

HIGH COURT OF JAMMU & KASHMIR
AT JAMMU

SWP No.1713/2014
MP No.2817/2014

Date of Order: 28.12.2015

Ashok Kumar

vs

State through Education
Deptt and ors.

Coram:

Hon'ble Mr. Justice Mohammad Yaqoob Mir, Judge

Appearing counsel:

For the petitioner(s)	:	Mr. B S Salathia, Sr. Adv with Ms. Meenakshi Salathia, Advocate.
For the Respondent(s):	:	Mr. Ravinder Gupta, AAG Mr. B B Kotwal, Adv Mr. Sudershan Sharma, Advocate

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| (i) | Whether to be reported in Press/Media | : | No |
| (ii) | Whether to be reported in Law Journal/Digest | : | Yes |

1. Vide Advertisement Notice No.DIP/J-7537 dated 7/1/2010, Chief Education Officer, Doda had invited applications for the engagement of RET teachers available in upgraded PS which include UPS Thawa falling in Education Zone Ghat. One vacancy was to be filled up from amongst the candidates having Science background and the other from amongst the candidates having Mathematics background.
2. Petitioner having Science background had applied for one vacancy and in the panel prepared, he figured at Sl. No.4 whereas one Mst. Zahida Perveen figured at

Sl. No.1. A tentative select list of two candidates, one Mst. Zahida Perveen (Medical Stream) and one Sanjay Kumar Sharma (Math Stream). Vis-à-vis Sanjay Kumar Sharma, there is no grievance projected.

3. As against the tentative selection of Mst. Zahida Perveen, petitioner filed a petition bearing SWP No.2154/2010 projecting therein that Mst. Zahida Perveen is not resident of the habitation where the school is located whereas two other candidates who figured at Sl. Nos. 2 and 3 (Medical Stream) were not interested. During the pendency of the said petition, there was a development i.e. Respondent No.5 therein Mst. Zahida Perveen had been appointed somewhere else. In view of this development, with the consensus of the learned counsel for the parties, the petition was disposed of with a direction to the respondent authorities therein to consider the case of the petitioner strictly in terms of the rules governing the field and to take decision within two months. The matter appears to have been pending for quite long time. Finally, the respondents authorities therein decided to re-advertise the said post as such advertised vide Re-advertisement Notification No. CEO/D/RET/Legal/9658-59 dated 10.6.2014 as was

issued from the office of Chief Education Officer, Doda. Aggrieved by the said re-advertisement notice, the petitioner has filed the instant petition seeking its quashment with a further prayer to direct respondents to issue appointment order in favour of the petitioner based on the select panel as was impugned in SWP No.2154/2010.

4. During the pendency of the instant writ petition, one Sh. Sheetal Chander filed application for impleadment as he had responded to the re-advertised notice, therefore claimed an interest based on which he stands impleaded as party Respondent No.6.
5. In the reply filed by Respondent Nos.1 to 4, it has been specifically pleaded that in pursuance to the direction issued in SWP No.2154/2010 dated 11.12.2012, the case of the petitioner was considered. Petitioner failed to establish his claim, as a result whereof a speaking order was issued vide No.CEO/D/Legal/9647 dated 17.06.2014, wherein it was decided to re-advertise the posts. As such re-advertisement notice impugned was issued.
6. Respondent No.6 in his reply has stated that the petitioner while annexing the typed copy of the advertised notice has in its Para No.7, the words

“being meritorious” instead of “least meritorious” made mention of which is not in conformity with the original re-advertised notice. According to learned counsel for the petitioner, it is a typographical error not a deliberate act, appears to be so but while attesting the copy, care should have been taken. Not only this, it is also noticed that in the typed copy of the re-advertised notification “date” recorded is 10.06.2014 when the exact date is “18.06.2014” which is clear from the re-advertised notification as has been published. This again appears to be a typographical error because it is on this basis; petitioner has sought quashment of the said re-advertisement notice showing it to be dated 10.06.2014 when it is 18.06.2014.

7. After hearing learned counsel for the parties, case was reserved for orders. Subsequent thereto, learned counsel for Respondent No.6 laid a motion praying therein that certain important documents are required to be taken on records which will help effectual adjudication of the matter. Same was not opposed and permitted vide order dated 14.12.2015 passed in MP No.01/2015, as such documents i.e. (a) photo-copy of order dated 17.06.2014 passed by the Chief Education Officer, Doda while considering the case of the

petitioner in the light of the judgment rendered in SWP No.1254/2010, which copy was already on the records submitted by respondent Nos.1 to 5, (b) copy of the Newspaper in which re-advertisement notice was published and (c) photo-copy of the statement showing Mora-wise /Ward-wise Schools of Revenue Village Kuluhand.

8. In compliance to the judgment dated 11.12.2012 rendered in SWP No.1254/2010, the Respondent-Chief Education Officer has passed a detailed order dated 17.06.2014, thereafter as a follow up re-advertisement notice has been issued on 18.06.2014 and published on 23.06.2014. The petitioner has challenged the re-advertisement notice but has not challenged the order dated 17.06.2014 nor had produced the copy of the said order alongwith his writ petition.
9. In the reply as filed by Respondent Nos.1 to 4, copy of which has been received by counsel for the petitioner on 22.01.2012 as noted on the margin of the said objections. In Para No.9 of the said objections, it is also pleaded as under:

“The speaking order was passed vide CEO /D/Legal/9647 dated 17.06.2014. Despite this, petitioner has not taken any step for

challenging the said order which forms base for the re-advertisement Notification No.CEO/D/RET/Legal/9658-59 dated 18.06.2014 wrongly mentioned in the prayer clause of the petition as 10.06.2014.

10. The basic order dated 17.06.2014 has not been challenged, therefore petition is not maintainable, as such **dismissed** along with connected MP (if any).

11. Official respondents shall finalize the process of selection so initiated with promptitude.

(Mohammad Yaqoob Mir)
Judge

Jammu
28.12.2015
Raj Kumar

