



2026:UHC:2017

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<p>WPSS/737/2026</p> <p><u>Hon'ble Manoj Kumar Tiwari, J.</u></p> <p>Mr. B.D. Upadhyaya, Senior Advocate, assisted by Mr. Tushar Upadhyaya, Advocate for the petitioner.</p> <p>Mr. S.S. Chaudhary, Standing Counsel, for the State.</p> <p>Mr. Shailendra Nauriyal, Advocate, for the selecting body.</p> <p>(2) Petitioner is ex-serviceman, who was discharged from Indian Army in the year 2017. He was thereafter appointed as Village Development Officer against a vacancy reserved for ex-servicemen. Petitioner thereafter applied for the post of Assistant Teacher, LT Grade, pursuant to an advertisement issued by Uttarakhand Subordinate Services Selection Commission on 14.3.2024. According to petitioner, even though he was selected and recommended for appointment as Assistant Teacher, LT Grade, however selecting body thereafter issued a letter to the appointing authority on 13.10.2025, stating that petitioner has already availed the benefit of reservation available to ex-servicemen, therefore he is not eligible for appointment against a vacancy reserved for ex-servicemen. Petitioner has challenged the said communication dated 13.10.2025, issued by Secretary, Uttarakhand Subordinate Services Selection Commission.</p> <p>(3) Learned Senior Counsel appearing for the petitioner relied upon judgment dated 29.7.2025, rendered by Division Bench of this Court in WPSB No. 491 of 2021. Relevant extract of the said judgment is extracted below:</p> <p><i>"3. Clause 8 of the Government Order dated 22.05.2020, impugned herein, refers to an Office Memorandum issued by Central Government on</i></p>



02.05.1985. The said Office Memorandum provides that benefit of ex-servicemen status would be available only once and if an ex-serviceman gets civil employment due to his ex-servicemen status, then he shall not be entitled to such benefit again.

21. Clause 8 of Government Order dated 22.05.2020 suffers from vice of artificial classification. Legislation, which covers the field, does not permit classification of Purva Sainik (Ex-servicemen) based on their reemployment status. The definition, as given in the Act, includes all persons within the fold of "Purva Sainik", who fall in any one of the four categories enumerated in Section 2(c) of the Act. Thus, the classification made by State Government between those who are yet to be appointed vis-à-vis those who are employed by or under the Government, by executive instructions, cannot but be castigated as discriminatory. It is settled position in law that executive instructions cannot run counter to a Legislation dealing directly on the subject.

22. In view of the legal position as discussed above, Clause 8 of the Government Order dated 22.05.2020 is liable to be set aside and is hereby set aside. The writ petition is accordingly allowed."

(4) By relying on the aforesaid judgment, learned Senior Counsel for the petitioner submits that the stand taken by the selecting body that petitioner is not eligible for appointment second time against a reserved vacancy is based on Government Order dated 22.5.2020. He submits that since Clause 8 of Government Order dated 22.5.2020, which provides that benefit of ex-serviceman status would be available only once, has been set aside by Division Bench of this Court by the aforesaid judgment and the relevant legislation does not impose any such restriction upon right of an ex-serviceman, therefore, the order passed by the selecting body on 13.10.2025 deserves to be quashed.

(5) Time was granted to learned Counsel appearing for respondents to get instructions. Mr. Shailendra Nauriyal, learned Counsel appearing for the selecting body, submits petitioner's name was recommended for appointment as Assistant Teacher, LT Grade



against a vacancy reserved for ex-servicemen, however, in view of Government Order dated 22.5.2020, the appointing authority was informed that petitioner has already availed benefit of reservation earlier.

(6) Mr. S.S. Chaudhary, learned Counsel appearing for the State, submits that although selecting body had earlier recommended petitioner's name for appointment, however, the selecting body thereafter issued a communication dated 13.10.2025, wherein it was indicated that petitioner is not eligible for appointment against a reserved post.

(7) Both the learned Counsel for the respondents, however, concede that since a Division Bench of this Court has held that the condition contained in Clause 8 of Government Order dated 22.5.2020 is unsustainable, therefore, reliance upon Government Order dated 22.5.2020 for holding the petitioner ineligible for appointment cannot be sustained.

(8) Having regard to the facts and circumstances of the case and also in view of the concession recorded by learned Counsel for the respondents, writ petition is allowed. Impugned communication dated 13.10.2025, whereby petitioner was declared to be ineligible for appointment against a reserved vacancy for ex-servicemen, is quashed. Selecting body is directed to recommend the name of petitioner afresh and appointing authority shall thereafter take necessary action on such recommendation, as per law.

(Manoj Kumar Tiwari, J.)
23.3.2026

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