

Regular. List

SWP No. 309/2018, MP No. 01/2018

Date of order: 27.02.2018

Ashish Paul Khajuria Vs State of J&K and ors.

Coram:

Hon'ble Mr. Justice Ramalingam Sudhakar, Judge.

Appearance:

For the Petitioner(s): Mr. Ajay Bakshi, Advocate

For the Respondent(s): Mr. Sanjeev Padha, Dy.AG

i) Whether approved for reporting in Law Journals etc.:	Yes/No
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ii) Whether approved for publication
in Press: Yes/No

1. Notice. Mr. Sanjeev Padha, learned Dy.AG accepts notice on behalf of the official respondents. Notice to private respondent No. 5 is dispensed with in view of the nature of order to be passed safeguarding his rights.

2. Going by the nature of relief sought for and with the consent of learned counsel for the parties, the writ petition is **admitted** to hearing and same is taken up for final disposal.

3. The petitioners in the present writ petition seek following relief:-

“a) allow the present writ petition;

b) Quash the selection & consequent appointment of respondent No. 4 against the post of OT Tech, Advertised vide Notice No. 4 & 5 of 2017-18 under National Health Mission vide Notification No. DPMU/NHM/K/2136-46 dated 17.02.2018;

c) Command/Direct the official respondents to consider, select and issue appointment order in favour of the petitioner for the post of O.T Technician.”

4. The respondent No. 2-Chairman, District Health Society, Kathua in order to fill up the various posts in the District Kathua issued advertisement notice No. 04 of 2017 dated 22.07.2017, inviting applications from the eligible candidates. In the said Advertisement Notice, at item No. 02, posts of O.T. Technician were advertised. The petitioner and other candidates applied to the post of O. T. Technician at CHC Billawar. The required qualification for the said post was Matric with Diploma in Theatre Asstt. O. T. Course from Institute recognized by J&K Medical Faculty or any other recognized Institute. It is further averred by the petitioner

that one of the condition for the post of O. T. Technical is that the candidate should be from Block Billawar, because the said post belongs to CHC Billawar. The petitioner's plea is that he belongs to Block Billawar, however, respondent No. 5 has been shortlisted for the interview for the post of O.T. Technician and official respondents have appointed him who belongs to Block Nagrota Gujroo.

5. In this regard, petitioner relied upon certain documents to plead his case as well as to counter the case of 5th respondent. No specific complaint as such has been given to respondent no. 2- Chairman, District Health Society, Kathua against the selection of 5th respondent. The instant writ petition has been filed to quash the selection of 5th respondent on the above stated facts.

6. It was pointed by Mr. Sanjeev Padha, learned Dy.AG appearing for the official respondents that prima facie issues raised by the petitioner are disputed questions of fact as to whether respondent No. 5 belongs to Block Billawar or to Block Nagrota Gujroo and whether such a plea of selection

based on Block can be countenance, has to be decided by the competent authority.

7. Learned counsel for the petitioner states that he may be given an opportunity to file a memorandum or a revision to respondent No. 2-Chairman, District Health Society, Kathua.

8. In this view of the matter, writ petition is disposed of by giving liberty to the petitioner to file a memorandum, revision or an appeal as the case may be to respondent No. 2-Chairman, District Health Society, Kathua, who shall consider the same expeditiously, preferably within a period of four to six week from the date of receipt of memorandum, revision or appeal as the case may be and necessary documents on which the petitioner would rely upon alongwith copy of this order.

9. Respondent No. 2- Chairman, District Health Society, Kathua has to necessarily issue notice to respondent No.5-Ankush Sharma s/o Raj Kumar Sharma R/o Village Kandhamu, Tehsil Ramkot, District Jammu who has been

selected vide order dated 17.02.2018, so as to avoid allegations of principles of natural justice.

10. Writ petition stands disposed of as above along with connected MP

(Ramalingam Sudhakar)
Judge

Jammu
27.02.2018
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