

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

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CIVIL MISC. WRIT. PETITION NO. 70918 OF 2009

(Under Article 226 of the Constitution of India)

DISTRICT - ALLAHABAD

Sushil Kumar Gupta,  
Son of Sri R.C. Gupta,  
93, G.N. Jha Hostel,  
Allahabad University, Allahabad.

$$\frac{54806}{2412109}$$

Na Carroll  
for O.P.N.Y.

----- Petitioner

Versus

1. State of U.P. through its Principal Secretary  
(Higher Education) Secretariat, Lucknow.
2. Director,  
Higher Education (Uttar Pradesh),  
Allahabad U.P.
3. U.P. Higher Education Service Commission,  
Allahabad, through its Secretary.
4. University Grant Commission  
through its Secretary  
Bahadur Shah Zafar Marg,  
New Delhi.

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Bps new edition  
Sm U. d. Upadhyay  
Asst. Secy  
10/12/09

*[Handwritten signature]*

----- Respondents

To,

The Hon'ble the Chief Justice and his other Companion Judges of the ~~aforesaid~~ Court.



ਪ੍ਰਬੀਰ ਕੁਮਾਰ ਗੁਪਤਾ



Case :- WRIT - A No. - 70918 of 2009

Petitioner :- Sushil Kumar Gupta

Respondent :- State Of U.P. And Others

Petitioner Counsel :- Pradeep Kr. Verma

Respondent Counsel :- C.S.C,U.D.Upadhyay

Hon'ble Sunil Ambwani,J.

Hon'ble Krishna Murari,J.

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Heard Shri Pradeep Kumar Verma, learned counsel for the petitioner. Learned Standing Counsel appears for respondent nos. 1 and 2. Shri V.D. Upadhyay appears for the respondent no.3.

By this writ petition the petitioner has prayed for quashing the advertisement No. 44 issued by U.P. Higher Education Service Commission, for selections of teachers in Degree Colleges in Uttar Pradesh to the extent that it requires 50% marks in graduation examination as a condition of eligibility to apply for selections and to allow him to appear with 47.96% marks in graduation examination and 58.38% marks in M.A. Political Science examination.

It is submitted that the marks obtained in graduation examination have no relevance to the teaching as a person must have 55% marks in the post graduate examination in the relevant subject. The University Grants Commission has defined 'good academic record' in the guidelines prescribing minimum qualifications for appointment of teachers notified in March 2000 vide U.G.C. Regulations, 2000 regarding minimum qualifications for appointment and career advancement of teachers in Universities and Colleges. For the post of the Lecturer the U.G.C has prescribed in para 1.3.3 Lecturer: Good academic record with at least 55% of the marks or, an equivalent grade of B in the 7 point scale with latter grades O,A,B,C,D,E and F at the Master's degree level, in the relevant subject from an Indian University, or, an equivalent degree from a foreign university. The U.G.C has not prescribed any percentage of marks in graduation examination as eligibility condition. In other States the requirement of at least 50% marks in graduation examination for 'good academic record' is not essential eligibility condition for appointment.

Learned counsel appearing for U.P. Higher Education Service Commission points out that the petitioner has not challenged the criteria fixed by the State Government/U.P. Higher Education



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Service Commission for determining as to what should be considered as 'good academic record'. The Statutes made by the Universities under Section 50 of the U.P. State Universities Act, 1973, provide for 'good academic record' to mean at least 50% marks at the graduation level. The Government Order dated 12.7.2006, clarified the 'good academic record' to mean at least 50% in the concerned graduate degree but for those, who have passed NET/SLET or equivalent Ph.D degree, and also belong to Scheduled Caste/Scheduled Tribe, the relaxation of 5% is to be provided.

This Court has dismissed the Writ Petition No. 6092 of 2008 rejecting a similar challenge on 5.2.2008, to the criteria of fixing 'good academic record' for graduate examination.

The criteria of 'good academic record' for the purposes of appointment as lecturer has to be considered by the concerned University in accordance with the guidelines provided by the State Government, and the recommendations of the University Grants Commission. Where the University Grants Commission has not fixed any percentage of marks for determining the 'good academic record' for teaching posts, the State Government can, in its wisdom, fill in the gap and define the criteria.

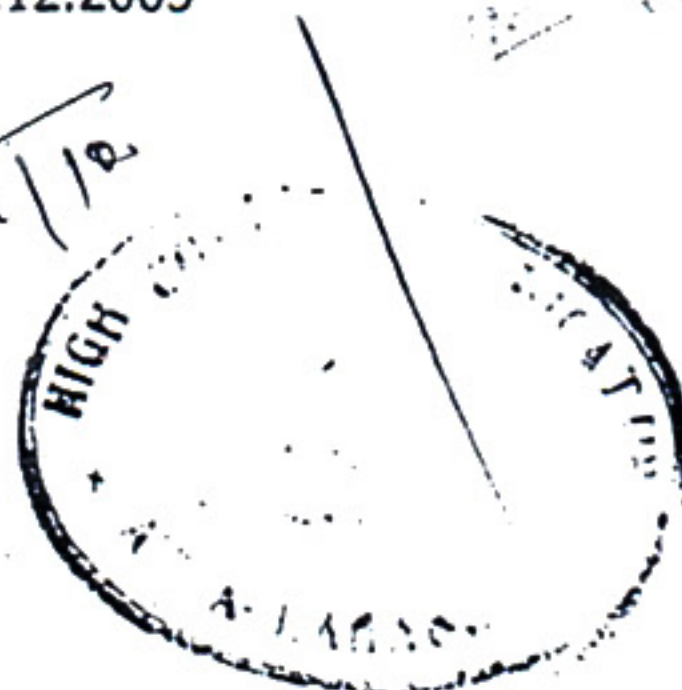
The prescription of at least 50% marks for teaching post is neither arbitrary nor unreasonable and does not discriminate the petitioner. A relaxation of 5% has been provided to the persons belonging to Scheduled Caste/Scheduled Tribe and those, who have passed NET/SLET qualifications.

The writ petition is dismissed.

Sd/- Sumit Ambwani  
Sd/- Krishna Murari

Order Date :- 23.12.2009  
RKP

BA  
12/01/10



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21/01/10  
Section Officer  
Conveng 'D' Department  
Court Allahabad