
(2019) 12 J&K CK 0039

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1353 Of 2018, IA No. 01 Of 2018

Tufail Ahmad Lone & Anr

APPELLANT

Vs

Jammu And Kashmir Service Selection Board & Ors

RESPONDENT

Date of Decision : 16-12-2019

Acts Referred:

Citation : (2019) 12 J&K CK 0039

Hon'ble Judges : Ali Mohammad Magrey, J

Bench : Single Bench

Advocate : Shuja-ul-Haq Tantray, Suhail, Sajad Ashraf Mir

Final Decision : Disposed Of

Judgement

Ali Mohammad Magrey, J

1. Through the medium of the present petition, the petitioners have craved the indulgence of this Court in granting them the following relief(s):

"By issuance of an appropriate writ, order or direction including one in the nature of mandamus, the respondents be commanded to conduct counselling and document verification in respect of the petitioners for the post of Information Assistant advertised vide notification No. 03/2017 dated 17-11-2017.

By issuance of an appropriate writ, order or direction including one in the nature of mandamus, the respondent Board be commanded to consider the petitioners for final selection against the post of Information Assistant advertised vide notification No. 03/2017 dated 17-11-2017 and in case the petitioners are meritorious, select and appoint them on the post of Information Assistant.

By issuance of an appropriate writ, order or direction including one in the nature of Mandamus the respondents be commanded not to finalize the process of selection in respect of the post of Information Assistant under ST Category.

Any other order, writ or direction may also be issued in favour of the petitioners

and against the Respondents, which this Hon'ble Court deems fit and necessary in the facts and circumstances of the case."

2. The petitioners claim that in the year 2017, vide advertisement notice No. 03/2017 dated 17th of November, 2017, applications were invited from amongst the eligible candidates for selection/ appointment against State Cadre Posts of Information Assistants. The petitioners, being possessed of the requisite qualification, submitted their online application forms for the aforesaid post under ST category. Thereafter, as stated, in the month of February, 2018, the Computer Based Written Test of the eligible candidates was conducted by the respondent Board for various advertised posts, including the post of Information Assistant. The petitioners also appeared in the Computer Based Written Test with respect to the post of Information Assistant under ST category. It is pleaded that at the time of submitting online application forms for the post of Information Assistant, the petitioners had also registered themselves on the official website on the Board, i.e., www.jkssb.nic.in, the petitioners were also provided Log-In-IDs. The petitioner No.1 was provided Log-In-ID as Tufail235 while as the petitioner No. 2 was provided with Log-In-ID as Zaheer0000. The purpose for providing of Log-In-IDs and the registration on the website of the Board, as stated, was that all the information with regard to further process of selection could be dispatched to the candidates on their registered Log-In-IDs and email-IDs. The petitioners contend that it was on 12th of June, 2019 that they came to know from their friends/ colleagues who reside in Jammu that the respondent Board has issued provisional short list for counselling-cum-document verification of the candidates as per the merit obtained by them in the Computer Based Written Test which was held by the respondent Board in February, 2018. The petitioners have proceeded to state that although the notification, notifying the provisional shortlist of the candidates, was issued by the respondent Board on 9th of May, 2018, but the petitioners had no information about the same as they neither received any information in the shape of email/ SMS/ Phone call from the respondent Board nor was the said provisional short list published in any local newspaper of Kargil/Leh, i.e., the place where the petitioners reside, thus, the petitioners had no information about the date of counselling-cum-document verification fixed by the respondent board. On 12th of June, 2018, the petitioners claim to have gained the knowledge about the date fixed by the respondent Board for counselling-cum-document verification, whereafter, they, immediately approached the office of the respondent Board in the morning of 13th of June, 2018, however, as per the petitioners, due to non-availability of the Chairman and Secretary of the Board in the office, the petitioners were directed to visit the office of the Board on 18th of June, 2018. On 18th of June, 2018, when the petitioners approached the office of the Board, the petitioners claim to have been told by the Chairman of the Board that since the date for counselling-cum-document verification had already elapsed, therefore, the petitioners stand disqualified from the process of final selection. Subsequently, the petitioners claim to have moved a detailed representation before the respondent Board

thereby indicating the circumstances which prevented them from making themselves available on 6th of June, 2018 in the office of the board for counselling-cum-document verification, but no action in respect thereto was taken by the respondent Board, constraining the petitioners to approach this Court through the medium of the instant petition for the above stated relief(s).

3. Objections stand filed on behalf of the respondents, resisting and controverting the averments made by the petitioners in their petition. It is stated that the counselling-cum-document verification of the petitioners on the strength of merit obtained by them in CBT was fixed on 6th of June, 2018 at JKSSB Office, Zum Zum Building, Rambagh and that the petitioners remained absent during the counselling-cum-document verification process. It is submitted that the petitioners having failed to appear for counselling-cum-document verification on the scheduled date have been declared as disqualified for the post and as such the selection for the post under ST category remained unfilled due to non-availability of eligible candidates. It is submitted that the schedule of counselling-cum-document verification was given wider publicity by the answering respondents by not only publishing the same in the prominent local newspapers of Jammu/ Kashmir also having circulation in Ladakh region, through Director, Information, J&K and also by uploading the same on the official website of the Board, i.e., www.jkssb.nic.in. It is further submitted that being a selection body and the creature of a Statute, Board cannot keep the selection process open ended, so as to enable the candidates to participate in the various stages of selection process as per their sweet will and choice. It is well settled that there must be some adherence to the time lines held out to all candidates, as the prescription of time limits has a sacrosanct purpose, so as to ensure that the selection process is taken to its logical conclusion in a time-bound manner. It is pleaded that the petitioners having being afforded a fair chance of competing for the post in a fair and transparent manner and having failed to appear for counselling-cum-document verification on the scheduled date cannot seek any consideration for the post that too in teeth of unambiguous and unequivocal purport of clause/ paragraph No.6 of notification dated 9th of May, 2018.

4. Heard the learned counsel for the parties, perused the pleadings on record and considered the matter.

5. The entire case of the petitioners hinges on the pretext that the respondent Board has failed to give wide publicity to the notification dated 9th of May, 2018 fixing the date for counselling-cum-document verification with respect to the post of Information Assistant, as a result whereof, the petitioners could not attend the counselling -cum-document verification process.

6. When this matter came up for consideration before this Court on motion hearing, i.e., on 19th of June, 2018, this Court, while issuing notice to the respondents, has directed the respondents not to finalize the process of selection, if any, initiated in respect of the post of Information Assistant under ST category.

7. Admittedly, the petitioners are the only two candidates who have been shortlisted for the post of Information Assistant under ST category, but, they, due to lack of knowledge, could not attend the counselling-cum-document verification process initiated by the respondents on the appointed date. It is also not in dispute that the petitioners hail from a far -off place in Kargil, where comparatively far lesser modes of communication are available. Furthermore, from a bare perusal of the notification dated 9th of May, 2018, it becomes axiomatic that copy of the same was sent to Director Information, J&K for publication of the same in at least three local newspapers of Jammu/ Srinagar on three consecutive dates, but no request was made to the Director Information J&K to publish the notification in any local newspaper of Ladakh Division. The respondents, on being specifically asked by this Court to produce the relevant records substantiating the publication of the notification for counselling-cum-document verification in the leading newspapers, could not produce anything with respect thereto. It being so and having regard to the fact that only two candidates were shortlisted for the post of Information Assistant under ST category, the respondents could not deny the petitioners the right to participate in the selection only on the ground that they did not turn up on the appointed date fixed for counselling-cum-document verification, for which a reasonable explanation has been given by the petitioners. Even otherwise, since there are only two candidates shortlisted for selection against the post of Information Assistant under ST category, viz. the petitioners herein, therefore, no prejudice could have been caused to anyone, muchless to a competing candidate, in case the respondent Board, in view of the fact situation attending the instant case, had re-fixed the date for counselling-cum-document verification so as to take the selection process so initiated by them to its logical conclusion.

8. The contention of the respondent Board that the notification dated 9th of May, 2018 was duly uploaded on the official website of the Board may constitute due and sufficient publication with reference to the candidates hailing from Srinagar/ Jammu, but the same cannot hold good for the candidates who hail from far-flung areas like Kargil. Moreover, since the petitioners, who both hail from Kargil, were the only two candidates shortlisted for the post in question, therefore, it was incumbent upon the respondent Board to have the notification dated 9th of May, 2018 for counselling-cum-document verification published in any of the newspapers having wide publicity in Ladakh Division, which has not been done by the respondents thereby prejudicing the rights and interests of the petitioners.

9. For the foregoing reasons, the petition of the petitioners is allowed and, by a 'Writ of Mandamus', the respondents are directed to conduct the counselling-cum-document verification of the petitioners with respect to the post of Information Assistant (ST Category) advertised vide notification No. 03/2017 dated 17th of November, 2017 after giving wide circulation to the same in the area(s) where the concerned candidates, i.e., the petitioners herein, reside and, accordingly, finalize the selection of the said post on the basis of merit secured by the competing candidates in accordance with the rules governing the subject. Since,

the advertisement in question stands issued by the respondent Board way back in the year 2017, therefore, let the respondents complete the aforesaid exercise and take the selection to its logical conclusion expeditiously, preferably within a period of two months from today.

10. Writ petition disposed of as above, alongwith the connected CM.