

Court No. - 29

Case :- SPECIAL APPEAL No. - 203 of 2025

Appellant :- Rajeev Kumar And 12 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Appellant :- Abhishek Kumar Saroj, Rashmi Nigam, Sr. Advocate

Counsel for Respondent :- C.S.C., Kushmondeya Shahi

Connected with

Special Appeal Nos. 248 of 2025, 256 of 2025, 260 of 2025, 271 of 2025, 300 of 2025, 301 of 2025, 302 of 2025 & Special Appeal (Defective) No.265 of 2025.

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Praveen Kumar Giri, J.

1. This bunch of appeals arise out of judgment of learned Single Judge dated 6.3.2025, whereby the writ petitions have been dismissed.
2. Appellants' grievance is that Advertisement No.1 of 2013 was published whereby 5723 posts were advertised. Select panel has been drawn only in respect of 4556 posts. No select panel has been drawn in respect of remaining 1167 posts. The appellants contend that they ought to be included in the select list drawn by the Board but since panel itself has not been drawn in respect of 1167 posts, therefore, the appellants have been arbitrarily denied appointment.
3. Learned Single Judge has dismissed the writ petitions after observing that number of vacancies available for appointment had reduced due to various reasons. This conclusion of the learned Single Judge is assailed in the present bunch of appeals.
4. On behalf of appellants, it is urged that the reduction in the number of posts advertised is not based upon any proper examination of records and the Commission, as well as Director, acted arbitrarily in reducing the number of posts.
5. Sri K. Shahi appearing for the respondent Board, however, submits that the available vacancies have decreased on account of adjustment offered to various candidates pursuant to the orders passed by the Hon'ble Supreme Court in appeal arising out of Full Bench judgment of this Court in Prashant Kumar Katiyar Vs. State

of U.P. and others, reported in 2013 (1) ADJ 523 (FB). It is also submitted that at the time of re-determination of vacancies in the institution pursuant to the direction issued by this Court in the case of Dhruv Narain Singh Vs. State of U.P., passed in Writ Petition No.26307 of 2010, decided on 22.5.2012, about 10-15% vacancies were reduced. It is, therefore, submitted that the decision of respondents in not preparing the select panel in respect of 1167 vacancies is based upon justifiable material available on record.

6. Law is settled that a selected candidate has no infeasible right to appointment, yet it is equally settled that employer cannot act arbitrarily.

7. In that view of the matter, we call upon the Board/Director to file an affidavit of a responsible officer, not below the rank of Secretary clearly furnishing break up justifying the reduction in the available vacancy from the post advertised earlier.

8. List on 15.5.2025, amongst top ten cases, in the additional cause list, by when the required affidavit would be filed.

Order Date :- 24.4.2025

Anil