
(1994) 11 J&K CK 0003

In the Jammu And Kashmir High Court

Case No : SService Writ Petition (SWP) No. 242/1994 and SSWP 243/1994

Jeet Kumar

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 11-11-1994

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1995) JKLR 83 : (1994) KashLJ 555 : (1995) 2 SCT 773 : (1995) SriLJ 115

Hon'ble Judges : V.K.Gupta, J

Bench : Single Bench

Advocate : S.S.Sahni, P.N.Goja, M.K.Bhardwaj , D.C.Raina, A.Kapoor ,
Advocates appearing for the Parties

Judgement

1. A very short point is involved for consideration and determination in these two petitions, which are disposed of by this common order.

2. The petitioners in both the cases were candidates in the Entrance examination for B.E. in various Engineering courses. Both the petitioners were

selected for the courses, the petitioner Jeet Kumar in mining course (Code 06) and petitioner Ajay Kumar Sharma for Metallurgical course (Code

08); whereas petitioner Jeet Kumar had obtained 121 marks in the Entrance examination, petitioner Ajay Kumar Sharma had obtained 114 marks

in the said examination. The last candidate selected in the open merit category had 138 marks. So far facts are not disputed by the parties. The

dispute now starts.

3. The petitioners are challenging Notification No:BE/CAEE of 1994 dated 26th September, 1994, whereby the Competent Authority has

cancelled their nomination in the aforesaid two courses and instead admitted two

other persons, namely, Bhupinder Singh and Puneet Kohli for the said two courses. The petitioners are aggrieved of the issuance of the aforesaid Notification and have challenged the same in this court through the medium of the two petitions.

4.1 have heard learned counsel for parties and perused the record.

5. It appears, that the Competent Authority was misled into granting selection to the two petitioners in the two courses, perhaps because of the misregarding and the misinterpretation of the relevant clause in the Information brochure regulating the admission/selection for the Engineering courses.

6. The relevant clause in the information brochure pertaining to the preparation of merit lists is clause ""13"" which reads, as under:

13.1. For open merit and reserved category candidates the selection shall be made strictly on the basis of merit in the Entrance Examination as

prescribed by the Government from time to time. 13.2. In case of any subsequent vacancy/ vacancies caused by whatsoever reason the same shall

be filled from amongst the candidates of that particular category strictly according to merit. In the event of no availability of eligible candidate (s) in

a reserved category the resultant vacancy shall go to the open merit category"".

7. On a plain reading of the clause 13, particularly clause 13.1, it becomes abundantly clear that for each and every category, whether it is the

open merit category or a category belonging to a reserved class, the selection of the candidates has to be made strictly on the basis of the merit in

the Entrance Examination. It clearly therefore, follows that merit in the Entrance Examination is the only mode and method which is prescribed for

making selection in the B.E. course in various subjects. What is the merit?

Mr. Bhardwaj has submitted that initially when the Competent Authority granted admission, it was right in following the principle in its mind that the

merit must be subject wise. Mr. Bhardwaj is totally and absolutely wrong in his submission.

8. What Mr. Bhardwaj wants the court to hold is that the selection should be made not on the basis of the overall merit of the candidates in the

entrance examination, but that it should be made on the division of the candidates into classes relatable to the options given by them for particular

subjects. In other words, his submission is that all the candidates who appeared in the entrance examination should be divided into classes

subjectwise and then, based on their interse merit in each subject, they should be picked up for selection and granted admission. The argument is

wholly misconceived and totally fallacious. A plain reading of clause 13.1 quoted above clearly and unequivocally, without any manner of doubt

lays that the selection shall be made strictly on the basis of merit in the entrance examination.

9. The stand taken by the competent authority in cancelling the admission of the petitioners on realising its mistake is wholly correct. There is no

doubt that the competent authority was initially mistaken in its view that the selection could have been made subjectwise. It was wholly correct and

justified in taking and adopting the latter view, correct one that the only prescribed mode and method of selection was by determining the interse

merit of all the candidates in the entrance examination, not by dividing them into classes relatable to the subjects opted for by them, for the

purposes of granting admission in the courses. It is no doubt true that the allocation of subjects of the candidates, based on the options exercised

by them has to be directly linked with obtaining merit overall in the entrance examination. The selection cannot be made on the basis of the

comparative or interse merit of candidates in any particular subject or with relation to any particular option given by them in that subject.

10. The petitions, therefore, have no merit and are dismissed. Interim directions shall stand vacated forth with.