
(2012) 05 J&K CK 0006

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1592 of 2010

Farooq Ahmad Nangroo

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 25-05-2012

Acts Referred:

Citation : (2012) 05 J&K CK 0006

Hon'ble Judges : Mohammad Yaqoob Mir, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mohammad Yaqoob Mir, Judge

1. One vacancy of ReT was to be supplied in Middle School, Shumnag. Applications were invited for the same vide advertisement notice dated

13.08.2009 but on 14.12.2009 same has been withdrawn. Then re-advertisement notice shown to have been prepared by Zonal Education

Officer, Chadoora (respondent No.4) on 30.12.2009, has been published in daily newspaper ""Srinagar Times"" in its issue dated 31st December,

2009. Petitioner as well as respondent No.5 have applied. Admittedly petitioner is superior in merit as compared to respondent No.5 but his age

has been found to be below 18 years as on 01.01.2009 based on which he was declared ineligible.

2. According to learned counsel for the petitioner, in the re-advertisement notice it is clearly indicated that last date will be the cutoff date for

determining age/qualification/merit, the cutoff date would be 9th of January, 2010, therefore, in the month of January, 2010, petitioner had attained

the age of majority i.e. he was 18 years. In addition contended that Article 37 of

CSR, which prescribes minimum/maximum age for appointment, is not applicable.

3. The contention that Article 37 of CSR is not applicable in case of appointment of ReTs is no more open for determination because the

controversy already stand set at rest in series of Division Bench and Single Bench judgments of this Court i.e. LPA No.168/2008 titled Ms.

Shaheena Masarat Vs. State & ors. decided on 13th April, 2010, LPA No.79/2012 titled Shakeel Ahmad Beigh Vs. State & ors, decided on

08.05.2012, SWP No.1212/2009 titled Bashir Ahmad Najar Vs. State & ors, decided on 22.12.2010.

4. The next contention to be considered is as to whether the candidate must possess requisite age, qualification/merit on the cutoff date as notified

in the advertisement notice. Answer has to be ""no"" because Article 37 of CSR prescribes minimum and maximum age to be determined on 1st

January of the year in which advertisement notice is issued. In the instant case admittedly re-advertisement notice has been issued on 30.12.2009

and published in daily newspaper ""Srinagar Times"" dated 31st December, 2009 which position is admitted as the petitioner in the application which

he had filed in response to the said re-advertisement notice, has categorically mentioned that ""in pursuance to re-advertisement notice published in

Srinagar Times on 31st December, 2009, he seeks consideration"". Therefore, the minimum or maximum age is to be determined as on

01.01.2009, when it is so, admittedly on 01.01.2009 petitioner had not attained the age of majority i.e. he was below 18 years of age.

5. The condition incorporated in the advertisement notice that age/qualification shall be determined as on the cutoff date was impermissible being

de hors the rules i.e. runs contrary to Article 37 Note 7 of CSR, therefore, such condition, which is not in accordance with law is itious. Viewed

thus, petitioner was ineligible as on 01.01.2009 so could not be considered for being engaged as ReT. It being so, this petition has no merit,

accordingly dismissed.