

**HIGH COURT OF JAMMU AND KASHMIR AT
JAMMU**

SWP No. 1324/2007 & CMP No. 1872/2007
SWP No. 1253/2007 & CMP No. 1746/2007
SWP No. 1934/2007 & CMP No. 2785/2007
SWP No. 1694/2007

Date of decision: 26.12.2008

Mohd. Alam Vs. State of J&K & Ors.
and connected matters.

Coram:

MR. JUSTICE J. P. SINGH, JUDGE

Appearing Counsel:

For Petitioner(s) : Mr. F.A.Natnoo, Advocate.
For Respondent(s) : Mr. A.H.Qazi, AAG for R-1 & 2.
 Mr. S.K.Shukla, Advocate for R-3.
 Mr. Karnail Singh, Advocate vice
 Mr. O.P.Thakur, Advocate for R-4 to
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|---|----------|
| i) Whether approved for reporting
in Press/Journal/Media | : Yes/No |
| ii) Whether to be reported
in Digest/Journal | : Yes/No |
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Modified Selection Criterion for selection, against the posts of Patwaries advertised vide Notification No. 10 of 2005, notified in Jammu and Kashmir Services Selection Board, Srinagar's Notice No. 01 of 2007 dated 17.05.2007, has been questioned in all these petitions.

Petitioners' Grievance, in nut-shell, is that the modified criterion adopted by the Jammu and Kashmir Services Selection Board, hereinafter to be referred as the 'Board', pertaining to assessment of candidates' *knowledge of Urdu*, **at the time of interview**, rather than

Short Listing, as notified earlier, is unfair, irrational, besides being arbitrary, and is liable to be quashed being violative of Articles 14 & 16 of the Constitution of India.

Justifying the modified criterion, the Board says that there was no substantial change in the two criteria i.e. one notified earlier and the other notified vide notification impugned in the writ petitions, in that, the Board had only shifted testing of candidates' knowledge of Urdu, from the stage of Short Listing of candidates, to the stage of interview, necessity wherefor had arisen in view of large and highly disproportionate number of candidates against the posts which had been advertised and the non-availability of indicators to prejudge the candidates' knowledge of Urdu at the time of Short Listing. A conscious decision had thus been taken to modify the criterion by simultaneously providing for calling candidates in the ratio of 1:10 instead of 1:5, thereby broadening the area of competition to ensure that sufficient number of candidates at least in the ratio of 1:5 possessing knowledge of Urdu remained available for competition.

I have considered the submissions made at the Bar.

In order to resolve the issue as to whether or not the modified criterion is justified, regard needs to be had to

had been fixed in terms of Notice No. 01 of 2007 and the one which had been notified prior thereto. These two criteria are reproduced hereunder for reference:-

“Earlier Notified Criterion:

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|-------|--------------------------------|---|------------|
| (i) | 10+2 | = | 10 points. |
| (ii) | Knowledge of Urdu through test | = | 20 points. |
| (iii) | Graduation | = | 10 points. |
| (iv) | Post Graduation | = | 10 points. |
| (v) | Viva Voce | = | 20 points. |

Revised Creterion:

(A) For short listing:

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|-------|-----------------|---|------------|
| (i) | 10 + 2 | = | 40 points. |
| (ii) | Graduation | = | 10 points. |
| (iii) | Post Graduation | = | 10 points. |

(B) Criterion for selection:

- | | | | |
|-------|---|---|------------|
| (i) | 10 + 2 | = | 40 points. |
| (ii) | Graduation | = | 10 points. |
| (iii) | Post Graduation | = | 10 points. |
| (iv) | Knowledge of Urdu to be tested at the time of interview | = | 20 points. |
| (v) | Viva Voce | = | 20 points. |

The concluding paragraph of Notice No. 01 of 2007 too needs to be noticed. This reads thus:-

“Knowledge of Urdu being part of eligibility criteria, if during the time of interview it is found that the candidate does not have knowledge of Urdu his candidature shall be rejected out-rightly. The area of consideration is increased for 1:5 to 1:10 as one time exception.”

Perusal of the above extracted two criteria demonstrates that all that the Board had done vide notification impugned in these writ petition, was to Short List the candidates on the basis of their academic qualification ear-marking 40 points for 10 + 2, additional 10 points for Graduation and 10 points for Post

g thereby that the Short Listing had to be done by the Board on the basis of academic merit so as to see that academically meritorious candidates alone are considered for interview where their knowledge of Urdu too had to be evaluated.

I do not find any irrationality, or for that matter arbitrariness or unfairness, as urged by petitioners' counsel, in the criterion the Board had adopted for Short Listing candidates. This is so because what had been intended by the Board was to select best available talent, assessing their merit on the basis of educational qualification. The criterion adopted for Short Listing of candidates for the posts of Patwaries, does neither dilute nor affect, in any manner whatsoever, assessment of merit of candidates in so far as it pertained to acquisition of other necessary qualification which a candidate must possess for seeking selection for the post of Patwari i.e. his knowledge of Urdu, in that, the Board had specifically provided for, assessment of candidates knowledge of Urdu, at the time of the interview, in the modified criterion.

Petitioners' counsel, Mr. Natnoo's submission that the Board had devised the criterion of evaluating candidates knowledge of Urdu, at the time of interview was a mere eye-wash, to select only blue-eyed persons,

with the statement which the learned counsel for the Board had made at the Bar, on the basis of the records maintained by the Board, that the Board had while conducting interview, *held both oral as well as written test* of candidates called for the interview, to evaluate their merit regarding their *knowledge of Urdu*.

Board's action of broadening the zone of competition amongst candidates in calling candidates in the ratio of 1:10 as against earlier notified criterion of 1:5, too cannot be said to affect petitioners' *right of consideration*. This, on the other hand, demonstrates fairness of the Selection Authority in providing opportunity of competition to more competitors i.e. double the number of candidates, who would have been otherwise eligible to appear at the interview had the earlier criterion remained unmodified.

For all what has been said above, I do not find any vice of unconstitutionality, arbitrariness or unfairness in the modified criterion notified vide Notice No. 01 of 2007 dated 17.05.2007.

Petitioners' challenge to the Notice impugned in the writ petitions, therefore, fails.

The Board's action of Short Listing of candidates on the basis of modified criterion, rejecting petitioners' candidature for the posts of Patwaries, therefore, does not violate any enforceable right of the petitioners.



substance, these writ petitions are accordingly dismissed vacating the interim directions.

A copy of this judgment shall be placed on each file.

(J.P.Singh)
Judge

Jammu
26.12.2008
Pawan Chopra