

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	<u>30.10.2021</u>		<p>WPSS No. 1403 of 2021</p> <p><u>Hon'ble Sharad Kumar Sharma, J.</u></p> <p>Mr. Sanjay Kumar, Advocate, holding brief of Mr. Tapan Singh, Advocate, for the petitioners.</p> <p>Mr. T.S. Bisht, Deputy Advocate General, for the State.</p> <p>Mr. Ramji Shrivastava, Advocate, for respondent No. 3.</p> <p>There are three petitioners in the present writ petition, wherein they have contended that, after completing their respective qualifications, in various disciplines, which they have explained in para 2 of the present writ petition, they had extended their candidatures for being appointment on contractual basis with respondent No. 4, herein on the various posts and it was rather also accorded to them by way of a contractual employment way back on 16.06.2016.</p> <p>If the terms of the appointment are taken into consideration, in fact, the appointment was made initially for a period of three years and the same was made as a subject matter to be continued till the regular selection is made by the department. Hence, the learned counsel for the petitioners has contended, that on the basis of the said appointment, they are still continued and are discharging their duties on contractual basis.</p> <p>The petitioners, in the present writ petition had given a challenge to the impugned advertisement dated 27.09.2021, by virtue of which the respondents had initiated the process of regular selection for the purposes of Medical Social Workers (सोशल वर्कर/साइकेट्री वर्कर) in the institution of respondent No. 4.</p> <p>The argument of the learned counsel</p>

			<p>for the petitioners was that in a judgment which was rendered by the coordinate Bench of this Court in a Writ Petition, being Writ Petition (S/S) No. 154 of 2017, Himanshu Joshi and others v. State of Uttarakhand and others, the coordinate Bench has rendered the judgment on 17.04.2018, wherein an exception was carved out in the said case to consider the regularisation of the employees i.e. petitioners there in those writ petitions, working therein, but since the said judgment was not a judgment in <i>rem</i> rather it was a judgment in <i>persona</i> in relation to the petitioners, who have approached the writ Court. It has been projected as if it was a judgment rendered <i>qua</i> determining the claim of the petitioners, which is not so as per the records. Rather a wrong argument has been extended, as the judgment of 17.04.2018, was not <i>qua</i> the petitioners.</p> <p>Even be that as it may. Even if the judgment dated 17.04.2018, is taken into consideration, it is altogether a different issue where only a consideration of regularisation as an exception, has been directed to be considered and this Court is of the view that a direction to consider the regularisation, will have no bearing on the advertisement, which has been issued by the respondents for the purposes of regular selection because that itself if it is read in relation to the nature of appointment of the petitioners in terms of their appointment order, it would fall to be within the purview of that, because their appointment was subject to the regular selection, which is being resorted to by the impugned advertisement.</p> <p>In that eventuality, the petitioners cannot, now at this stage, contend and take a somersaulted stand contrary to the terms of their initial contractual employment of 2016, while giving challenge to the advertisement by which the selection process has been resorted to.</p> <p>Even otherwise, being appointed on</p>
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