2026:UHC:9009-DB

Judgment Reserved on:28.09.2026

Judgment Delivered on :06.10.2026

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

Writ Petition (S/B) No.83 of 2025

Jagdish Chandra Purohit -----Petitioner

Versus

Veer Chandra Singh Garhwali Uttarakhand University and Others

----Respondents

Presence:-

Mr. Piyush Garg, learned Senior Counsel assisted by Mr. Shakti Sourabh Purohit, learned counsel for the petitioner.

Mr. C.K. Sharma, learned counsel for respondent nos.1 and 2.

Mr. C.D. Bahuguna, learned Senior Counsel assisted by Mr. C.S. Dalakoti, learned counsel for respondent no.3.

JUDGMENT : (per Mr. Subhash Upadhyay J.)

1. The present writ petition has been filed for the following reliefs:

> *"(i) To issue a writ order or direction in the nature of Certiorari for quashing recommendations/proceedings of the selection committee dated 16.02.2024, by means of which the name of respondent no. 2 has been forwarded/recommended by the committee for appointment on the post of Assistant Professor (Statistics) under EWS category and for quashing of the minutes of meeting of the Board of Management dated 09.08.2024 by means of which the Managing Council has approved the recommendation of the Selection Committee.*
>
> *(ii) To issue a writ, order or direction in the nature of mandamus directing the respondents to recommend*

and give appointment to the petitioner on the post of Assistant Professor (EWS category) in College of Forestry, Rani-Chauri, Tehri, Garhwal, VCSG, Uttarakhand, University of Horticulture and Forestry, Bharsar, Pauri Garhwal, in pursuance of the Advertisement Notice No. UUHf/dt/f.no.01/01 of 2023, dated 14.08.2023.

(iii) To pass any other suitable order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. The petitioner who belongs to the economically weaker section (EWS) applied for the post of Assistant Professor (Statistics) in the College of Forestry, Veer Chandra Singh Garhwali Uttarakhand University of Horticulture and Forestry (hereinafter referred to as "VCSG University").

3. As per the advertisement issued on 14.08.2023, amongst various posts advertised for different streams one post of Assistant Professor (Statistics) in the College of Forestry was reserved for EWS category.

4. The controversy in the present case relates to the non-selection of the petitioner, who belongs to the EWS category, to the post of Assistant Professor (Statistics) under the said category.

5. Learned counsel for the petitioner contended that against the post of Assistant Professor (Statistics) to be filled up under the EWS category three candidates

applied and only two candidates i.e. the petitioner and respondent no.3 were short-listed for interview.

6. It is further case of the petitioner that as respondent no.3 does not belong to the EWS category, as such, he was wrongly included in the panel and his selection and recommendation against the post earmarked for EWS category is against the Uttarakhand Public Services (Reservation for Economically Weaker Sections) Act, 2019 (hereinafter referred to as “Act of 2019”). He thus submits that the said recommendation made in favour of respondent no.3 being against the provisions of the Act is liable to be struck down.

7. Per contra, learned counsel for respondent no.1 and 2 submits that respondent no.3 was found to be more meritorious and was selected and recommended for appointment as Assistant Professor (Statistics) but as he could not submit his EWS Certificate as per the prescribed format, as such, no appointment order has been issued in his favour. It has further been contended that as the name of the petitioner was not recommended by the Selection Committee, hence, the petitioner has no right to claim appointment.

8. Learned Senior Counsel for respondent no.3 submitted that the respondent no.3 had not applied for the post of Assistant Professor (Statistics) under the EWS category and had applied as an unreserved candidate. It is submitted that an unreserved category candidate can also apply for the post of Assistant Professor under the EWS category. Learned Senior Counsel submits that, as per Sub-section 3 of Section 3 of the Act of 2019, if any vacancy reserved for EWS category cannot be filled up due to non-availability of a suitable candidate then such vacancy can be filled up from suitable general category candidates. He thus, submits that, as petitioner was lower in merit, as such, Selection Committee rightly recommended the case of respondent no.3 for appointment as Assistant Professor.

9. Heard learned counsel for the parties and perused the record.

10. A perusal of the record reveals that the petitioner sought certain information under the Right to Information Act and the information with regard to the proceedings of the Selection Committee and the marks which were awarded to respondent no.3 were provided to the petitioner. The recommendation made by the Selection Committee in favour of respondent no.3 and

the marks obtained by him is enclosed as Annexure No.3 to the writ petition, which reads as under:

"**PROCEEDINGS OF THE SELECTION COMMITTEE**

The meeting of Selection Committee for the Post of Assistant Professor (Statistics) under EWS category held on 16.02.2024 at The Competent Palace Hotel Chakrata Road, Selaqui Industrial Area, Central Hope Town, Selaqui, Dehradun (Uttarakhand) from 10:30 am onwards. Total ....02... candidates were called for interview and two appeared for interview.

On the basis of presentation and performance in the interview the committee recommends the name of the following candidate for appointment to the post:

S.No.	Name	Sr. No in the Score Canal	Marks (Max Marks 25)
1.	Pankaj Bahuguna S/o Sri Prabhakar Dutt Bahuguna	2	21

11. This Court, on the basis of the submissions made by learned counsel for the parties, passed an order on 17.08.2026 asking the university to disclose the criteria, if any, fixed by it for adjudging suitability of candidate during interview and also place on record the

marks obtained by the petitioner. The order dated 17.08.2026 passed by the Court reads as under:

> *"1. Mr. Piyush Garg and Mr. Shakti Saurabh Purohit, learned counsel for the petitioner.*
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> *2. Mr. C.K. Sharma, learned counsel for respondent nos.1 and 2. 3. Mr. C.D. Bahuguna, learned Senior Counsel assisted by Mr. C.S. Dalakoti, learned counsel for respondent no.3.*
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> *4. The post of Assistant Professor (Statistics) was advertised showing it to be reserved for Economically Weaker Sections category (EWS category). The petitioner is EWS category candidate and after short-listing, he participated in the interview along with respondent no.3, who, admittedly, does not belong to EWS category. However, respondent no.3 was recommended for appointment against the vacancy in question.*
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> *5. In the counter-affidavit filed by the University, it is admitted that respondent no.3 does not belong to EWS category and it is stated that consequently, he has not been given appointment.*
>
> *6. Respondent no.3 has filed a counter-affidavit and has placed reliance on Section 3(3) of the Uttarakhand Public Services (Reservation for Economically Weaker Sections) Act, 2019, which is as follows:-*
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> *"3(3) If, in any recruitment year any vacancy reserved for Economically Weaker Section cannot be filled up due to nonavailability of a suitable candidate, then such vacancies for that particular recruitment year shall not be carried forward to the next recruitment year as backlog and such vacancy shall be filled up from a suitable candidate belonging to General category."*
>
> *7. As per own case of respondent no.3, he could be recommended for appointment against the vacancy reserved for EWS category only if the petitioner had been adjudged as nonsuitable for the post in question.*
>
> *8. In the counter-affidavit filed by the University, it has not disclosed the criteria prescribed for adjudging the suitability of the candidate during interview, nor has brought on record the marks obtained by the petitioner. It is stated that the marks obtained by candidates have been kept in a sealed cover and, in case, this Court would direct, the same shall be produced before it. Respondent no.3 has obtained 21 marks out 25 in the interview. However, marks of the petitioner are not on record.*

9. In order to resolve the controversy, the University is required to disclose the criteria, if any, prescribed by it for adjudging suitability of candidates during interview and also place on record the marks obtained by the petitioner in the interview to enable the Court to examine whether the petitioner was entitled for appointment against the post in question, or not.

10. List after two weeks."

12. Learned counsel for the university has filed a supplementary affidavit disclosing the criteria adopted for selection and has also produced the result of the candidates who applied against the post of Assistant Professor (Statistics) in the College of Forestry under the EWS category. The selection criteria adopted by the university, as disclosed in the supplementary affidavit, reveals that a screening committee was constituted in terms of the provisions of the Statute of the university and the selection was made as per the provisions of the UGC Regulation, 2018.

13. The short-listed candidates were called for interview and presentation. Out of total 25 marks, 5 marks were provided for presentation (teaching skills and discussion) and 20 marks for interview.

14. The petitioner obtained 2 marks in presentation and 13 marks in interview whereas respondent no.3 obtained 4 marks in presentation and 17 marks in interview. Thus, out of total 25 marks, the

petitioner had obtained 15 marks whereas respondent no.3 obtained 21 marks.

15. The moot question, which falls for consideration before the Court, is that as to whether the candidature of respondent no.3, who never applied under the EWS category, could have been considered against the aforesaid post earmarked for the EWS category.

16. The reservation to the EWS category is governed by the Act of 2019 wherein, as per Section 2(b), “economically weaker sections” means economically weaker sections specified in Article 15 (6) and Article 16(6) of the Constitution.

17. Section 3 provides for reservation in favour of economically weaker sections, Section 4 provides for the responsibility and power for compliance of the Act, Section 5 provides for the penalty for non-compliance of the statutory framework under which the reservation is provided for the EWS category, and Section 7 provides that for claiming reservation under the Act a Certificate is to be issued by an officer not below the rank of Tehsildar. Section 3, 4, 5 and 7 of the Act of 2019 reads as under:

Reservation in favour of economically weaker sections	**3.**	In public services and posts, on the order of direct recruitment vacancies to be recruited in accordance with the roster specified in sub-section (4), 10 percent shall be reserved in the favour of concerned persons of the economically weaker sections. (a) In public services and posts, the reservation in favour of economically weaker sections shall be given to such permanent residents of the State of Uttarakhand, which are not included in the existing reservations schemes for Scheduled Castes, Scheduled Tribes and Socially and Educationally Backward Classes. (b) The persons of such economically weaker sections are identified for the reservation as economically weaker section, whose gross annual income of family, from all sources is less than 8.00 lakh (eight lakh). Family income includes income received from all sources namely-salary, agriculture, profession, business etc. The said income shall be income of the previous financial year, from the year of application, by the beneficiary ; Provided that the person or their family possess any property, from the following properties, shall not be eligible for the reservation as economically weaker sections:- (i) 5 acre of agricultural land or above; or (ii) residential building of 1000 sq. feet or above; or (iii) residential plot of 100 sq. yards or above in notified municipalities; or (iv) residential plot of 200 sq. yards or above in areas other than the notified municipalities. [1][(3) If, in any recruitment year any vacancy reserved for Economically Weaker Sections cannot be filled up due to non availability of a suitable candidate, then such vacancies for that particular recruitment year shall not be carried forward to the next recruitment year as backlog and such vacancy shall be filled up from a suitable candidate belonging to General category. If , any person belonging to Economically Weaker Sections selected against the quota reserved for persons with benchmark disabilities/ ex-servicemen then such person shall be placed against the roster points earmarked for Economically Weaker Sections.]

		(4) The State Government shall, for applying the reservation under sub-section (1), by notified order issue a roaster which shall continuously apply, till it is exhausted. (5) If a person belonging to economically weaker sections as mentioned in sub-section (1), get selected on the basis on merit in an open completion with general candidates, he/she shall not be adjusted against the vacancies, reserved for such category, under sub- section (1).
Responsibility and power for compliance of Act	**4.**	(1) The State Government may by notified order entrust the appointing authority or any officer or employee with responsibility of ensuring the compliance of the provisions of this Act. (2) The State Government may in the like manner west the appointing authority or officer referred in sub section with such power or authority as may be necessary for effective discharging the responsibility entrusted to him under sub section (1).
Penalty	**5.**	(1) Any appointing authority or officer or employee entrusted with the responsibility under sub-section (1) of Section 4, willfully acts in manner to contravene or defeat the purposes of this Act shall, on conviction, be punishable with imprisonment which may extend to 3 months or with fine which may extend to 20000 or both; (2) No court shall take the cognizance of any offence under this section except with the previous sanction of the State Government or an officer authorized in this behalf by the State Government by order ; (3) An offence punishable under sub section (1) shall be tried summarily by a Metropolitan Magistrate or Judicial Magistrate of First class and provision of sub section (1) of Section 262, Section 263, Section 264 and Section 265 of the Code of Criminal Procedure, 1973 shall *mutatis mutandis* apply.
Certificate	**7.**	For the purposes of reservation provided under this Act, certificate of economically weaker section shall be issued by such officer or authority and in such manner and form as the State Government shall, by order, provide ; Provided that certificate regarding income and property shall be issued by officer not below the rank of Tahsildar, following the proper procedure after carefully verifying the all relevant rules.

18. Admittedly, respondent no.3 does not belong to EWS category and no certificate, as required under

Section 7 of the Act, was produced by him before respondent no.2 though time was granted to him to produce the said certificate. Learned counsel for the university (respondent nos.1 and 2) has fairly conceded that the post of Assistant Professor (Statistics) under the College of Forestry was to be filled up under the EWS category and the advertisement enclosed with the writ petition as Annexure No.1 also fortify the said fact. Moreover, as per the own case of respondent no.3, he had never applied under the EWS category, as such, the inclusion of the name of the respondent no.3 for selection to be made against the post earmarked for EWS category was not proper and was against the statutory framework of the Act of 2019.

19. As per Section 3(3) of the Act of 2019, if in any recruitment year any vacancy reserved for EWS cannot be filled up due to non-availability of a suitable candidate then such vacancy for that particular recruitment year is not to be carried forward and is to be filled up from a suitable candidate belonging to General Category.

20. A perusal of the record reveals that no minimum cut-off marks were provided by the Section Committee, as such, it cannot be said that the petitioner

could not obtain the requisite marks and was found unsuitable. The candidature of the petitioner was considered vis-à-vis the candidature of respondent no.3 and respondent no.3 was recommended as he obtained more marks than the petitioner. Thus, it was not a case where due to non-availability of a suitable EWS candidate the respondent no.3 being a general category candidate was considered against the EWS reserved post. As such, the contention of the learned counsel for respondent no.3 that the petitioner was found unsuitable and, as such, candidature of respondent no.3 could have been considered against the EWS category post is bereft of merit.

21. In view of the above discussion, we are of the considered view that the selection and recommendation of respondent no.3 against the EWS category post was against the provisions of the Act of 2019 and was illegal. The said recommendation being contrary to the law cannot be sustained and is, accordingly, quashed. The respondents are directed to consider the candidature of the petitioner for appointment to the post of Assistant Professor (Statistics) in the College of Forestry under the EWS category and to issue appointment letter in favour of petitioner within three weeks from today.

22. The writ petition is disposed of accordingly.

23. Pending application, if any, also stands disposed of.

(MANOJ KUMAR GUPTA, C. J.)

(SUBHASH UPADHYAY, J.)

Dated:06.10.2026

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