

(1998) 11 J&K CK 0020
In the Jammu And Kashmir High Court
Case No : Writ Petition No. (O) 1416 of 1998

Sikander Lal Bangotra

APPELLANT

Vs

State of Jammu and Kashmir

RESPONDENT

Date of Decision : 30-11-1998

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (1999) 1 SCT 696

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

Bench : Single Bench

Advocate : Baldev Singh, Advocates appearing for the Parties

Judgement

T.S. Doabia, J.

Respondent, State of Jammu and Kashmir invited applications for the post of Lecturer in Physics. The petitioner also applied. The criteria for the

selection to the post was academic marks achieved and the vivavoce examination. The petitioner was called for interview. This becomes apparent

when call letter i.e. Annexure P.3 is perused. The petitioner applied against the quota meant for the Schedule Caste candidate. The petitioner was

not selected. A select list was issued. This has been placed on the record as Annexure P.4. In this select list, one Parshotam Dass, figuring at Serial

No. 15 was shown to be a member of the Schedule Caste.

The further fact is that the posting orders were issued. One Kuldeep Raj was also given appointment. He was shown to be given appointment as

member of the Schedule Caste. His name figures at Serial No. 13. So far as Parshotam Dass is concerned, his name figures at Serial No. 15.

Against his name, it is not mentioned that he was given appointment in his

capacity as SC candidate. On the basis of above factual submission, the petitioner submits that the respondent authorities wrongly indicated Parshotam Dass as a member of SC category. The petitioner was misled. He further made verifications and ultimately it transpired that Parshotam Dass was not a member of the SC category and, therefore, as per the original notification issued, the petitioner was entitled to be given the post which was meant for the SC candidate. The relevant assertions have been made in para 12 of the petition.

Respondent Commission has filed reply. No reply has been given to para 12. All that has been stated is that this para is supposed to be replied by the respondent State. Respondent State has not replied. If this be the position, then the assertions made in para 12 are to be taken as correct.

It be seen that the stand taken by the Commission is that two seats were meant for SC candidates. It is stated that the names of the candidates were considered. The petitioner and one other person namely Kuldip Raj Sharma were not found suitable. The standard was relaxed. As per the relaxed standard, Kuldip Raj Sharma was given appointment. The petitioner did not come high up in the merit and therefore, was not given appointment.

The respondent Commission has not indicated as to how the standard was relaxed. If the two candidates were unable to make the grade, then they were not entitled to appointment at all. In case the standard was to be relaxed then as to why the same parameters could not be applied to the petitioner, has not been indicated in any manner. Nothing has been disclosed that in what manner, the standard was relaxed in case of Kuldip Raj Sharma. There is no rebuttal to what has been stated in para 12 of the petition.

The question arises as to what relief should be granted. Respondents 3 to 5 have been holding the post for more than a decade. It would be unjust to throw them out at this stage. Humanitarian approach has to be adopted. Thus, without disturbing the appointments of private respondents, a direction is given to the official respondents that the petitioner be accorded the same treatment and he be also given the appointment. Respondents would take notice of the decision reported as AIR 1991 SC 295, Puttaswamy H.C. v. Hon'ble Chief Justice of Karnataka High Court, Bangalore, 1991(1) S.C.T. 116 and take appropriate steps for appointing the petitioner. Let

the appropriate steps be taken within a period of three months.

This period shall, however, begin from the date, the copy of the order passed by this court today is made available to the respondent authorities by

the petitioner. The respondent authorities would accord the same benefit to petitioner as was given to the private respondents.

Disposed of accordingly.