
(2012) 07 J&K CK 0017

In the Jammu And Kashmir High Court

Case No : LPA No. 114 of 2010, IA 193 of 2010 c/w LPA No. 122 of 2010 and IA No. 208 of 2010

Javeed Ahmad Khanday

APPELLANT

Vs

State of Jammu & Kashmir and Others

RESPONDENT

Date of Decision : 03-07-2012

Acts Referred:

Citation : (2012) 07 J&K CK 0017

Hon'ble Judges : M.M. Kumar, C.J;Hasnain Massodi, J

Bench : Division Bench

Advocate : Jahangir Iqbal Ganai, for the Appellant; S.A. Naik, Advocate and Mr. M.Y. Bhat, for the Respondent

Final Decision : Dismissed

Judgement

1. The appellant and respondent No. 6 in LPA No. 144 of 2010, responded to advertisement notice issued by Zonal Education Officer,

Srigufwara, Anantnag respondent No. 5 in the appeal on 02.03.2009, inviting applications from the eligible candidates for available vacancies of

Rahbar-e-Taleem in Math and Science stream in Government Girls Primary School, Hitigam. However, the appellant found place at S. No. 3 in

the tentative list prepared by the official respondents, where as respondent No. 6 was placed at S. No. 2 i.e. ahead of the appellant. The appellant

and respondent No. 5 in LPA 122/2010, similarly submitted their applications for Rehbar-e-Taleem positions available in Government Primary

School, Wanghama in Mathematics stream, however the respondent No. 5 was shown at S. No. 1 in the tentative list prepared by the official

respondents and the appellant placed at S. No. 2 in the list.

2. The appellants in LPA's 114/2010 and 122/2010 having B.Ed degree to their

credit and Mathematics at 10+2 level, felt aggrieved with their placement in the tentative selection lists and filed writ petitions registered as SWP No's. 780/2009 and 922/2009. The petitioners case in both the petitions was that as they had Mathematics as one of the subjects at 10+2 level, Graduation in Arts and also B.Ed degree to their credit had an edge over the private respondents in the appeals as they did not have B.Ed degree and therefore were to give way to the appellants for their selection against the advertised posts.

3. The writ court took up SWP NO's. 780/2009 and 922/2009 and other petitions involving the same question, together and vide judgement dated 14th July, 2010 dismissed all the writ petitions. The writ petitioners in SWP NO's. 780/2009 and 922/2009 have filed two separate Letters Patent Appeals against the writ court judgement dated 14th July, 2010 registered as LPA NO's. 114/2010 and 122/2010 and seek setting aside of the writ court judgement on the grounds pleaded in the appeals.

4. We have gone through the memoranda of Appeals, as well as record, and have heard Counsel for the parties.

5. Sarva Siksha Abhiyan(SSA)is aimed at achieving the object of universal education at elementary level within fixed time frame. The object is to

make the fundamental right to free and compulsory education to the children of 6-14 years of age group, incorporated by 86th amendment in the

Constitution, a reality. The Programme is implemented in partnership with the State Government. In the State of Jammu and Kashmir, the

Programme succeeded Rehbar-e-Taleem or Education Guide Scheme launched vide Government Order No. 96-Edu of 2000 dated 24th April,

2000. It is important to note that the SSA Programme does not merely aim at achieving the target of universal elementary education within the set

time frame, but one of its objects is to meet the demand for quality based education and to bridge the gap between different sections of the society.

The object of, quality based education made it necessary to place extra focus on teaching Science and Mathematics at the Primary Scholl level, so

as to achieve holistic literacy and numeracy improvement at primary level that would combine language and Social Science with Mathematics and

Science.

6. The Programme was given a fresh look in the year 2008 and on Ist. April,

2008, a revised SSA Scheme was notified making it necessary to fill up all Rehbar-e-Taleem positions that become available where a Rehbar-e-Taleem in place vacates the position or position become available because of up-gradation of Primary School/Education guarantee centre, from amongst the eligible candidates having Mathematics and Science back ground.

7. In the said back ground a candidate having highest qualification in the respective disciplines i.e. Mathematics or Science is to have an edge over a candidate having such subjects at a lower level. To illustrate a candidate having Masters Degree in Mathematics or Science to his credit is to be given preference over a candidate having Mathematics at Graduation level irrespective of other qualification is possessed by such candidate.

Similarly a candidate having Mathematics or Science at Graduation level is to be given preference over a candidate having Mathematics or Science at 10+2 level, ignoring any additional qualification including M.Ed or B.Ed possessed by such candidate. In short the preference is attached to the level of proficiency/qualification in Mathematics or Science. The principle finds expression in Director School Education's Communication No.

DSEK/Legal/ 91/09 /3651-60 dated 27.05.2009 addressed to all Chief Education officers and Additional Secretary to Government Education

Department's Communication No. Edu/NC/ SE/ 415/2008 dated 07.08.2009 to the Director School Education, noticed in Kounser Ashraf Vs

State and Others 2012 (1) JKJ 111 (HC) It would be profitable to extract the two communications;

(I) Government of Jammu and Kashmir

Director of School Education Kashmir (SSA Unit)

The Chief Education officer,

_____(All)

No: - DSEK/Legal/91/09/3651-60 dated 27.05.2009

Subject: - Selection of ReT's in newly up-graded schools.

Sir,

Kindly refer to the subject cited above. In this connection the determination of merit in the below mentioned cases was discussed with Secretary

Education on 19.05.2009.

(A) BSc (Science or Math) + B.Ed v/s M.Sc/MA (Math)

(B) 10+2 (Math and Science) +BA (without Math) + B.Ed v/s BSc/BA Math.

(C) For New Opening slots (MA Education+ B.Ed v/s MSc B.Ed)

In the above referred situations, the candidates with following qualification are to be given preference.

* MSc/MA (Math), (for situation A)

* BSc/BA (Math, (for situation B)

For the situation maintained at (C) the comparative at the PG level is to be considered for the determination of the merit.

Director School Education

Kashmir

(II) Government of Jammu and Kashmir Education Department, Civil Secretariat

To

The Director,

School Education,

Kashmir.

No. Edu/NC/SE/415/2008

Dt. 07.08.2009

Subject:- Determination of qualification / merit for engagement of ReTs.

Ref:- Director School Education Kashmir's letter No.

DSEK/T/Legal/236-Misc/3926 dated 22.07.2009 and DSEK/T/Legal/223-Misc./3940-50 dated 28.07.2009.

Madam,

In reference to above noted letters I am directed to convey that Ministry of Human Resources Development, Department of School Education and

Literacy, Government of India Vide its communication bearing No. F.2-3/2005-EE.3 dated 22nd February, 2008 has prescribed following mode

of selection for teachers under SSA with effect from 01.04.2008 the relevant portion of which is reproduced as under:-

of the three teachers sanctioned under SSA for every new upper primary school, one each will need to be a teacher with Mathematics and Science

specific educational background.

In view of the above rule position the candidates having higher qualification in Science /Mathematic subjects will have to be given preference.

Accordingly, in the above referred three cases:

1. B.Sc (Non-Medica), M.Sc Statistics shall have an edge over BA (Math), B.Ed, MA Economics.
2. M.Sc Zoology, B.Ed, shall have preference over B.Sc, M.Ed and;
3. B.Sc, B.Ed candidates shall have priority over the candidate having MA(Education).

Yours faithfully,

Additional Secretary to Government,
Education Department.

9. In the case in hand the appellants have Mathematics at 10+2 level while as the respondents have Mathematics at the Graduation level. The

respondents therefore have an edge over the appellants and have been rightly selected for the advertised posts. The B.Ed degree to the credit of

appellants does not brighten up their chances as against the respondents for the simple reason that the degree loses its significance in view of the

higher qualification in Mathematics to the credit of the respondents. The professional degree like B.Ed or M.Ed is to have relevance only where the

competing candidates have Mathematics or Science at the same level. To illustrate, if two candidates with M.Sc Mathematics or Science aspire for

a Rehbar-e-Taleem position and one of them has also B.Ed. degree to his credit, the candidate with M.Sc, and B.Ed degree is to have edge over

the candidate with M.Sc degree. The reliance on Govt. Order no.1583-Edu of 2003 dated 01.10.2003, is grossly misplaced for the reason that

the order was made when SSA Scheme was yet to be revised and there was no requirement of filling up the available Rehbar-e-Taleem positions

from the candidates having Mathematics and Science educational background. For the reasons discussed there is no merit in the appeals and LPA

No.s. 114/2010 and 122/2010 are dismissed.