

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

SWP No.1949/2014

Date of Order:13.08.2015

Naseer Ahmad Wani & ors.      **Vs.**      J&K Service Selection Board  
& ors.

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

**Appearing Counsel:**

For the petitioner(s)/Appellant(s): Mr. M. Ayoub Bhat.  
For the respondent(s): Mr. N. H. Shah, AAG-for  
official respondents.  
Mr. Z. A. Shah, Sr. Adv. for  
Private respondents.

- 1) Select list of the Teachers District cadre Kupwara was challenged by medium of SWP No.1506/2012 titled “Gazala Masoodi & ors v. State and ors” which was disposed of vide detailed judgment dated 4<sup>th</sup> December, 2012.
- 2) For selection of the Teachers, a District Level Selection Committee in tune with sub-rule (6) of Rule 6 of the Jammu and Kashmir Civil Services Decentralization and Recruitment Rules, 2010, was constituted who had conducted the interview of large number of candidates. When the process of interview was in progress, Convener of the Committee was replaced by another Convener. Then again on receipt of representations, a Central level Committee was constituted. On conclusion of the interview process, select list was prepared which was challenged on the

ground that replacement of the Convener has caused prejudice and then constitution of 3<sup>rd</sup> Committee i.e. the Committee at Central level was not in conformity with Rule 6. The contentions as were raised prevailed. Para 36 to 40 of the said judgment are relevant so are quoted here-under:

36. Interviews of the candidates who formed one class by three Committees offended the rule of uniformity and gave rise to the element of unjust treatment which in turn offends the rights guaranteed under Articles 14 and 16 of the Constitution of India.

37. In the final analysis, the interview conducted by the District Selection Committee comprising of Mr. Gulzar Hussain and other two members on 20.06.2011 and 21.06.2011 shall stand quashed. Similarly interview of the candidates conducted by another altogether different Committee constituted pursuant to order dated 22.07.2012 in respect of the candidates of District Kupwara shall also stand quashed. Resultantly, provisional select list impugned in this petition, is quashed.

38. Respondent-Board shall fix schedule for interview of the candidates, whose interviews were conducted on 20.06.2011 and 21.06.2011 by the Committee headed by Mr. Gulzar Hussain, and of the candidates, who were interviewed by the Committee constituted vide order dated 22.07.2012. The interview shall be conducted by the same District Level Selection Committee comprising of (i) Mr. Shabir Ahmad Kanth (Member of Service Selection Board as 'Convener'; (ii) Mr. Qasim Wani, Dy. Director Employment, Kupwara (Member Secretary); and (iii) Ghulam Muhammad Kumar, Head of Department, District Institute of Education and Trainings, Kupwara (Member) Thereafter, same District Level Selection Committee shall prepare the

select list afresh and follow the procedure for finalization of the selection in accordance with the provisions of Act and Rules of 2010, more particularly, in accordance with Rule 14 of Rules of 2010.

39. The process of selection and appointment has remained halted; resultantly deficiency of teachers in the Schools shall have the impact on the teaching functioning of the Schools of District Kupwara. The respondent-Board shall ensure that process aforesaid is undertaken and completed within a period of six weeks and consequent upon recommendation, the appointing authority shall finalise the process of appointment thereafter within three weeks positively.

40. It is further provided that in case members of the first constituted District Level Selection Committee for any unavoidable circumstances, viz. on account of retirement or otherwise, are not now available, then the entire interview process held from 04.05.2011 shall stand quashed. Fresh District Level Selection Committee be constituted for District Kupwara in accordance with Rule 6(6) of the Rules of 2010 which shall ensure that the interview and selection at their level is concluded at an earliest.”

3) The judgment was challenged by medium of LPA unsuccessfully but in view of cross objections to the effect that there is no possibility of constituting the same Committee which had initially started the conduct of interview, the Division Bench has directed the respondent Service Selection Board to constitute the District Level Selection Committee strictly in accordance with the relevant provisions of the

Recruitment Rules of 2010. Para 45 of the said judgment dated 14.05.2013 is relevant to be quoted:

“45. Accordingly, we dismiss the Letters Patent Appeals along with the connected CMPs filed by the selectees and allow the Cross Objections and the Letters Patent Appeal filed on behalf of the non-selectees writ petitioners to the extent indicated above. We direct the Service Selection Board to constitute the District Level Selection Committee strictly in accordance with the relevant provision(s) of the Recruitment rules of 2010, undertake the de novo interview process of the candidates who had responded pursuant to the advertisement in question in District Kupwara and complete the process within a period of three months from today.”

4) Noticing the infirmity in the composition of Committees as highlighted in the judgment dated 04.12.2012, the Jammu and Kashmir Civil Service (Decentralization and Recruitment) Rules, 2010 were amended. Sub-rules (4), (5) and (6) of Rule 6 have been recasted. Sub-rule (6) as recasted being relevant for the purpose is quoted here-under:

“(6) The District Level Committee shall consist of:

- (i) Chairman or a member of the Services Selection Board, to be nominated by the Chairman of the Board. **Convener**
- (ii) A District Level Officer of the indenting Department, to be nominated by the Chairman of the Board. **Member**
- (iii) One Officer of the concerned Department, to be nominated by the Chairman of the Board. **Member**

Provided further that the Chairman, if it is felt necessary, may co-opt an expert/specialist in the concerned discipline with any of the above Committees

The said amendment was notified vide SRO 342 dated 22<sup>nd</sup> July, 2013.

5) The District Level Committee was constituted and an interview process of the candidates was undertaken which culminated in issue of select list followed by provisional appointment which is under challenge.

6) According to learned counsel for the petitioners, the judgment in LPA was rendered on 14.05.2013 whereas sub-rule (6) was recasted on 22<sup>nd</sup> July, 2013, therefore, composition of the Committee was required to be as it was prior to amendment of said rule. The submission is illogical because District Level Committee has been constituted and the interviews have been conducted in the year 2014. A valid Committee was constituted in conformity with the recasted rule. To say that the composition of the Committee should have been as it was earlier has no meaning. All the candidates have appeared in interview and after finding themselves excluded have turned round to challenge the composition of

Committee saying that the composition of the Committee should have been in accordance with earlier sub-rule (6) of Rule 6 of the Rules.

7) In terms of judgment dated 14.05.2013 rendered in LPA, a clear direction had been issued to the Service Selection Board to constitute a District Level Selection Committee strictly in accordance with relevant provision(s) of the Recruitment Rules of 2010 and to undertake the *de novo* interview process of the candidates who had responded to the advertisement in question in District Kupwara. The Selection Board has constituted a District Level Committee in accordance with rules as were in vogue in the year 2014 and said valid Committee has conducted the interview.

8) The submission of learned counsel for the petitioners is otherwise unacceptable because the constitution of the Committee, that too in accordance with mandate of sub-rule (6) of Rule 6 has not caused any prejudice to the petitioners. Both selected and non-selected have been treated alike. Merit has prevailed, in the process petitioners failed to make the grade. Neither any mala fides nor anything else is

attributed. When petitioners have actively participated in the interview process, now they cannot turn around to say that the composition of the Committee was bad. On one hand, a valid Committee had been constituted and on the other hand conscious participation of the petitioners in the process disentitles them from challenging the process of selection/appointment as has fructified.

9) Learned counsel for the petitioners relied on two judgments reported in AIR 1990 SC 1233 and S.L.J 1997 272. Both the judgments are of no help to the petitioners because factual matrix in both the cases as compared to the case in hand is altogether different.

10) Viewed thus, petition being devoid of merit is dismissed. Interim direction dated 16.10.2014 shall cease to be in operation.

(Mohammad Yaqoob Mir)  
Judge

**Srinagar**  
**13.08.2015**  
*“Mohammad Altaf”*