondents to take a decision either way. Therefore, this court is not inclined to issue Mandamus prayed by the

petitioner and feels it just and proper to dispose of this writ petition with the observation that the petitioners may make a representation to the Government (respondent no. 1) for redressal of his grievances in the matter.

(6) The writ petition is accordingly disposed of with the observation as above.

(Prafulla C. Pant, J.)

Dt. 29.02.2008

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