



**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Writ Petition (S/S) No. 2090 of 2024**

**07 October, 2025**

Shailendra Prasad Nautiyal & Others ... Petitioners

Versus

State of Uttarakhand & Others ... Respondents

**With**

**Writ Petition (S/S) No. 2091 of 2024**

**Writ Petition (S/S) No. 2225 of 2024**

**Writ Petition (S/S) No. 2240 of 2024**

**Writ Petition (S/S) No. 2259 of 2024**

**Writ Petition (S/S) No. 2328 of 2024**

**Writ Petition (S/S) No. 2393 of 2024**

Counsel for the petitioners : Mr. Vinay Kumar, Advocate  
Mr. M.C. Pant, Advocate  
Mr. Hemant Singh Mahra, Advocate  
Mr. Ketan Joshi, Advocate  
Mr. R.S. Bisht, Advocate  
Mr. Rahul Kandpal, Advocate  
Mr. Sahil Mullick, Advocate  
Mr. Niranjana Bhatt, Advocate  
Mr. Pradeep Chamyal, Advocate  
Counsel for the State : Mr. Narayan Datt, Standing Counsel  
Counsel for UKMSSB : Mr. Ramji Srivastava, Advocate  
Counsel for the caveator : Mr. Bhagwat Mehra, Advocate

**J U D G M E N T**

**Hon'ble Manoj Kumar Tiwari, J.**

Since common questions of fact and law are involved in these writ petitions, these are being heard and decided by this common judgment, however, for the sake of brevity, facts of Writ Petition (S/S) No. 2090 of 2024 alone are being considered and discussed here.

2. Petitioners successfully completed Diploma



in Pharmacy Course between 2001 and 2003. Diploma in Pharmacy is essential qualification for appointment as Pharmacist in Department of Medical Health and Department of Medical Education. All the petitioners have become overage for appointment as Pharmacist under the State, as the upper age limit prescribed for appointment as Pharmacist is 42 years, as per Rule 10 of the relevant recruitment rules. It is the contention of petitioners that since the criteria for selection for appointment as Pharmacist is based on seniority and not on merit, therefore, a senior candidate cannot be declared ineligible merely because he has completed 42 years of age on a particular date, which is referred to as the cut-off date.

3. Rule 15(2) of U.P. Pharmacist Service Rules, as applicable in the State of Uttarakhand and amended vide notification dated 12.1.2006, provides that selection for appointment as Pharmacist shall be made based on year of passing the Pharmacy Course and if two or more candidates passed out Pharmacy Course in the same year, then in that case the one who scored more marks shall have preferential right of appointment. Advertisement dated 19.10.2024, in Clause 18, also makes a stipulation that selection shall be made based on year of passing the Pharmacy Course.

4. Thus it is contended by learned Counsel for the petitioners that the rules provide for giving preference to candidates who passed Diploma in Pharmacy Course earlier in point of time, in other words, weightage has to be given to seniority,



however by fixing a cut-off date for determining upper age limit, the senior-most persons would be eliminated from the selection process, which would be counter-productive. Thus it is contended that in the criteria adopted for the selection process, the requirement regarding upper age limit should be relaxed in favour of such candidates who have become overage.

5. Learned Counsel for the petitioners also contended that the last selection process for appointment as Pharmacist was held pursuant to advertisement issued in 2011 and thereafter no selection was held for appointment as Pharmacist in Department of Medical Health and Department of Medical Education. It is further stated that in the year 2020, Director General, Medical Health determined 80 vacancies on the post of Pharmacist, however the selection process was not initiated in 2020, due to which petitioners, most of whom were within age limit in 2020, have crossed the upper age limit.

6. Mr. Bhagwat Mehra, learned Counsel for the private respondent, however, points out that applications were invited for appointment as Veterinary Pharmacist as many as four times, therefore the submission made on behalf of petitioners that for want of advertisement, they became overage is incorrect.

7. Learned Counsel for the petitioners further contended that earlier also, State Government granted relaxation in upper age limit, in 2005, in the selection for appointment as Pharmacist in Ayurveda



Department to candidates who had become overage for want of selection.

8. Petitioners have relied upon notification dated 28.2.2003, whereby Uttaranchal Public Services (Relaxation in Age Limit for Recruitment) Rules, 2003 have been notified. Rule 3 of the said Rules provides that the State Government can grant relaxation in upper age limit in favour of one or more candidates in appropriate cases.

9. Since Rule 3 of the aforesaid Rules enables the State Government to consider grant of age relaxation in appropriate cases, therefore, this Court thinks that ends of justice would be met if the matter is referred to the State Government for taking appropriate decision in the matter, in the peculiar facts and circumstances of the case.

10. Accordingly, writ petitions are disposed of with liberty to the petitioners to approach the competent authority in the State Government by making a representation. If petitioners make a representation to Secretary, Medical Education on or before 10<sup>th</sup> October 2025, decision thereupon shall be taken by the concerned Secretary within three months thereafter.

11. It shall be open for the selecting body to proceed with the selection process.

12. Since respondent no. 5 is proceeding with the process of document verification, therefore,



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petitioners shall also be provisionally permitted to participate in the process of documents verification by submitting their applications along with all requisite documents within 48 hours. However, their result shall be kept in a sealed cover and shall not be declared till decision is taken by the State Government.

**(Manoj Kumar Tiwari, J.)**

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