

IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL

WRIT PETITION (S/B) NO. 339 OF 2020

Basant Ballabh Pant

.....Petitioner.

Vs.

State of Uttarakhand and others.Respondents.

Shri Amar Murti Shukla and Shri B.M. Pingal, learned counsels for the petitioner.

Shri C.S. Rawat, learned additional chief standing counsel and Shri J.C. Pande, learned standing counsel for the State of Uttarakhand.

31st October, 2020

Coram: Hon'ble Ravi Malimath, ACJ.
Hon'ble Ravindra Maithani, J.

Ravi Malimath, ACJ. (Oral)

The defects, as pointed out by the Registry, are overruled.

2. The petitioner was working as the officiating principal in the Government Inter College, Pathri, District Haridwar. His date of superannuation is 31.10.2020. In order to seek the benefit of the Government Order dated 01.06.2012, he made a requisite application. One of the conditions was that the medical certificate was to be issued along with it. He had to furnish the medical certificate by the last date, i.e. 31st March, 2020. The medical certificate dated 04.05.2020 was submitted later on. On this ground, his request to give him the benefit of the Government Order was rejected by the impugned order. Questioning the same, the instant writ petition has been filed.

3. Learned counsel for the petitioner contends that there is a delay by the respondents to furnish the medical certificate; and only because of the same, he

cannot be held responsible. Therefore, he seeks for a request to direct the respondents to accept his medical certificate. The same is disputed by Shri C.S. Rawat, learned additional chief standing counsel appearing for the respondents. He submits that the Government Order dated 01.06.2012 is quite clear; if the medical certificate is not issued, he is not entitled to the benefit of the order; and since the medical certificate was issued much after the cut-off date, no relief could be granted to him.

4. On hearing learned counsels, we are of the considered view that an appropriate interference is called for. The extension, as sought for by the petitioner, is a matter to be considered by the respondents in terms of the Government Order dated 01.06.2012. The only flaw is that the medical certificate has not been issued along with a request seeking extension of tenure. The same has been filed belatedly. In similar circumstances, this Court had, by its order dated 31.07.2020 passed in Writ Petition (S/B) No. 186 of 2020, set aside the impugned orders therein and directed the respondents to consider the application of the petitioner and to grant her the benefit of the Government Orders. It was held that since the petitioner was superannuating on that day, it was directed that she continued in the said post till further orders were passed by the second respondent. On considering the same, we are of the considered view that the relief granted to other writ-petitioners should be extended to this writ petitioner also. Even if the delay has occasioned in issuing the medical certificate, the petitioner cannot be blamed for the same. There is no deliberate intention of causing any delay.

5. Hence, for the above reasons, the petition is allowed. The order dated 28.10.2020 passed by respondent no. 3 (Annexure-1 to the writ petition) is quashed. Respondent no. 3 is directed to consider the application of the petitioner along with the medical certificate as if the medical certificate has been submitted within the due time. It is, thereafter, for the respondents to pass appropriate orders in accordance with law.

6. In view of the fact that the petitioner is said to retire today, he shall continue on the said post till the orders are passed by the third respondent. The learned additional chief standing counsel submits that the said order would be passed within a period of ten days from today.

7. Let a certified copy of this order be issued to the learned counsels for the parties on payment of the prescribed charges today itself.

(Ravindra Maithani, J.)

31.10.2020

PSR

**(Ravi Malimath)
ACJ**

31.10.2020