

Court No. - 19

Case :- SERVICE SINGLE No. - 14612 of 2021

Petitioner :- Abhishek Mishra & Others

Respondent :- State Of U.P. Thru. Prin. Secy. Home. Lko & Others

Counsel for Petitioner :- Deepak Singh

Counsel for Respondent :- C.S.C.

Hon'ble Chandra Dhari Singh,J.

The petition has been filed with the following two main prayers:-

"I. to issue a writ, order or direction in the nature of Certiorari quashing the impugned clause 3.4 of the advertisement dated 23.03.2021 issued by the respondent no.4 (contained in Annexure - 1 to this writ petition) to the extent that the date of reckoning the maximum age limit of eligible candidates has been determined to be 01.07.2021;

II. to issue a writ, order or direction in the nature of Mandamus commanding the respondents to allow the petitioners to participate in the selection at hand by determining the date of reckoning the maximum age limit of eligible candidates to be 01.07.2018;

....."

Learned counsel for the petitioners has submitted that inspite of undertaking given by the Principal Secretary (Home), Government of Uttar Pradesh before the Hon'ble Supreme Court in the case of ***Manish Kumar v. Union of India & Ors. - Writ Petition (Civil) No.183 of 2013 Dated 24.04.2017***, the post of Assistant Sub-Inspector of Police was not advertised in the year 2018, 2019 & 2020, therefore, the petitioners became overage as per Clause 3.4 of the impugned Advertisement dated 23.03.2021. It is further submitted that all the petitioners are to apply for the post of Assistant Sub-Inspector (Accounts) in the impugned advertisement.

Learned counsel has also submitted that a similar issue was also raised by some candidates, who were to apply for the post of Constable, before the Hon'ble Supreme Court in the case of ***Rajendra Singh & Ors. v. State of U.P. & Ors. - Petition for Special Leave to Appeal (Civil) No.12569 of 2018***, which was disposed of on 13.06.2018 with the following order (relevant portion):

"6. Mr. V. Shekhar, learned senior counsel after seeking instructions from Principal Secretary (Home), made following statement:

- In the ensuing examination after the present selection, an exception shall be made in favour of such candidates who missed out merely because the date of reckoning for the present selection happens to be 01.07.2018 instead of 01.07.2017 and at least one more chance shall be given to such candidates to compete.*

7. We record the statement and direct the State through its Principal Secretary (Home), to file an appropriate affidavit detailing out the facility to be afforded to such candidates. Said affidavit shall be filed within seven days from today and shall form part of the record. On the strength of the statement of Mr. V. Shekhar, learned senior counsel, we dispose of this special leave petition.

No further order is called for in the impleadment application.

Pending applications, if any, shall also stand disposed of."

Learned counsel has submitted that if the advertisements would have been issued in the appropriate years as per the aforesaid direction of the Hon'ble Supreme Court, all the petitioners would be eligible to apply for the post of Assistant Sub-Inspector (Accounts), which for the present day they are not. It is also submitted that the last date for submission of the application forms as per the impugned advertisement is tomorrow i.e. 15.07.2021.

Per contra, Shri P.K. Singh, learned Additional Chief Standing Counsel has vehemently opposed the submissions made by petitioners' counsel as well as the contentions of the writ petition and submitted that the impugned advertisement is as per the rules. He has prayed for time to file counter affidavit.

I have heard learned counsel for the parties and perused the record.

Upon hearing the parties and perusal of the record, I find substance in the aforesaid argument of counsel for the petitioner.

In view of the above, it is ordered that on a provisional basis, the petitioners' application forms for the post of Assistant Sub-Inspector (Accounts), who would be within the eligible limit as on 01st of July, 2018 be accepted by the respondents forthwith and the petitioners may be included in the recruitment process, but their result shall not be declared without leave of this Court.

This order has been passed in view of the urgency that the last date for acceptance of the application forms is 15.07.2021.

State is directed to file counter affidavit within four weeks.

Rejoinder affidavit, if any, shall be filed within two weeks thereafter.

List on **07.09.2021**.

Order Date :- 14.7.2021/nishant/-