

(8)

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

SWP No. 964/2014

IA No. 1536/2014

Date of Order: 23/08/2014

Suraj Parkash
Vs.
State and Others

Coram:

Hon'ble Mr. Justice Hasnain Massodi, Judge.

Appearing counsel:

For Petitioner(s): Mr. T. H. Khawaja, Adv.
For Respondent(s): Mr. Wasiq Abbas
Mr. R. A. Khan, AAG vice
Mr. S. A. Naik, AAG

Heard. Admit

Notice.

Post admission notice waived by Mr. R. A. Khan, AAG appearing vice Mr. S. A. Naik, AAG on behalf of respondent No. 1 and Mr. Wasiq Abbas, Advocate on behalf of respondents 2.

Learned counsel for the parties do not want to improve the pleadings already filed.

Heard and considered.

There is no disagreement between the parties on facts. Petitioner admittedly participated in the selection process initiated by Jammu and Kashmir Public Service Commission - respondent No. 2 herein, at the instance of

*Heard and admit
Govt. to implement*

*as may be seen
his selection to
the Govt. in new
court judgment*

*119
US (DR)
Legal Secy
on 13/10/14
RK (DR)
13/10*

*Stay till
37/15*

9

respondent No.1 to fill up 10+2 Lecturer posts under SC category in various disciplines of School Education Department of State Government. He however did not find place in the select list.

Petitioner aggrieved with his non selection, submitted representation to the respondent Commission, alleging therein that the candidate selected under SC category had pressed into the service a forged document and did not as matter of fact belong to SC category.

Petitioner insisted that as the selectee ought not to have been selected under SC category, his selection is liable to be cancelled and petitioner an SC category candidate had a right to be recommended for the advertised post by the respondent Commission.

It is admitted by learned counsel for respondent No. 2 they held an enquiry into the matter and found substance in the compliant received and ultimately cancelled the selection of respondent.

Against the above backdrop petitioner was to be selected for the aforesaid post and recommendation for appointment as lecturer in 10+2 under SC category to respondent no. 1. Respondent No. 2 avoiding to do what is obvious and ought to have been done without forcing

petitioner to come to the court.

It appears that respondent No.2 is reluctant to select and recommend petitioner on an assumption that the list has out lived his life. As the petitioner was unjustifiably and for a reason not attributable to him left out of select list, he is not to be penalized and stripped off rights otherwise due to him, on the plea that the list has out lived his life. Time for petitioner would run from the date selection of candidate erroneously selected, against the post in question was cancelled. Had petitioner slept over the matter or respondent Commission not recommend his appointment for more than a year. The Commissioner possibly would have been within its rights to claim that the select list has outlived its life. This is not a position in present case. Petitioner has been all along voicing his grievance and it is at his instance that an enquiry was directed and selection of Miss Amita Dua, cancelled. In such situation the person in the queue is to be selected and recommended and not denied a right that accrues to him on cancellation of selection of the candidate, who managed his selection on strength of a forged document.

Viewed thus petition is allowed and respondent no. 2 is directed to consider petitioners claim and recommend

10

him for appointment against the 10+2 lecturer post under SC category, unless there is any legal impediment in his way.

Let the decision in the matter will be taken within four weeks.

Srinagar
23/08/2014

Sd/- Hon'ble Mr. Justice
Hasnain Ali Shah (CJ)

Application No. 11532
Date of Opp. for the copy 25/8/14
Date of which copy was ready for delivery 30/8/14
Date of making over the copy to the applicant 30/8/14
Fee charged including extra fee for urgency Rs 20/-
Name & Signature of the official Computed by [Signature]

CERTIFIED COPY

Assistant Registrar
High Court of J&K, Srinagar

Date 30/8/14 Day of Sept 2014
FORGED UNDER SECTION
OF EVIDENCE ACT



f

HIGH COURT OF JAMMU AND KASHMIR AT SRINAGAR

SWP NO. 964/14

Suraj parkash S/o Shri Amar Nath R/o Gadyal Haripur More ,
Tehsil Hiranagar Distt Kathua at present Singbagh, Baramulla.

Aged 42 yrs.

.....petitioner.

Vs.

1. State of J&K through Commr Secty to Govt Education Deptt,
Civil Sectt, Jammu/Srinagar.
 2. J&K Public Service Commission through its Secty
Srinagar./Jammu.
-respondents.

CERTIFIED COPY

Assistant Registrar
High Court of J&K, Srinagar

Dated 30th Day of Sept 2014
AUTHORISED UNDER SECTION
OF EVIDENCE ACT