

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

SWP No.107/2015
CMP No.166/2015

C/W

SWP No.87/2015
CMP No.141/2015

SWP No.1050/2014
CMP No.1679/2014

Date of Dec:28.05.2015

Shaziya Yousuf

Vs.

State of J&K & ors.

Coram:-

***Hon'ble Mr. Justice Mohammad Yaqoob
Mir, Judge***

Appearing counsel:-

For the Petitioner(s): Mr. Kaiser vice Mr. M. M. Dar (in
SWP No.107/2015)
Mr. M. S. Reshi (in SWP No.87/
2015 & SWP No.1050/2014)

For the Respondent(s): M/S: Mehraj-ud-din & Jahangir
Iqbal Ganai.

1. Respondent Child Development Project Officer(CDPO) had invited applications from eligible female candidates for engagement as Anganwadi Workers on honorarium basis in various Anganwadi Centres, which include Anganwadi Centre Mir Mohalla of village Wagam.

2. After admitting all the candidates who had applied, to interview, the respondent CDPO has prepared the award list of the candidates wherein respondent Bilala Akhter is shown to have secured 48.26 points, petitioner Shaziya Yousuf 48.27 points whereas Firdousa Akhter has been awarded 07 marks

for interview. A note has been recorded as against her to the following effect:

“The award be prepared after clarification regarding determination of merit of Adeeb by CDPO Chadoora from the Board”.

3. Ms. Firdousa Akhter has passed Adeeb and English from J&K State Board of School Education, her candidature was objected to on the count of her qualification. Director Academics had send a copy of Circular No.4 dated February 6, 2012, wherein it has been made clear that the course of ‘Adeeb’ subject to qualifying additionally English of 10th Class from any recognized Board is an equivalent qualification i.e. Secondary School Examination (Class 10th). On the said basis, Firdousa Akhter filed SWP No.2209/2011 which was disposed of vide judgment dated 26.12.2012 directing the respondents to consider her candidature in the light of circular No.4 dated 06.02.2012 issued by the Commissioner/Secretary to Govt. School Education Department.

4. Respondent Director Social Welfare, Kashmir has accorded consideration, which resulted in issue of order No.912-DSWK of 2014 dated 24.01.201. In the said order clarification as furnished by the Board of School Education

vide No.F(Acad-C)EQ/B/09, dated 12.10.2011 has been referred to, which is reproduced hereunder:

“This is to inform that proficiency, high proficiency or honours examination in Urdu conducted by University of Kashmir or University of Jammu or Urdu Board Aligarh or Jamia under Aligarh Jamiya Deniyat Urdu, Deoband or Jamia Urdu Kashmir Plus English only subject of Secondary School Examination (Class 10th) conducted by the J&K State Board of School Education is equivalent to Secondary School Examination (class 10th) for purposes of employment to such posts which require the knowledge of Urdu and English of Secondary School Examination standard in various departments other than teaching profession in which case the department of Education shall apply its own rules and procedure”.

“Emphasis supplied”

5. In the said order, it has been concluded that selection involves determination of merit, so candidature of Firdousa Akhter can be considered only when she qualifies other three subjects besides English in completion category.

6. Dissatisfied with the order supra, Firdousa Akhter has filed SWP No.1050/2014 seeking quashment of same. During pendency of this writ petition, the respondents proceeded with the process of selection and tentatively

selected respondent Bilala Akhter which tentative selection is subject to objections and as yet has not been finalized.

7. The tentative selection of respondent Bilala is challenged by Shaziya Yousuf by medium of SWP No.107/2015 and also by Firdousa Akhter by medium of SWP No.87/2015.

8. Respondent Bilala Akhter is shown to have secured 48.26 points, Shaziya Yousuf 48.27 points whereas Firdousa Akhter has been awarded 7 marks for interview, however, for matric (i.e. Adeeb & English), points have not been awarded to her. Shaziya Yousuf though superior in merit as compared to respondent Bilala Akhter has been excluded on the count of being resident of another hamlet, namely, Muqdam Mohalla where an Anganwadi Centre is already established and an Anganwadi Worker, Anganwadi Helper are working.

9. Petitioner Shaziya Yousuf claims that she, in fact, belongs to Mir Mohalla. On the other hand, claim of the petitioner Firdousa Akhter is that she is superior in merit, her position regarding qualification being equivalent to matric could not be ignored.

10. First, it shall be appropriate to address the issue of qualification of petitioner Firdousa Akhter. As per opinion of Director Academics, as made mention of, in his communication No.F(Acad-C)EQ/P/09 dated 12.10.2011, addressed to respondent CDPO, it is made clear that high proficiency or honours examination in Urdu conducted by University of Kashmir or University of Jammu or Urdu Board Aligarh or Jamia under Aligarh Jamiya Deniyat Urdu, Deoband or Jamia Urdu Kashmir Plus English only subject of Secondary School Examination (Class 10th) conducted by the J&K State Board of School Education is equivalent to Secondary School Examination (class 10th) for purposes of employment to such posts which require the knowledge of Urdu and English of Secondary School Examination standard in various departments other than teaching profession in which case the department of Education shall apply its own rules and procedure.

11. The opinion of the Director Academics has not been applied properly. For Anganwadi Worker, requirement of qualification, as per job profile, is that a candidate must be matriculate which the petitioner Firdousa Akhter is as her qualification to have passed Adeeb with English subject of Secondary School Examination conducted by the J&K State Board of School Education is equivalent to Secondary

examination(Class 10th) for purposes of employment to such posts which require the knowledge of Urdu and English of Secondary School Examination. For Anganwadi Worker, knowledge of Urdu is enough, therefore, Firdousa Akther was not required to qualify other three subjects, otherwise passing of Adeeb and English subject of Secondary School Examination will be otiose. In the context of job profile of the Anganwadi Worker read with opinion of Director Academics, position of qualification of Firdousa Akhter as matriculate cannot be ignored. Marks which she has obtained in Adeeb and English subject are to be considered and the points are to be awarded proportionately for the marks she has secured while passing Adeeb and English.

12. The order dated 24.01.2014, passed by respondent Director Social Welfare, as impugned in SWP No.1050/2014,as such, is quashed.

13. In the afore-stated circumstances, respondent CDPO shall re-draw the merit list of eligible candidates after awarding appropriate points to petitioner Firdousa Akhter for the marks she has obtained in Adeeb and English subject and then to select the meritorious eligible candidate tentatively from the hamlet Mir Mohalla for which Anganwadi

Centre has been sanctioned and thereafter shall finalize the process of selection after inviting objections to such tentative selection, preferably within a period of six weeks from the date copy of the judgment is served upon him. Right is reserved to the aggrieved party, if any, thereafter to re-agitate subject to availability of cause.

14. All the three petitions succeed, accordingly shall stand disposed of along with connected CMPs.

**(Mohammad Yaqoob Mir)
Judge**

Srinagar
28.05.2015
"Mohammad Altaf"