

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

SWP No. 1420/2011
CMP No.288/2012 & 2064/2011

Date of Decision: 15.03.2012

Dr. Ajay Kumar and ors. vs. State of J&K and ors.

CORAM:

Mr. Justice J.P.Singh.

Appearing counsel:

For the Petitioner (s) : Mr. S.K.Shukla, Advocate

For the Respondent(s) : Mr. Sunil Sethi, Sr. Advocate with
Mr. Sumit Singh, Advocate.
Ms. Deepika Mahajan, GA.
Mr. F.A.Natnoo, Advocate.

i) Whether approved for reporting in Press/Journal/Media : Yes/No

ii) Whether to be reported in Digest/Journal : Yes/No

The Jammu and Kashmir Public Service Commission issued Notification No.06-PSC of 2011 dated 19.04.2011 for selection of eligible candidates against available vacancies of Assistant Controller in Consumer Affairs & Public Distribution Department of the State Government. The essential qualification prescribed for the post was **Graduation**. The petitioners are Science Graduates. Petitioner No.1 additionally holds Post-graduation and Doctorate Degrees. They have questioned the Public Service Commission's Notification besides the Jammu and Kashmir Legal Metrology (Gazetted Service) Recruitment Rules, 2005. According to them, the State

having prescribed Graduation in Science with Physics as one of the subject, Technology or Engineering or a recognized Diploma in Engineering, as one of the essential qualifications for entry into the Jammu and Kashmir Legal Metrology (Subordinate) Service, the qualification of simple graduation prescribed for Jammu and Kashmir Legal Metrology Gazetted Service, a service superior to the Subordinate service, was unjustified, in that, the Gazetted Service Recruitment Rules must necessarily have higher qualification or atleast similar qualification as prescribed for entry into the Subordinate Service, for posts on the cadre of the Gazetted Service.

Heard learned counsel for the parties.

It was not disputed at the time of consideration of the Petition that the petitioners have not competed for selection against the posts notified vide impugned Notification although they were eligible therefor.

In this view of the matter when the petitioners, though eligible, have not competed for the advertised vacancies, they cannot maintain any lis seeking Restraint directions against the Public Service Commission to stall the process initiated for selection against notified vacancies in the Jammu and Kashmir Legal Metrology (Gazetted) Service. This is so because even if the petitioners were to succeed in their submissions, it is against the future vacancies, that may arise after the framing of amended Rules, which the petitioners wish the State Government to frame, for filling up the posts in the Cadre of the Gazetted

Service, that the petitioners may have any claim of consideration to selection thereto. For the present, the petitioners do not appear to have any cause of action to maintain the Petition.

Even otherwise, the grievance projected by the petitioners seeking change in Rules regulating the Jammu and Kashmir Legal Metrology (Gazetted Service) cannot be examined to address a purely academic question that the petitioners seek to raise by their Petition, unless there was any violation thereof and the person(s) approaching the Court was affected thereby.

This apart, the petitioners' request for modification of Rules was required to be addressed to initially by the State Government, had the petitioners approached them seeking its consideration.

The petitioners, however, do not appear to have done the needful. Their approach to the Court on that count too, therefore, appears premature.

The petitioners having not competed for Selection against the advertised posts have, therefore, no enforceable right to maintain the Petition.

For all what has been said above, the Writ Petition is found without merit, hence dismissed, lifting interim order dated 21.07.2011.

**(J. P. Singh)
Judge**

JAMMU
15.03.2012
Vinod.

