

(1998) 02 J&K CK 0045

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1720 of 1997, Service Writ Petition (SWP) No. 964 of 1997, Service Writ Petition (SWP) No. 1257 of 1997, Others Writ Petition (OWP) No. 660 of 1997, Service Writ Petition (SWP) No. 1825 of 1997

Ravi Kumar, Mohd.Rafiq Gujjar Khan

APPELLANT

Vs

State of Jammu and Kashmir

RESPONDENT

Date of Decision : 17-02-1998

Acts Referred:

Citation : (1998) 3 SCT 792

Hon'ble Judges : T.S.Doabia, J

Bench : Single Bench

Advocate : R. Kohli, Sandeep Singh, H.R. Khan, M.A. Goni, R. Kohli, M.A. Goni, K.S. Chib, Advocates appearing for the Parties

Judgement

T.S. Doabia, J.—Counsels heard.

2. With the consent of the parties, the petitions are taken up for disposal.

3. All the above writ petitions are disposed of by this common order.

4. So far as the writ petitions, SWP Nos. 1825/97 and 1257/97 are concerned, the controversy is slightly different from the controversy which has been raised in the other writ petitions. First the controversy raised in SWP Nos. 1257/97 and 1825/97 be noticed:

5. The petitioners in these two writ petitions are working as daily rated workers with the respondent department as Class IV employees. This aspect of the matter is not disputed by the State Government.

6. The further fact is that the respondent authorities issued an advertisement notice with a view to make direct recruitment. The petitioners submit that the case of the petitioners should have been considered for direct

recruitment.

7. It be seen that the petitioner were appointed as Daily Rated workers. Their rights are governed by SRO 64/94. This SRO enables them to have

the status of regular employee after they complete seven years of service as a daily rated worker. The relevant rule is R. 5. For facility of reference,

this Rule is reproduced below :

Regularisation of Daily Rates Workers :

All the daily rated workers who on 31.3.94, are eligible under rule 4 for regularisation shall with effect from 1.4.94, be appointed on the regular

pay scale of ClassIV prescribed in the concerned deptt. for the relevant category of posts in the scale of Rs. 750940/:

Provided that if any of the categories have higher pay scale of Rs. 7751025/, such employee(s) be placed in the higher pay scale of Rs. 775 1025/

after completion of two years of service in the scale of Rs. 750 940/.

8. A reading of the aforementioned Rule makes it apparent that all those daily rated workers who have completed seven years of service by 31st

March, 94 are eligible for regularisation. So far as the employees who have not completed seven years of service are concerned, they become

entitled to regularisation as and when they complete seven years of service. The above aspect of the matter is not disputed.

9. These two writ petitions, SWP Nos. 1257/97 and 1825/97 are disposed of with a direction that as and when the petitioners complete seven

years of service, their cases be considered in accordance with the aforementioned SRO and they be regularised. In case, any of these employees'

has completed seven years of service, then his case be considered immediately.

10. So far as the remaining writ petitions are concerned, the facts are as under :

The respondent department issued an advertisement notice with a view to fill the vacancies of Class IV employees. This notice was issued on 12th

July '97. This is published in a daily newspaper `Kashmir Times' of 13th July '97. The persons desirous of seeking appointment were directed to

send their application on or before 17th July '97.

11. The further case is that a notice was issued in a daily newspaper in which information was given that interviews would be held on 30th of July

`97, 31st of July '97 and 1st of Aug, 97. This notice is dated 29th July '97. This

was published in the newspaper namely 'Kashmir Times' of 30th July '97. The grievance of the petitioners is that even though they had submitted their applications, they were not interviewed. The further argument raised is that the notice dt. 29th July, 97 asking the candidates to appear on 30th July '97 was published on 30th July, 97 itself. Therefore, the notice was too short. It is basically on this short notice, a challenge has been made to the course adopted by the respondent authorities in making appointments.

12. The learned counsel appearing for the State Government submits that in the notice on which reliance is placed by the petitioner, the candidates could appear not only on 30th July 1997 but they could also appear on 31st July and 1st Aug, 97. In the objections, it is also indicated that wide publicity was given not only through newspapers but this was also done through All India Radio and through the medium of Doordarshan also. This is so stated in the objections which have been filed in the writ petition, OWP 660/97. The exact averments made in the counter filed are in para 5.

These are as under :

It is submitted that the same notices were published in daily Kashmir Times and Daily Excelsior and with an intention to give wide and due publicity to the notice. The deponent also got the dates for interview announced on local TV, Doordarshan, Jammu and Kashmir Radio. The announcements also communicated the venue of interview. It may further be clarified that the interview was to be conducted for three days on 30.7.97, 31.7.97 and 1.8.97 and it was open for all candidates to appear on any of the said dates.

13. In addition to the above stand taken by the State, it is stated that the persons or the candidates who were selected came from far flung areas of the State. The fact that they were able to know about the dates has been projected. In this regard, what is sought to be argued is that if other candidates were able to know, how the petitioners were unable to know about this fact is not understandable. The objection raised is that the argument of the learned counsel for petitioners should not be taken on its face value.

14. I am of the opinion that the notice which was given was no doubt a short notice. But, this cannot be made a ground for upsetting the selection.

The stand taken by the State that there was due publication through the medium of newspaper, Doordarshan and Jammu and Kashmir Radio has

to be accepted as it is. Therefore, no interference is being made with the selection process which has already achieved finality. However, it is

directed that if the vacancies still exist, then the names of the petitioners be now considered.

15. In any case, when the future vacancies exist, the names of the petitioners who came to this Court and could not appear in the interview be considered on priority.

16. The petitions are disposed of accordingly.