

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

Present : Hon'ble Mr. Justice M.M. Kumar – Chief Justice

Hon'ble Mr. Justice Hasnain Massodi – Judge

LPASW NO. 217/2011 CMA No. 250/2011

Dr. Anuradha Gandral; aged: 38 years  
D/o Sh. Kewal Krishan Gandral  
R/o 398-Julaka Mohalla  
Jammu

Appellant

Versus

1. State of Jammu and Kashmir  
through  
Commissioner-cum-Secretary to Government  
Health and Medical Education Department  
Jammu and Kashmir Government  
Civil Secretariat, Jammu
2. J&K Public Service Commission  
through its Secretary  
Resham Ghar Colony  
Jammu
3. Dr. Abida Hamid  
D/o Prof. Abdul Hamid  
R/o H.No:69 Lane No:3, Noorani Colony, Peer Bagh  
Srinagar
4. Dr. Mohd. Yousuf Tali  
S/o Late Sh. Ghulam Din Tali  
R/o Banglow Bagh, Baramulla (Kashmir)
5. Dr. Sajjad Ahmad Wani  
S/o Mohd. Jahangir Wani  
R/o Kulgam (Kashmir)
6. Dr. Hysum Mushtaq  
S/o Sh. Mushtaq Ahmad Tramboo  
R/o H.No:487, Govt. Housing Colony  
Bagh-e-Mehtab, Srinagar

Respondents

True Copy Attached  
As per  
High Court of J&K  
JA  
20/12  
20/12

6 leaves

LPASW No. 217/2011  
CMA No. 250/2011

Date of order: 06 /12/2012

**Appearing Counsel:**

For the appellant(s):	Mr. S. K. Shukla, Advocate
	Mr. Rahil Raja, Advocate
For the respondent(s):	Mr. D. C. Raina, Sr. Advocate with
	Mr. F. A. Natnoo, Advocate
	Mrs. Neeru Goswami, Dy. AG

1. Jammu and Kashmir Public Service Commission vide advertisement notification No. 02-PSC of 2008 dated 18<sup>th</sup> February, 2008, invited applications from the eligible candidates for 321 posts of Dental Surgeons, lying vacant in the Health Department of the State Government. The aspirants for the advertised vacancies were required to attach amongst other documents, copy of experience certificate(s) with their applications.

2. Para 6 (v) of the advertisement notice laid down the format of the experience certificate. It reads:-

*"6v. certificate(s) from the Head(s) of Organization(s), Department(s) for the entire experience claimed, clearly mentioning the duration of the employment (date, month & year) indicating the basic pay and consolidated pay. The certificate(s) should also mention the nature of the*

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 Asst. Registrar  
 High Court of J&K  
 Jammu  
 20/12 [Signature]

*duties performed/experience obtained in the post(s) with duration(s)."*

3. The appellant responded to the advertisement notice. She participated in the selection process but failed to make it to the selection list. Aggrieved with her non selection, she filed a writ petition being SWP No. 1074/2010. Her stand before the writ Court was that on the strength of her merit and experience, she deserved to be selected for the post of Dental Surgeon and that she was erroneously awarded one mark for experience instead of four and a half marks due to her in terms of Rule 51 Jammu and Kashmir Public Service Commission (Business and procedure) Rules, 1980.
4. The stand taken by the respondent Commission in opposition to the writ petition was that the experience claimed by the petitioner did not qualify for award of any marks as the certificates appended by the appellant to her application, original whereof were produced at the time of interview, did not reveal that the appellant had the requisite qualification in terms of advertisement notice No. 02-PSC of 2008 dated 18<sup>th</sup> February, 2008.
5. The writ Court on going through the pleadings and record made available to it, found substance in the stand taken by the respondent Commission. The writ Court vide

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its order dated 20<sup>th</sup> October, 2011, held the writ petition to be without merit and accordingly dismissed the petition. It was held that the appellant did not have the experience as would entitle her to award four and a half marks as claimed in the writ petition. The writ Court reproduced the certificates relied upon by the appellant and after making a detailed reference to the advertisement notice held the certificates not to indicate that the appellant had requisite qualification in terms of advertisement notice in question.

6. It would be apt to extract para 7 and 8 of the writ Court order.

*"7. It was for the petitioner to produce the requisite certificate in the manner as prescribed. Two certificates produced by the petitioner indicate that she has worked as a Dental Surgeon and has done house job, therefore such certificates being deficient in the context of the requirement as envisaged in the advertisement notice as referred to above, could not be validly taken into account by the Selection Committee. Therefore, the fault of the petitioner could not be attributed to the respondent-Commission. The certificates produced by the petitioner have been considered, but not found fit for being taken into consideration for awarding marks under the head 'Experience'. It is in this context, in the reply it has been clearly mentioned that the experience attained is inappropriate.*

*8. Court has no reason to take the view contrary to what has been taken by the Selection Committee. Neither anything adverse nor any mala fides are attributed to the Selection Committee. In absence of any such allegation or*

Writ Cell  
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*mala fides against any of the members of the Select Committee, the contention of the petitioner pales into insignificance."*

7. The writ Court order dated 20<sup>th</sup> October, 2011 is questioned in the Letters Patent Appeal on hand on the grounds set out in the memorandum of appeal.
8. We have gone through the appeal as well as writ record and have heard learned counsel for the parties.
9. A bare look at the advertisement notice would reveal that the experience certificate was to mention the duration of employment as also the basic pay/consolidated pay drawn by a candidate and nature of the duties performed/ experience obtained by a candidate while serving in the department or organization.
10. The certificates pressed into service by the appellant as rightly pointed out by the writ Court, did not make mention of the basic pay/consolidated pay drawn by the appellant while working in "Shri Mahavir Jain Dharmarth Aushadhalaya" or Government Medical College, Jammu. The certificates also did not indicate nature of the duties performed/ experience gained by the appellant while working in the said Institutions.

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11. The requirement of giving pay details and the nature of duties performed/ experience gained required in terms of the advertisement notice, was not an idle formality that could be very conveniently ignored by the appellant. The condition was laid down so as to ensure that only a candidate having genuine experience was given credit or extra weightage for experience claimed to have been gained while working in the Government department or organization.

12. In the present case the certificates attached by the appellant with her application did not indicate that the appellant had experience required under advertisement notice. The appellant was not, therefore, entitled to marks/weightage, claimed by her in the petition.

13. Viewed thus, there is no reason to take a view different from one taken by learned Single Judge. The writ Court order in the circumstances, does not call for any interference.

14. The appeal, is accordingly, dismissed.

*Self-Hon'ble*  
(~~Hashim~~ Massodi)  
Judge

*Self-Hon'ble*  
(M. M. Kumar)  
Chief Justice

**Jammu**  
06/12/2012  
"Mohd Yasin Dar"

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*M. M. Kumar*  
20/12/12  
High Court of Jammu & Kashmir

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Prescribed by Section 76 of the

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