

HIGH COURT OF JAMMU AND KASHMIR
AT SRINAGAR

SWP No. 771/2017

Date of order: 31.03.2018

Imtiyaz Ali Koka

Vs.

State of JK and Ors.

Coram:

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

Appearance:

For the Petitioner(s) : Mr. Shahwar Gowhar, Adv.

For the Respondent(s) : Mr. M. A. Ganai, Adv.

Mr. Sheikh Umar, GA.

i) Whether approved for reporting in Law/Journal/Etc Yes/No

ii) Whether approved for publication in press: Yes/No

(Oral):

1. Vide Advertisement Notice No. 10 of 2013 dated 10-10-2013, respondent Board has invited application for filling up of various State/Divisional/District Cadre posts which include two posts (OM-01 and ST-01) of Vocational Instructor (COPA Trade) Divisional Cadre. The qualification prescribed as mentioned in the Advertisement Notice is as under:

“Bachelor of Computer Application (BCA) from any recognized University”

2. Amongst others, petitioner and respondent No. 4 also applied. Respondent No. 4 got selected whereas petitioner figures in the waiting list. The criteria

for selection as notified is as under:

Written test = 80 marks

Viva voce =20 marks

3. Petitioner filed instant petition projecting that the respondent No.4, in fact, is not eligible because she does not possess the requisite qualification. Buttressing this assertion, it is stated that the respondent No. 4 at the Graduation level possess Bachelors of Information Technology when prescribed qualification is Bachelor of Computer Application. Respondent Board while noticing the same has taken up the matter with the Directorate of Technical Education, J&K, Srinagar. After obtaining clarification, the selection of respondent No. 4 as was withheld was released and accordingly she was recommended for appointment. Appointment order has not been issued in view of the interim direction dated 02-05-2017.
4. It is the submission of the learned counsel for the petitioner that in terms of the advertisement notice, the qualification prescribed is Bachelor of Computer Application not equivalent qualification, therefore there could be no case for seeking clarification as to whether Bachelor of Information Technology is equivalent to Bachelor of Computers Application. While confronting this statement, it was stated by the learned counsel for the respondent No. 4 that the respondent No. 4 had also done Masters in

Computer Application, a superior qualification than Bachelors of Computer Application. In view of the same position, learned GA representing the Board was asked to produce the selection records so as to ascertain as to whether the respondent No. 4 while applying for the post had also divulged that she possess qualification of Masters of Computer Application. Today learned GA has produced the records. The original application of the respondent No. 4 is available on the record which clearly suggests that she had in the application form clearly indicate the qualification which she possess including Master of Computer Application which she has qualified in the year 2008.

The reference to Para 11 of the Advertisement Notice assumes importance, same is reproduced hereunder:

“11. The prescribed qualifications reflect the bare minimum requirement of the job and mere possession thereof shall not entitle a candidate to be called for written test/interview and also grant weightage to the higher qualification in relevant line/discipline as may be decided by the Board.”

It is clearly indicated that the qualification prescribed is minimum so once respondent No. 4 possess Masters of Computer Application then the question as to whether she possess Bachelors of Information Technology or Bachelors of Computer Application, pales into insignificance.

5. In view of the aforesaid facts, then given the merit position of respondent No. 4 as compared to petitioner, no fault can be found with the selection of

the respondent No. 4. Challenge thrown by the petitioner to the selection of the respondent No. 4 on the count of eligibility in the context of the qualification is found to be without any merit, therefore, petition is accordingly dismissed. Interim direction dated 2nd May 2017 shall cease to be in operation. Selection/appointment of respondent No. 4 be finalized forthwith.

6. The record as produced by the Mr. Sheikh Umar, GA representing the board is returned to him.

(Mohammad Yaqoob Mir)
Judge

Srinagar
31.03.2018
"Aasif"

