

HIGH COURT OF JAMMU AND KASHMIR AT SRINAGAR

SWP No.43/2008
MP No.64/2008

Date of Order: 31st July, 2017

Shabir Ahmad Bhat & Ors.
Vs
State of JK & Ors.

Coram:

Hon'ble Mr. Justice Ramalingam Sudhakar, Judge

Appearing Counsel:

For the Petitioner(s): Ms. Ulfat, Advocate.
For the Respondent(s): None.

i.	<i>Whether approved for reporting in</i> NET	Yes/No
ii.	<i>Whether approved for reporting in</i> Digest/Journal	Yes/No

1. The instant writ petition was filed in the year 2008. Notice was issued to the other side on 23rd January, 2008 and no interim order restraining the respondents has been passed. Thereafter, the matter was listed on few occasions in the year 2008-09 and lastly it was listed on 3rd January, 2013. Today when the matter came up for hearing, Ms. Ulfat, the learned counsel, appearing on behalf of the petitioners, stated that there are no effective instructions as regards the instant case, and, as such, sought an adjournment. However, going by the nature of relief sought for, this writ petition is **admitted** to hearing and is taken up for final disposal.

2. The following reliefs have been sought in the writ petition:

"i). Writ in nature of Certiorari be issued in favour of petitioners and against the respondents for quashing impugned advertisement notice No.-05 dated 31.12.2007 issued by respondent No.6 forming annexure L to this writ petition to the extent of the posts of Patwari's mentioned at Serial No. 73 to 77 of the said impugned advertisement notice.

ii) Writ in the nature of mandamus be issued in favour of the petitioners and against the respondents commanding the respondents to regularise the service of the petitioners against advertised posts of the impugned advertisement notice in the writ petition for the posts of Patwari's mentioned at S. No. 73 to 77 of the said impugned advertisement notice.

Writ in the nature of mandamus be issued in favour of the petitioners and against the respondents commanding the respondents to regularise the services of the petitioners against the posts of Patwari's in accordance with Govt. order No. Rev-(NG) of 1999 dated 22.7.1999.

iv) Writ in the nature of mandamus in favour of the petitioners and against the respondents commanding the respondents to consider the petitioners for appointment/ selection against the posts of Patwari's on the basis of their length of service and experience in hand on priority basis."

3. The petitioners claim that they were engaged as Casual Labours/ Prism-men in the year 1992 in the respondent Department and by long number of years of service, they have acquired the requisite skills to be considered for appointment as Patwaris. In this regard, the petitioners claim that they have made a representation before the Hon'ble Minister for Revenue. The petitioners plead that while they were discharging their

duties, as such, the Respondent Nos. 5 and 6, i.e. the Services Selection Recruitment Board, issued an advertisement notice bearing No. 05 of 2007 dated 31st December, 2007, for selection, among others, to the post of Patwaris, i.e. Annexure-L to the writ petition. The writ petition has been filed for quashing the aforesaid advertisement notice to the extent of the posts of Patwaris.

4. No interim order has been passed in the matter. Objections have been filed by respondent Nos. 5 and 6, stating therein that the post of Patwari, for which the selection has to be made, is an open selection post required to be filled through open selection from amongst the eligible candidates. The petitioners if they are eligible can also participate in the selection process. Without doing so, they have filed the instant writ petition. The impugned advertisement notice is dated 31st December, 2007 that has not been stayed and the status of the same is not known. More than ten years have passed since the said advertisement notice was issued. Therefore, the question of quashing the same after more than ten years does not arise at all, in any event, there was no restraint order from this Court.

5. Be that as it may, if the petitioners or some of the petitioners would have participated in the selection process and depending on their merit and eligibility, they would have been

considered. If some of the petitioners are found ineligible in terms of the above stated criteria for the post of Patwari, they have no option except to seek appropriate remedy from the Government as they may deem just.

6. In this view of the matter, since the post in question, i.e. Patwari is an open selection post where open selection is to be made from amongst eligible candidates, as such, this Court does not find any reason to interfere with the impugned advertisement notice dated 31st December, 2007, that too after a period of more than ten years. Therefore, giving liberty to the petitioners to work out their remedy before the competent authority, the instant writ petition is closed.

7. With the aforementioned directions, the writ petition along with connected MP(s) shall stand **disposed of**.

(Ramalingam Sudhakar)
Judge

Srinagar

July 31st, 2017
"TAHIR"