
(1997) 01 J&K CK 0012
In the Jammu And Kashmir High Court
Case No : Writ Petition No. 1284/96

Raj Ali, S/o Kher-ud-din

APPELLANT

Vs

State of J&K & others

RESPONDENT

Date of Decision : 01-01-1997

Acts Referred:

Citation : (1997) KashLJ 196

Hon'ble Judges : B.A.Khan, J

Bench : Single Bench

Judgement

1. This matter is taken up for disposal on its admission to hearing. Learned counsel for parties were heard on 13.5.97 when Mr Pant, representing

respondents was granted opportunity of producing any judgment in support.

2. Petitioner was a candidate for the post of constable vide advertisement notice dt.29.9.95. This notice amongst other things prescribed the

maximum and minimum age limit for the candidates and envisaged that candidates should not be more than 28 years and not less than 18 years as

on 1.1.95.

3. Petitioner submitted himself for selection and was selected. But later, his appointment order was with held and it now appears on the plea that

he did not possess requisite minimum age as on 1.1.95 and was short of six months.

4. Petitioner's case is that he had attained over 18 years of age at the time he applied for consideration of selection pursuant to the advertisement

notice dt. 29.9.95 which was issued ten months after the deadline fixed for possessing the minimum age and was above nineteen at the time

interview for the post was held. Therefore, he could not be deprived of

employment on the respondents subsequently noticing his short fall in the age in reference to a back date that too about ten months before the issuance of the advertisement notice. It is submitted that the prescribed deadline was irrational and unreasonable and liable to deprive the petitioner and similarly situated of employment and of their fundamental right to earn livelihood. It is urged that the crucial date for possessing the age, if it had some rational, should have been the date on which a candidate seeks consideration for selection, if not the date of interview, which according to the principle enunciated by the Supreme Court, is the crucial date for a candidate to possess. The requisite eligibility.

5. The case of respondents is that petitioner was required to satisfy the conditions of eligibility as laid down in the advertisement notice and could not back track after his selection. Therefore, if his eligibility suffered from some infirmity in terms of the advertisement notice, he was not entitled to be appointed to the post of constable.

6. It is common ground that the petitioner had not attained 18 years as on 1.1.95 and was short of six months. But the fact that applications were invited ten months later and he had attained 18 years at the time of submitting application and, that, he was selected also, it would unjust to deprive him of appointment now which would make no sense and , on the contrary, cause enormous prejudice and injustice to him. After all, the prescription of an age limit for employment is supposed to have some rational behind candidate cannot be deprived of his employment or his selection cannot be defeated on a second thought that he was falling short of few months in the minimum prescribed age limit anterior to the issuance of the advertisement notice?

7. The fact that he had earned his selection on merit and that he had attained the requisite age on the date when he sought consideration, entitled him to appointment.

8. Viewed thus, respondents action in withholding his appointment seems unjustified on the face of it. Resultantly, this petition is allowed and respondents are directed to pass requisite appointment order and to appoint the petitioner to the post of constable and to give effect to his appointment from the date his coselected were appointe3)He shall not, however, be entitled to any pecuniary benefit for it as he had not worked

for this period. But, it shall be counted towards his seniority and other benefits.