

(2015) 12 J&K CK 0022

In the Jammu And Kashmir High Court

Case No : SWP No. 2051 of 2013 C/w SWP No. 251 of 2014, SWP No. 1924 of 2013, SWP No. 2315 of 2013, SWP No. 1400 of 2012, SWP No. 773 of 2012, COA(SWP) 402 of 2013, SWP No. 2258 of 2009, SWP No. 2360 of 2013, SWP No. 2395 of 2013, SWP No. 1183 of 2014, SWP No. 2177

Sandeed Sharma

APPELLANT

Vs

State of J&K

RESPONDENT

Date of Decision : 14-12-2015

Acts Referred:

Constitution of Jammu and Kashmir, 1956 — Section 103

Citation : (2016) 2 JKJ 450

Hon'ble Judges : Mr. Mohammad Yaqoob Mir, J.

Bench : Single Bench

Advocate : Mr. B. S. Salathia, Sr. Advocate with Ms. Meenakshi, Mr. C.S. Azad, Mr. Pankaj Dubey, Advocate, Nitin Bhasin, and Mr. K. M. Bhatti, Advocates, for the Appellants/Petitioners; Mr. Eshan Mirza, AAG and Mr. Ashsham Bhat, Advocate, for the Respondents

Final Decision : Disposed off

Judgement

Mr. Mohammad Yaqoob Mir, J. - Timely action avoids unnecessary delay to the advantage of the beneficiaries. Inaction gives rise to indolence

which is always to the disadvantage to both authority and the beneficiary. Present case is a worst example of non-seriousness on the part of the

authorities who were to discharge the trust faithfully which they have not as a result whereof have given rise to an uncertain situation. Finalization of

process of recruitment as was initiated remained a distant dream giving anxiety to the aspirants for a long period of nine years. Non-serious

approach is totally unacceptable. The above observations are made in view of the facts and circumstances of this case.

2. In all the above referred petitions questions for determination are same, therefore, stand clubbed, as such, taken up for disposal together.

3. In essence, in all the petitions petitioners have sought quashment of the notification No. 01 of 2013 dated 19.08.2013 to the extent it is

inconsistent with advertisement notice No. 01 of 2006, dated 20.03.2006 with a further prayer that the process of selection of Class IV posts

District Cadre Udhampur shall be directed to be finalized, in the process petitioners shall also be considered for selection and appointment.

4. Basically, vide Govt. Order No. 42-GAD of 2006, dated 09.01.2006, 165 Class-IV posts District cadre Udhampur were referred to the

Deputy Commissioner, Udhampur. Then vide Govt. Order No. 43-GAD of 2006, dated 09.10.2006 District Level Committee for recruitment

was constituted comprising of :

- 1) Deputy Commissioner concerned (Chairman);
- 2) Assistant Commissioner (Dev) of the concerned District (Member);
- 3) One District Level Officer to be nominated by the Deputy Commissioner (Member);
- 4) One officer preferably belonging to SC/ST category holding pay scale equivalent to Deputy Secretary and above (Member); and
- 5) Deputy Director Employment of the concerned District (Member Secretary).

5. Advertisement notice No. 01 of 2006, dated 20.03.2006 has been issued by the Chairman (Deputy Commissioner) inviting applications from

the permanent residents of District Udhampur for filling up 165 Class-IV posts available in various departments as referred to in the advertisement

notice. The process of recruitment so initiated has not been finalized. It is stated that three members of the Committee had awarded marks to the

candidates who had appeared for interview whereas Chairman of the Committee had not awarded any marks. It is further stated that marks were

allocated to the members and the Chairman. The default on the part of Chairman in not participating with interview jeopardized the legitimate

expectation of the petitioners.

6. When the selection process remained inconclusive, petition (SWP) No. 740/2012 filed was disposed of on 04.04.2012 directing finalization of

selection process.

7. In compliance of the said direction, the Committee comprising of Deputy Director Employment, General Manager DIC, Deputy Registrar

Cooperative Societies and Assistant Director Fisheries, appear to have scrutinized the record and prepared a comprehensive report which is

annexed with COA(SW) No. 56/2010 in SWP No. 287/2009. After scrutinizing the records, it has been clearly indicated that 23643 candidates

had applied for 165 vacant Class-IV posts in various departments. Only 13064 candidates had appeared for interview. The candidates were not

shortlisted on the basis of their academic qualification which was prerequisite as per the advertisement notice. The merit list was not prepared

properly. Even the candidates had not annexed the qualification certificates with their applications.

8. The Committee members were allocated 12 marks out of 20 fixed for interview and 08 marks were allocated to the Deputy Commissioner as

Chairman. The Deputy Commissioner personally had not participated during interview. The award rolls had been prepared but without the marks

as were to be awarded by Deputy Commissioner out of 8 marks. Some candidates were shown to have been allotted marks but those award rolls

do not bear the signature of the Deputy Commissioner. Finally the Committee recommended fixing of minimum and maximum qualification which

would help in determining inter se merit for the purposes of short-listing.

9. Confronted with the afore stated position, Government order No.664-GAD of 2013 dated 23.04.2013 came to be issued wherein it is

mentioned that the posts referred in the year 2006 are exempted from Govt. Order No. 735-GAD of 2008, dated 30.03.2008. By the same

order it was ordered that the selection process shall be carried out afresh in a time bound manner only of the candidates who had applied in

pursuance of the advertisement notice of 2006. It has also been decided that those candidates shall not be barred who have crossed maximum age

so shall be deemed to have extended age relaxation.

10. For the afore stated reasons notification No. 01 of 2013, dated 19.08.2013 was issued by Deputy Commissioner, Udhampur where-under all

the applicants permanent residents of District Udhampur who had applied as against 165 Class IV posts advertised vide notice No. 01 of 2006,

dated 20.03.2006 were informed to submit their complete documents relatable

to their educational qualification and also to produce their permanent residence certificates. In the said notification minimum and maximum qualification has been fixed. In addition thereto, criteria for awarding points has also been prescribed. It is this notification which is under challenge as according to the petitioners the notification is in contravention to the basic advertisement No. 01 of 2006.

11. During the course of submissions, learned counsel for the parties agreed that for finalization of process of recruitment, direction may be issued to the Deputy Commissioner to invite all the candidates who had applied for interview and then to finalize the process in conformity with the conditions as prescribed in the advertisement notice No. 01 of 2006.

12. It is a matter of concern that from the year 2006 till date the process of recruitment has not been finalized. Mess has been created initially which has entangled the parties into a protracted litigative process. For avoiding any further protraction and for avoiding uncertainty, in the better interests of the petitioners as well as of the other candidates who had applied, these writ petitions, in view of the submissions as made by the learned counsel for the parties, are disposed of with the following directions:

1) The Deputy Commissioner, Udhampur, shall convene the meeting of the Recruitment Committee constituted vide Govt. Order No. 43-GAD of

2006, dated 09.01.2006 for fixing the schedule for conducting interview of all eligible candidates who had applied in response to the advertisement

notice No. 01 of 2006, dated 20.03.2006 for 165 Class-IV posts as were available in various departments as referred to in the advertisement notice.

2) A notice shall be issued so as to inform all such candidates who had applied to bring their documents (qualification certificates, permanent residence certificates plus any other document required) on the date of interview.

3) A responsible Committee of three officials/officers shall be constituted who shall scrutinize the documents of the eligible candidates who in response to the notice will choose to appear for interview on the dates as shall be fixed for their interview before the District Level Recruitment Committee.

4) The dates for conduct of interview shall be scheduled in a manner so as to

conclude the process within a period of three months from the date of commencement of interview, strictly in accordance with the terms and conditions of the advertisement Notice No. 01 of 2006, dated 20.03.2006.

5) Notification No. 01 of 2013, dated 9.08.2013 as issued by Deputy Commissioner, Udhampur, which is impugned in these petitions, to the extent it shall be inconsistent or in contravention to the terms and conditions of the advertisement notice No. 01 of 2006, dated 20.03.2006 shall be ignored.

13. Since the main issue in all the writ petitions stand addressed as above, therefore, contempt proceedings do not survive for any further consideration, same are accordingly closed.

14. For the stated reasons and circumstances all the writ petitions including contempt petitions shall, accordingly, stand disposed of.