

HIGH COURT OF JAMMU AND KASHMIR

AT JAMMU

LPASW no. 362/2000

c/w

LPASW no. 405/2000, CMA no. 101/2004

Date of order: 14.03.2013

R. K. Raina & ors.

v

Union of India and ors.

Coram:

Hon'ble Mr. Justice M. M. Kumar, Chief Justice

Hon'ble Mr. Justice Dhiraj Singh Thakur, Judge

Appearing counsel:

For the appellant(s) :	Mr. M. N. Bhatt, Advocate vice Mr. Sunil Sethi, Sr. Advocate Mr. O. P. Kichloo, petitioner no. 2 in LPASW no. 405/2000 present in person.
For the respondent(s) :	Mr. K. K. Pangotra, ASGI.

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| i) Whether to be reported
Press, Journal/Media | Yes/No |
| ii) Whether to be reported in
Digest/Journal | Yes/No |
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M. M. Kumar, CJ

1. This order shall dispose of two* connected appeals which have been preferred by the appellant-writ petitioners against a common judgment dated 21.07.2000. The judgment impugned has disposed of a bunch of petitions.

2. Brief facts of the case are that the appellant-writ petitioners have been functioning on adhoc basis as Incharge Carpet Training Officers, although they were holding substantive post of Store Keeper/Accounts Clerk. The post of Carpet Training Officer is regulated

by statutory Rules known as All India Handicrafts Board Recruitment Rules, 1979 (for brevity 1979 Rules). There could not be any dispute that a Store Keeper/Accounts Clerk are not entitled to be considered for promotion. As per Rule 3 of 1979 Rules for appointment to the post of Carpet Training Officer only mode is by way of direct recruitment. There is no provision in the Rules for promotion. Moreover, the minimum qualification for such posts is a degree of a recognized University, desirable knowledge in the Carpet Industry, experience and aptitude in development work of handicrafts or small scale industries etc. Therefore, appointment could be made in accordance with the statutory Rules of 1979 only. In fact, the issue stands settled by LPA nos. 60/1994, 61/1994, 62/1994 & 63/1994 decided on 24.10.1997. The learned Single Judge placing reliance on the aforesaid judgment has concluded as under:-

“The fact that rules exists that for the appointment of the Carpet Training Officers was also taken note of. Ultimately it was concluded that the appellants were not entitled to relief other than that which was granted by the learned Single Judge while disposing of writ petition. Therefore, contention which has been put across by the learned counsel for the petitioners that they should be allowed a relief other than what has been granted by the Letters Patent

Bench is an argument which cannot be accepted. Contention which sought to be put across by the petitioners were duly taken note of.

Therefore, in writ petitions other than writ petition preferred by Mohd. Saleem Gadda are concerned, no relief other than one allowed earlier to the petitioners who figured appellants in Letters Patent Appeal can be granted. Granting of relief at this stage would even otherwise amount to granting something over and above certain persons who are not party to these writ petition. This would not be apt. Therefore, as indicated above only relief which the petitioners are entitled to is one which has been noticed above. Even otherwise any order permitting regularization without resorting to open selection would be hit by Articles 14 and 16 of the Constitution of India. This cannot be permitted.”

4. Following the aforesaid view, the learned Single Judge partially allowed the petition to the extent that respondents were to release the pay/emoluments to the appellant-writ petitioners against the posts of Carpet Training Officers after ascertaining the dates from which, and for the period they have been discharging their duties as per the job chart, that too not earlier to the date of Circular dated 20.11.1982 after verifying each individual case. A further direction to the respondents has also been issued to consider their cases for regularization/adjustment against the post of Carpet Training Officers, if eligible, in accordance with Rules governing their service condition against the existing vacancies, if any, in

their respective centres, wherever required. The aforesaid view has also been taken by the Letters Patent Bench in its order dated 24.10.1997 in LPA nos. 60-63/1994. We are bound by the view taken by a Coordinate Bench and, therefore, we find no room to interfere with the opinion expressed by the learned Single Judge.

5. As a sequel to the above discussion, these appeals fail and the same are hereby dismissed.

(Dhiraj Singh Thakur)
Judge

(M. M. Kumar)
Chief Justice

Jammu,
14.03.2013
Parshant

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S. No	Title
1.	LPASW no. 362/2000 R. K. Raina & ors. v. Union of India and ors.
2.	LPASW no. 405/2000, CMA no. 101/2004 Rajesh Gagroo and anr. v. Dev. Commissioner Handicrafts & ors.

(Dhiraj Singh Thakur)
Judge

(M. M. Kumar)
Chief Justice

Jammu,
14.03.2013
Parshant