

HIGH COURT OF JAMMU & KASHMIR
AT SRINAGAR

SWP No.1795/2016

Date of Decision:20.12.2016

Mubarak Gul and others

Vs.

State of J&K & ors.

Coram:-

Hon'ble Mr. Justice Mohammad Yaqoob Mir, Judge

Appearing counsel:-

For the Petitioner(s): Mr. M. Aijaz.

For the Respondent(s): Mr. Azhar-ul-Amin-for R2&R3.

None for R1 & R4.

i) Whether to be reported
 in Digest/Journal: **YES**

ii) Whether to be reported
 in Digest/Journal: **OPTIONAL**

1. Vide notification No.09-PSC(DR-P) of 2013 dated 23.05.2013, Jammu and Kashmir Public Service Commission (hereinafter referred to as the Commission), had invited applications for the posts of Assistant Professors in various disciplines which include the discipline of "Environmental Science".

2. The case set up by the petitioners is that against 97 posts of Assistant Professors in Environmental Science, 364 applications have been received. All the 364 applicants are not eligible, in case the Commission scrutinizes their eligibility, the number of candidates would be less than 350, as a result whereof, screening test shall not be required in view of para 7(a) of the

advertisement notification. Para 7(a), for facility of reference, is reproduced here-under:

a) Short listing through a written screening test

Where the number of applicants exceeds 350 against posts not exceeding 100 and where the number of applicants is more than 3 times against vacancies exceeding 100, the short listing in the proportion of 1(post) : 3(applicants) shall be done through a Written Screening Test.

3. Learned counsel for the Commission highlighted that the scrutiny of the applications as received, as a matter of policy, is being done after the screening test or is to be done initially in case number of posts is less than 100 and the applicants are less than 350 so as to determine eligibility, as has been done vis-à-vis other disciplines where number of posts was less than 100 and the number of applications received was less than 350.

4. It was noticed that the screening test is scheduled on 4th December, 2016, vide interim order dated 01.12.2016, same was allowed to be held with a condition that the result shall not be declared until further orders from this Court. As such, screening test has been held, as is stated by learned counsel for the parties.

5. Only question for determination is as to whether screening of the applications for ascertaining eligibility

of the candidates is essentially to be done before the written screening test?

6. Keeping in view the policy of the Commission, the screening for eligibility of the candidates is done after the written screening test. However, in view of para 7(a) of the advertisement notification, where number of posts is less than 100 and the number of applications received is less than 350, scrutiny for eligibility is done before the further process of selection is initiated. It is also made clear that where number of applications received is more than 350 or the posts are more than 100, screening for ascertaining eligibility is done after written screening test is held.

7. The contention as raised by the counsel for the petitioners though has logic because scrutiny of the applications for allowing only eligible candidates to sit in the written screening test may be advantageous but the policy of the Commission, in effect, is not in any way prejudicial to the rights of the petitioners because they are not denied the right to sit in the written screening test.

8. When learned counsel for the petitioners was confronted with the same position, he would submit

that some ineligible candidates have applied, the respondents may shower benefits upon them. The submission appears to be misplaced because in case after screening test any ineligible candidate is cleared for further process of selection, petitioners can represent before the Commission about the ineligibility of the candidate/s which the Commission has to look into. In addition thereto, petitioners shall have a right to challenge the position of ineligible candidates if after screening test they are called in connection with further selection process.

9. In view of the positive stand of the Commission that after screening test is held, scrutiny of the applications in all respects including position of eligibility/ineligibility of the candidates is undertaken, it is only thereafter the candidates who have qualified the written screening test are permitted to participate in the further process of selection, that means there is a stage for weeding out ineligible candidates, as such, there shall be no prejudice as against the rights of the petitioners.

10. Now the petitioners along with other candidates have appeared in the screening test, only result is to be declared. After declaration of result, the Commission

has to scrutinize applications of the candidates who would qualify the test and in case they find any of the candidate ineligible, he would be excluded from participating in the further selection process.

11. In the stated background, at this stage petition is not maintainable. The respondent Commission shall declare the result of the screening test as held vis-à-vis posts of Assistant Professor (Environmental Science) and then to proceed further with the selection process. Right is reserved to the petitioners to re-agitate subject to accrual of cause.

12. Disposed of as above.

(Mohammad Yaqoob Mir)
Judge

Srinagar
20.12.2016
"Mohammad Altaf"