

(2020) 01 J&K CK 0027

In the Jammu And Kashmir High Court

Case No : Service Writ Petition No. 693, 1951 Of 2017, 1261 Of 2007

Mohammad Iqbal Ganai And Others

APPELLANT

Vs

State Of J&K And Others

RESPONDENT

Date of Decision : 30-01-2020

Acts Referred:

Constitution Of India, 1950 — Article 14

Citation : (2020) 01 J&K CK 0027

Hon'ble Judges : Dhiraj Singh Thakur, J

Bench : Single Bench

Advocate : Amir Latoo, Sheikh Feroz

Judgement

S. No.,Post,Open,RBA,SC,ST,ALC,OBC,Total

1,Watchman,17,05,02,02,__,__,26

2.,Kandaman,09,02,__,01,__,__,12

3.,Depot

Asstt.",16,04,01,02,__,__,23

,Total,42,11,03,05,__,__,61

Sd/-Assistant Director FCS&CA Deptt. Pulwama,,,,,,,,

No. 1439/17 R. No. 3793.â??,,,,,,,,

6. Aggrieved of the decision dated 13th June, 2017, the petitioners challenged the same in writ petition bearing SWP No. 1261/2017, wherein they",,,,,,,,,

sought a writ of certiorari for quashing the aforementioned decision.,,,,,,,,,

7. Another Advertisement Notice dated 16th September, 2017 was issued inviting applications from eligible candidates for 41 posts in the cadre of",,,,,,,,,

Watchman, Kandaman and Depot Assistant. The petitioners challenge the

aforementioned notification by way of the instant writ petition." ,,,,,,,

8. On perusal of pleadings and after hearing the counsel for the parties, it becomes clear that the stand of the respondents is that the only reason why" ,,,,,,,

the process of selection initiated vide Advertisement Notice dated 3rd July, 2013 had been abandoned was that the criteria adopted by the selection" ,,,,,,,

committee in preparing shortlist was improper and contrary to the guidelines issued by the General Administration Department. It appears that the, ,,,,,,,

criteria which was adopted and which has already been reproduced in preceding paragraphs was contrary to the criteria which was otherwise, ,,,,,,,

prescribed by General Administration Department, viz:" ,,,,,,,

Matric = 70 points, ,,,,,,,

10+2 = 10 points, ,,,,,,,

Viva = 20 points, ,,,,,,,

9. It is the admitted case of the parties, as has already been reiterated by the counsel for the respondents, that another shortlist was prepared on the" ,,,,,,,

basis of criteria, which was otherwise prescribed by the General Administration Department in furtherance of advertisement Notice dated 3 rd July," ,,,,,,,

2013. Counsel for the petitioners states that although the criteria, which was notified at the time of issuance of notification could not have been" ,,,,,,,

changed as per the settled law by the Apex Court, yet after it was changed, the petitioners had figured in the subsequently prepared shortlist. Since" ,,,,,,,

the petitioners were shortlisted, they do not have any grievance for the application of the modified criteria. Assuming that the official respondents" ,,,,,,,

were justified in adopting a criteria which, according to them, was in tune with the criteria fixed by the General Administration Department, yet having" ,,,,,,,

adopted the said criteria and having prepared another shortlist based upon the newly applied criteria, there was little justification for the official" ,,,,,,,

respondents to scrap the entire selection process initiated pursuant to advertisement Notice dated 3rd July, 2013 and subsequently issue advertisement" ,,,,,,,

notice dated 16th September, 2017." ,,,,,,,

Even the decision dated 13th June, 2017 does not justify the scrapping of the selection process initiated in the year 2013 as the only ground taken is the" ,,,,,,,

inordinate delay in completing the process of selection initiated in the year

2013.,,,,,,,,,

Since the process of selection did not involve any interview process as per the modified criteria and since it did not involve a situation where the,,,,,,,,

members of interview committee would deem it impossible to complete the selection process, there was a little justification for taking a decision which",,,,,,,,,

was notified on 13th June, 2017.",,,,,,,,,

10. It is settled law that a candidate does not get any indefeasible right in claiming that the process of selection once initiated be taken to its logical,,,,,,,,

conclusion and that he be appointed against the particular post, yet equally settled is the position that while the selection process once initiated can be",,,,,,,,,

abandoned, the same can be abandoned only for good and valid reasons. Reference in this regard can be made in Ms. Neelima Shangala v. State of",,,,,,,,,

Haryana and others, reported in AIR 1987 SC 169 and Shankarsan Dash v. Union of India, reported in AIR 1991 SC 1612, wherein Apex Court held",,,,,,,,,

as under:,,,,,,,,

â??â?|..merely because a candidate participates in the process of the selection or finds his name figuring in the select list does not per se give him a,,,,,,,,

right to seek an appointment. The appointing authority may, in appropriate cases for good and justified reasons abandon the process of selection, but",,,,,,,,,

the same cannot be done for malafide or oblique reasons.â??,,,,,,,,,

11. The decision to scrap the selection process can be tested on the touchstone of arbitrariness. Anything which is arbitrary in terms of Article 14 of,,,,,,,,

the Constitution of India, as was held in E.P. Royappa v. State of Tamil Nadu and Another, by the Apex Court, reported in AIR 1974 SCC 3.",,,,,,,,,

12. Having considered the matter in its entirety, in my opinion, the official respondents could not have abandoned the process of selection once initiated",,,,,,,,,

vide notification dated 3rd July, 2013. The decision dated 13/7/2017 and the subsequent advertisement notice dated 16th September, 2017 to that",,,,,,,,,

extent cannot be upheld, the same are accordingly quashed. The official respondents are directed to complete the process of selection initiated vide",,,,,,,,,

Notification dated 3rd July, 2013. Let the said process be taken to its logical conclusion within a period of five months.",,,,,,,,,