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Gurvinder Kour and ors. Vs. State and ors.

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Court : Jammu and Kashmir

Decided On : Oct-16-2007

Reported in : 2007(3)JKJ18

Judge : Y.P. Nargotra, J.

Appellant : Gurvinder Kour and ors.

Respondent : State and ors.

Advocate for Def. : Ms. Surinder Kour

Advocate for Pet/Ap. : Mrs. Kour, Mr. Pant, Mr. Johal, Mrs. Surinder Kour

Judgement :

Y.P. Nargotra, J.

1. In the instant batch of petitions the selection of private respondents as Teachers in the District cadres of Districts, Jammu, Rajouri, Kathua, Udhampur, Anantnag and Doda is being questioned, mainly on the following grounds:

(a) The selection criteria adopted by the Service Selection Board is invalid:

(b) The candidates possessing higher qualification i.e. M.Ed. B.Ed, Post graduation have been ignored whereas candidates possessing 10+2 qualification have been selected:

(c) Additional higher qualification obtained by the candidates after the last date fixed for submission of application forms before the date of interview has been ignored:

(d) Weight age has been given to the qualification done in specialized fields like B.Sc (Agriculture), Engineering etc which qualification has no relevance to the job of a teacher:

(e) The candidates who were already in service have been selected; and

(f) Meritorious candidates have not been selected whereas candidates who have obtained lesser merit have been selected.

Before taking up independent grounds of challenge set up in the writ petitions, I would first deal with the above common grounds of challenge.

Ground (a)

2. The Jammu and Kashmir Services Selection Board by virtue of Advertisement Notice No. 1 of 1999 dated 9th March 1999 invited applications for the posts of teachers available in the district cadre of various districts of the State. The essential qualification for the said post was 10+2 with 50% marks and above. However bar of 50% marks was not applicable to Graduates and above. Experience was also to be given preference. Last date fixed for receipt of the applications was 31st March 1999, later extended to 15.4.1999.

3. The writ petitioners with many other candidates offered their candidature for the said post. The Services Selection Board was to make short listing of candidates for interview, but before it could do so, a judgment of the Division Bench of this Court came to be rendered in case Balwinder Kour v. State of J&K; and Ors. reported in 2000 KLJ 421. In that case appellant Balwinder Kour had remained unsuccessful in the selection process carried out for the posts of teachers, pursuant to the advertisement notice No. 3/1999 dated 24th December 1996 issued by Services Selection Board. Her case was that more weightage was given to the basic qualification prescribed i.e. 10+2 and the criteria of selection was as follows:

(a) 10+2: 50 Points.(b) Graduation: 10 Additional Points for1st Division.08 Additional Points forand Division.06 Additional Points for3rd Division.(c) Post-graduation: 10 Additional Points for 1st Division.: 08 Additional Points for 2ndDivision.: 06 Additional Points for 3rdDivision.(d) B.Ed. : 05 Additional Points.(e) M.Ed. : 05 Additional Points.(f) Viva-voice : 20 points.Total : 100 Points.

The learned Division Bench observed as follows:

17. In view of the above, we are of the opinion that giving undue Weightage to 10+2 qualification and giving lesser importance to the degrees in the discipline of education is no apt. 10+2 qualification had no rational with the object i.e. appointment as teacher. 10+2 qualification is basic for all further attainments in all walks of life. How does this qualification advances the cause of teaching and of those who are to be taught. When this qualification is not given any weightage for any other discipline then why give it so much importance in the selection of teachers. In any case, 50 marks for 10+2 qualification is definitely on the higher side. At 10+2 stage an individual's personality is yet to develop and as observed in Lila Dhar's case (supra) 'it is too early to identify the personal qualities for which greater importance may have to be attached in later life'. Deeper traits of leadership, tact, forcefulness are yet to develop. Therefore, giving undue regard to 10+2 qualification at the cost of later qualifications is not apt. In somewhat different context, reserving 75 marks under one head out of 275 marks was held to be bad in the case of Pariakaruppan v. State of Tamil Nadu : [1971]2SCR430 (supra). Again reserving 50 marks out of 150 under one head in the case of Nishi Maghu v. State of J&K; and Ors. : [1980]3SCR1253 and 33 1/2 percent of total marks for interview in Ajay Hasia's case (supra), did not find favour with the Supreme Court of India. As indicated above, this was in the context of reserving marks for viva-voce. Nevertheless, the thought behind this view is that giving undue weightage to one criteria at the cost of other attract the vice of inequality. This has certainly not been avoided in this case. There is no rational there is no nexus with the object to be achieved. The subject is to appoint a teacher. A trained teacher having graduation and post graduation qualifications in the discipline of education would be best suited for the job. By the process adopted in the present case, a trained teacher is being almost ousted from consideration by giving insignificant

weightage to his B.Ed. and M.Ed. qualifications. As indicated above, if in the discipline of medical, law, engineering, architecture etc. the basic qualification is the one which is possessed by a candidate in that very discipline, then there is no justification to not to adopt the same criteria when appointments are made in teaching faculty. The decisions of the Supreme Court noticed above do lay down the importance of trained teachers. The criteria adopted in the present case brings in arbitrariness.

After observing as above, learned Division Bench held as follows:

We are not quashing the appointments which have already been made but we do feel that this criteria is required to be recast. Let steps be taken in this regard. The question arises as to what relief the appellant is entitled to. The appellant does possess degree in B.Ed, and also a Masters Degree. In our view she has been put to a disadvantageous position by considering her claims on the basis of 10+2 qualification. She has not been properly judged. The training which she has got in the discipline of education has not been given significant importance. This is not in line with the recommendations made by the Kothari Commission. This is also not in line with the observations made by the Supreme Court in the cases noticed above.

19. We are accordingly of the view-

(a) that the allocation of 50 marks for 10+2 qualification is on the higher side.

(b) That this allocation operates to the detriment of those candidates who possess graduate and postgraduate qualification in the discipline of education.

This is not in conformity with the spirit of Articles 14 and 16 of the Constitution:

(c) that the criteria is required to be recast:

(d) that the appointments already made are not being quashed:

(e) that the appellant would, therefore be entitled to be considered against a vacancy which is not available. She would not be denied appointment merely on the ground that she has become overage. Reference in this regard can be made

to the decisions of the Supreme Court in the case of Arun Kumar Rout and Ors. v. State of Bihar (1989) 9 SCC 71 and Keshav Narayan Gupta and Ors. v. Jila Parishad Shivpur (MP) and Anr. (1989) 9 SCC 78.

The leaned Division Bench also observed as follows:This can indeed be achieved if we have trained teachers. This is the object which is foremost. It is because of this, the State is advised to recast its selection policy in the matter of appointing teachers.

4. Taking note of the above judgment, Services Recruitment Board vide its notification No. SSB/PA/Secy./826/2001 dated 2nd March 2001, recast the selection criteria as follows:

S.No. Qualification Points1. 10+2 40Graduation1st Division 102nd Division 63rd Division 42. Post Graduation1st Division 102nd Division 63rd Division 43. B.Ed. 104. M.Ed. 105. Viva 20Total 100.

Thereafter, Service Selection Board vide its Notification dated 4th April 2001, short-listed the candidates for interview and accordingly interviews were held during the period around May, June and July 2001. After concluding the interviews, select list was issued by the Board on 3rd of January 2002. The writ petitioners though were short-listed for interview, but have not been able to make the grade and as such, have not been selected. Being aggrieved of their non-selection they have filed the instant writ petitions.

5. Some of the candidates who were not short listed filed writ petition titled Jyoti Rani and Ors. v. State of J&K; and Ors. SWP Order 913/2001, claiming that during the selection process they had acquired additional qualifications, which according to them were required to be taken into consideration for giving them due weightage in the selection. They sought acceptance of their documents of additional qualifications, issuing roll number slips and to permit them to participate in the interview. The learned Writ Court vide its order dated 8th of October 2001, did not accept the contention of the writ petitioners in regard to the acceptance of the additional qualification yet found that selection criteria was bad in law, so directed the respondents to take steps to re-fix the selection criteria, so as to

enable all eligible candidates to take part in the selection process. The judgment dated 8th October 2001 came to be appealed against before a Division Bench of this Court in LPA's (SW) 488/2001 and 521/2001 titled State of J&K; and Ors. v. Jyoti Rani and ors. Learned Division Bench on finding the judgment of Writ Court un-stainable in law, because it had allowed the relief not prayed for by the writ petitioners pertaining to the challenge to the selection criteria, allowed the two appeals and set aside the judgment of the writ court without going into the question of validity or otherwise of selection criteria. It may be mentioned here that along with SWP No. 913 of 2001, a batch of writ petitions were disposed of. The writ petition of Rekha Sharma was one of them.

6. The judgment of the writ court dated 8th October 2001, once again became the subject matter of appeal filed by State of J&K; Services Selection Board LPA (SW) No. 145 of 2006. In this appeal a contention was raised by the writ petitioner Rekha Sharma, who was respondent No. l before the learned Division Bench that the learned writ court had not considered all the points raised by her in the writ petition, so same needed consideration by the appellate Court (Division Bench).

7. The learned Division Bench noticed the facts and observations of the Division Bench in Balwinder Kour's case (supra) also. While considering the challenge made by the writ petitioner who was respondent No. 1 a candidate in the instant selection process to the recast criteria for short listing of the candidates for interview on the ground that it was contrary to the spirit and intent of the Division Bench judgment dated 18th of October 1999 rendered in Balwiner Kour v. State of J&K; and Ors. (supra). Before the learned Division Bench while challenging the criteria on the ground that it was not in consonance with the Balwinder Kour's judgment, it was also contended that the Advertisement Notice inviting applications for the post of teacher i.e. Notification N. 1 of 1999, was also violative of Articles 14 and 16 of the Constitution and that recruitment to the post could not have been done on the basis of viva-voce test only. It was prayed that Board notification prescribing the new criteria date 2nd March 2001, be quashed along with notification dated 4th April 2001, and that respondents be directed to recast the criteria for selection to the post of teachers by giving more weightage to the higher qualification of candidates, like B.Ed. and M.Ed. and to conduct the written

test for making the selection.

8. The learned Division Bench after considering the questions as to whether the recast criteria published by the Services Selection Recruitment Board dated 2nd March 2001 was contrary to the letter and spirit of the Division Bench judgment rendered in Balwinder Kour v. State of J&K; and Ors. (supra) and whether it was necessary to publish the same in the advertisement notice or was it in any manner violative of Articles 14 and 16 of the constitution of India observed as follows:

We have extensively quoted from the Division Bench judgment in Balwinder Kour's case only to show that the Court had only found that the higher weightage given to basic qualification of 10+2 as inapt and had only directed the recasting of this criteria and consideration of the respondent (writ petitioner) according to that recast criteria. We have carefully examined the Division Bench judgment but we have not been able to come across any breach or violation of this judgment in the newly prescribed criteria vide the two notifications dated 2nd March 2001 and 4th April 2001 nor is it the respondent's case how and in what manner this criteria could be held to be in breach of any of the directions or observations made in the Division Bench judgment in Balwinder Kour's case. It seems that this impression has been gathered from the impugned judgment that any higher qualification of B.Ed. or M.Ed ought to be awarded a higher weightage than a comparatively lesser qualifications of 10+2 or graduation, which is not the ratio laid down in Balwinder Kour's case any way. Therefore, we have no difficulty in holding that the newly laid down criteria is in compliance to the judgment in Balwinder Kour's case and not against its letter and spirit.

The other contention that the recast criteria prescribed by the Board was vitiated for being not published in the advertisement notice also requires to be rejected. It needs to be clarified that it is not mandatory for any selection authority to prescribe a criteria in advance in advertisement notice inviting applications for selection/appointment to the post. Such criteria is necessitated by the demand of the circumstances and is normally applied where the advertisement notice attracts large number of candidates which makes it difficult to go through the selection process with that number of candidates and requires short listing. Therefore, it is

not mandatory or necessary to publish any such criteria in the advertisement notification for information of the prospective candidates unless, of course, it is required under some rules or regulations.

We also find no merit in the contention that the recast criteria was violative of Articles 14 and 16 of the Constitution. This is so far the reason that no minimum basics or foundation has been laid to substantiate this plea which is raised in generalized terms and seems to have been made for the heck of it and in a routine manner. A criteria can be questioned for its irrationality or perversity or arbitrariness or for being incapable of being satisfied which would attract Article 14 and 16 of the Constitution. In the present case none of such eventualities are set out by the respondent in the writ petition to suggest that the criteria could be questioned on any of these counts.

Ms. Surinder Kour, Counsel for the respondent made a last minute plea to suggest that the criteria was to be recast by the Government and not the SSRB as was mandated by the Division Bench judgment in Bawinder Kour's case. She invited out attention to para 22 of the judgment, which reads:

This can indeed be achieved if we have trained teachers. This is the object, which is foremost. It is because of this the State is advised to recast its selection policy in the matter of appointing teachers.A plain reading of this observation by the Court while parting with the judgment does not lead to any conclusion that it had directed the State to recast the criteria for short listing/screening or for calling candidates for interview. It needs to be borne in mind that there is clear cut distinction and vast difference between the eligibility prescribed for a post under the relevant recruitment rules and the criteria prescribed by the selection authority for short listing/screening/interview or even, for that matter, making the final selection of candidates. Unless rules provide, it is for the selection authority or the Board to fix the criteria of its own for all these purposes in a given situation and in accordance with the demands of the situation. In the present case there is no grey area because rules provided for meeting this situation. For example Rule 10 of the relevant SRO 194 dated 18th August provides:

The board shall finalize the selection after holding such tests or examination as may be prescribed under rules, or if there are no such rules. as the Board may consider necessary.This leaves no doubt that the Board has to make selections after holding such test or examination s may be prescribed under rules, or as it may feel necessary in absence of such rules. In other words, if the rules do not prescribe any particular mode for holding test or examination or does not lay down the criteria, the Board becomes competent to do the so in the circumstances. Similarly para (ii) of Rule 13 lays down as under:

Ordinarily, the Board shall restrict the number of applicants to be admitted to oral or written test to a maximum of five times the number of vacancies after doing the preliminary screening on the basis of marks obtained in the qualifying examination and such other criteria as the Board may deem fit.A plain reading of this provision shows that the Board was competent to hold a preliminary screening either on the basis of the marks obtained in the qualifying examination or any such criteria which it may deem fit. Regard being had to the relevant rule position, the submission of respondent's Counsel that the recast criteria was to be laid down by the State Government only deserves outright rejection. It is a different matter, however, that a prescribe or a laid down criteria for short listing or for selecting may be questioned as being irrational, perverse or contrary to any rules in force, which is not the case here. So much so that the respondent in the appeal has not chosen to question either rule 10orl3 of the relevant rules to show that the recast criteria was in any way suffering from any infirmity whatsoever. Besides, it is no more res-intergra that selection Board would be within its rights to resort to short listing/screening of candidates, prescribing a criteria in this regard or even for that matter for selection so long as it does not militate against any rules in force. This position has been repeatedly underscored and followed in several Supreme Court judgments. We may cite some of these, namely, Madhua Pradesh Public Service Commission v. Navnit Kumar Potdar : (1995)ILLJ180SC .

On the above observations the learned Division Bench while up-holding the recast criteria allowed the appeal and set aside the judgment of the learned Single Bench dated 8th October 2001.

9. Learned Counsel for the petitioners seek to contend once again for assailing the selection process that the recast criteria for short listing the candidates for interview is not in consonance with the observations of the Division Bench made in Balwinder Kour's case (supra) and therefore is bad in law. They submit that the learned Division Bench in Rekha Sharma's case LPA (SW) 145/2006 has not correctly interpreted the ratio of Balwinder Kour's case, so the issue should be referred to the Division Bench for reconsideration.

10. I do not find any force in the contention. The learned Division Bench has interpreted the ratio of the Balwinder Kour's judgment (supra) and that view is binding on this Court. Learned Counsel for the petitioners have not brought to my notice any other Division Bench authority holding a contrary view so as to justify a reference. The contention is, therefore, rejected and selected criteria is up-held.

Ground (b).

11. It is the contention of learned Counsel for the petitioners that the candidates possessing higher qualification of M.Ed and B.Ed possessed better right for selection and appointment over and above the candidates having 10+2 or graduation level qualification.

12. There is no merit in the contention. Higher qualification other than the basic eligibility qualification prescribed under the recruitment rules as per the selection criteria was only to be given due weightage as per the selection criteria and not the preference for selection. After giving such weightage to the higher qualification if a candidate having higher qualification was unable to make the grade, he cannot be allowed to urge that he ought to have been appointed because he possessed higher qualification.

Ground (c).

13. In some cases the petitioners acquired the higher qualifications after the cut of date i.e. the last date for submission of the application forms, but before the date of interview. Such additional qualification acquired by the candidates was not considered. The grievance projected is that such additional qualification ought to

have been considered.

It is trite to say that law stands firmly settled down by the Apex Court in Mohd Sartaj and Anr. v. State of U.P and Ors. : AIR 2006 SC3492 that only the qualification acquired before the cut off date is to be considered and not the qualification acquired there-after.

Ground (d).

14. It has been contended by the learned Counsel for the petitioners that the candidates who have done the graduation in specialized fields like B.Sc (Agriculture); Engineering etc have been given the weightage but according to them those subjects being not relevant for the purpose of post of teacher ought not to have been given any benefit of the said qualification. The contention is without any merit for the reason that the selection criteria does not make any distinction between the ordinary graduation level qualification or the graduation in specialized subjects.

Ground (e).

15. Learned Counsel for some of the writ petitioners also contended that in some cases the candidates who were already serving in some other departments have been selected. The stand of selection Board Projected by Mr. Shukla is that no such thing was brought to the notice of the Board by any one before the selection was finalized. It is not denied by Mrs. Kour, learned Counsel for the petitioner that none of the petitioner had informed the selection Board in this behalf. In such a situation without having placed any material on record to show that any of the selected candidate was dis-entitled for selection on account of his being already in service, the contention raised does not deserve to be entertained.

Ground (f).

16. The contention of the writ petitioners is that their better merit has been ignored whereas candidates who obtained lesser merit have been selected.

17. I have perused the selection record produced by Mr. Shukla, learned Counsel for the selection Board and from the record the District-wise merit position of the writ petitioners as against the last selected candidates is as follows:

Kathua District:

SWP No. 365/2002; SWP No. 843/2002; SWP No. 967/2002; SWP 134/2002; SWP 862/2002; SWP 902/2002; SWP No. 1077/2002; SWP No. 418/2002;SWP No. 351/2002; SWP No. 325/2002; SWP 643/2002; SWP 445/2002; SWP No. 446/2002; SWP No. 56/2007; SWP No. 2613/2001; SWP No. 86/2002; SWP NO. 769/2002; SWP No. 767/2002; SWP No. 431/2002; SWP No. 432/2002; SWP No. 99/2002; SWP No. 166/2002; SWP No. 203/2002; SWP No. 822/2002; SWP No. 1437/2002.

18. The petitioners in these writ petitions competed for the posts of teachers advertised for Kathua District. The case of the petitioners is that their better merit has been ignored, whereas the candidates with lesser merit have been appointed. After going through the record of the selection, I do not find any merit in the case of the petitioners, except in writ petitioner Mrs Ritu Salathia. The petitioners have obtained the following merit:

SWP No.	Name of the Petitioner.	Quali-fication	Total points obtained on the basis of qualification	V. Voce	Grand Total.
365/2002	Rachpal Singh	B.A. M.Ed (CDP Category)	41.90	04.00	45.90
	Shoba Kumari	M.A. B.Ed	40.10	02.66	42.76
	Manisha Kumari	B.Sc. M.Ed	42.65	04.66	47.31
	Sat Pal	M.A. B.Ed.	35.71	05.66	41.37
	Rajesh Kumar	M.A. M.Ed	48.10	04.00	52.10

||_____|_____|_____|_____|_____|_____

|Hans Raj | B.Sc. B.Ed| 31.00 | 07.33 | 38.33

||_____|_____|_____|_____|_____|_____

|Neeta Devi | B.Sc. B.Ed| 40.47 | 05.00 | 45.47

||_____|_____|_____|_____|_____|_____

|Surinder | M.Sc. B.Ed| 37.71 | 04.00 | 41.71 || |Mohan | | | |

||_____|_____|_____|_____|_____|_____

|Anjana Kumari | M.A. M.Ed | 40.91 | 09.00 | 49.91

||_____|_____|_____|_____|_____|_____

|Poonam Kumari | B.A. M.ed | 44.47 | 04.66 | 49.13

||_____|_____|_____|_____|_____|_____

|Anuradha | B.Sc | 40.33 | 12.66 | 52.99 || |Sharma | | | |

||_____|_____|_____|_____|_____|_____

|Ritu Salathia | B.Sc. B.Ed| 39.20 | 16.66 |55.86(PRC || | | | |of Jammu || | | | | Distt)

||_____|_____|_____|_____|_____|_____

|Sudershana | B.A. B.Ed | 37.64 | 04.66 | 42.30 || |Kumari | | | |

||_____|_____|_____|_____|_____|_____

|Sunita Kumari | M.A. B.Ed | 40.76 | 05.00 | 45.76

||_____|_____|_____|_____|_____|_____

|Saroj Bala | B.Sc. B.Ed| 35.90 | 05.55 | 41.23

||_____|_____|_____|_____|_____|_____

|Reeta Sharma | M.A. B.Ed | 36.00 | 09.00 | 45.00

||_____|_____|_____|_____|_____|_____

|Neelam Rani | B.Sc. M.Ed| 42.60 | 05.00 | 47.60

||_____|_____|_____|_____|_____|_____

|Varinder Singh| B.Sc. B.Ed| 44.60 | 04.66 | 49.26

||_____|_____|_____|_____|_____|_____

|Champa Devi | M.A. B.Ed | 37.02 | 06.33 | 43.35

||_____|_____|_____|_____|_____|_____

|Sat Pal Sangra| B.Sc. M.Ed| 41.50 | 04.00 | 45.50

||_____|_____|_____|_____|_____|_____

|Rita Anthal | M.A. B.Ed | 41.05 | 04.66 | 45.71

Dolly Devi	M.A B.Ed	40.90	04.33	45.27	
Neelam Kumari	M.A. B.Ed	35.78	03.00	38.78	
Kanta Devi,	39.00	05.66	44.66		
	M.A. B.Ed				
Ajeet Singh	M.Sc. B.Ed	43.10	05.00	48.10	
Urmil Rani	B.Sc. M.Ed	43.38	05.00	48.38	
Surishta Devi	B.A. M.Ed	42.80	08.00	50.80	
Surinder	He was not short listed for interview				
Kumar					
Neelam Kumari	M.A. B.Ed	41.27	05.00	46.27	
Usha Rani	B.A. M.Ed	43.53	02.66	46.19	
Kewal Krishan	B.A, M.Ed	45.40	03.66	49.06	
Usha Rani	M.A. B.Ed	35.02	06.33	4135	
(OBC)					
Sanjay Kumar	M.A B.Ed	39.53	05.00	44.53	
Rita Pushap	B.Sc. B.Ed	38.73	12.33	51.06	
Sarta Rani	M.A. B.Ed	36.76	04.33	41.09	
Rekha Rani	B.A. M.Ed	44.40	04.33	48.73	
Ranjana Vaid	B.Sc. B.Ed	39.80	07.33	47.13	

Rahul Kumar	B.Sc. B.Ed	44.53	07.66	52.19	
Satish Kumar	B.Sc. B.Ed	40.80	12.00	52.80	
Fateh Singh,	M.Com B.Ed	37.85	05.00	42.85	
Neelam Rani	B.Sc. B.Ed	36.70	06.00	42.70	
Anu Sharma	B.A. M.Ed	41.85	08.00	49.85	
Neelam Devi	M.A, P.Mill LLB	26.00	04.33	30.33	
Radha Sharma	M.A. B.Ed	48.25	04.33	52.58	
Anan Sharma	B.Com. B.Ed	39.93	05.33	45.26	
Vijay Kumar	B.A. M.d	40.20	02.66	42.86	
Renu Kumari	B.A. M.Ed	44.10	07.33	51.43	
Kailash Kumari	B.Sc. B.Ed	38.70	05.33	44.03	
Ram Paul	M.A. B.Ed	40.50	04.66	45.16	
Sushma Devi	M.A. B.Ed Sharma	39.16	04.00	43.16	
Tilak Raj	B.Sc. B.Ed	38.53	09.66	48.19	
Mahesh Raj	B.A (RBA)	22.76	03.33	26.09	
Monika	B.Sc Sharma (RBA)	24.47	04.66	29.13	

19. As against this, the last selected candidate, namely, Parvesh Sharma, in open category obtained 53.80 points, in OBC Category the last selected candidate, namely, Nettar Chand obtained 47.83 points, in SC category the last selected candidate namely, Ritu Bharti obtained 40.73 points; and in ST Category the last selected candidate, namely, Kuldeep Singh obtained 27.79 points. The merit of the petitioners except petitioner Ritu Salathia, one of the petitioners in SWP No. 862/2002, being less than the last selected candidate, they were not entitled to be selected. Surinder Kumar petitioner in SWP No. 2613/2002 was dropped in short-listing and was not interviewed. Therefore, there is no merit in their writ petitions.

20. Mr. Pant, learned Counsel for the petitioner in SWP No. 105/2002 also submitted that higher qualification acquired by the petitioner after cut of date was not considered but such qualification in case of Kailash Kumari, another candidate was considered by the respondents. The contention is of no avail to the petitioner as undisputedly said Kailash Kumari has not been selected.

21. So far as petitioner Ritu Salathia is concerned she belonged to Jammu District competed for the post available in District Kathua in Open Category. Her merit is 55.86 points as against 53.80 points merit of last selected candidate. The reason for her non-selection for appointment, according to Mr. Shukla, learned Counsel for the Selection Board is that she was not selected because she was resident of the district other than the District where the vacancy was available.

22. The reason advanced is un-tenable in the eye of law because no discrimination can be legally made on the basis of place of residence for the purposes of employment, the same being violative of the mandate of Articles 14 and 16 of the Constitution. Any candidate having residence in any place in the State is entitled to compete and be considered for selection for appointment on a post any where available in the State, if he or she possesses the requisite eligibility. Therefore, in view of the higher merit obtained by the petitioner she legally deserved to be selected for appointment and had she been selected, the last selected candidate in the category of the petitioner would not have found berth in the select list.

23. In this view of the matter claim of the petitioner Ritu Salathia in writ petition SWP No. 862/2002 is allowed by providing that in case there is any vacancy available then the petitioner shall be given appointment against such vacancy. However, if no vacancy is available then selection and appointment of the last selected candidate namely. Parvesh Sharma, figuring at S. No. 165 in open category select list shall stand quashed and petitioner Ritu Salathia shall be appointed on the vacancy becoming available. The appointment of the petitioner shall date back to the date on which last selected candidate was appointed.

24. Mr. Johal, learned Counsel for the petitioner in writ petition SWP No. 862/2002 also contended that selection of candidate at S. No. 51 is bad because he was considered under RBA category despite the fact that he had submitted his RBA category certificate after cut of date. As it is not disputed by him that petitioner had competed in the open merit category, therefore, he under law cannot be permitted to question the selection of a candidate in RBA category.

25. For the afore-said reasons, the writ petitions except SWP No. 862/2002 so far as it pertains to the writ petitioner Ritu Salathia, deserve to be dismissed, and are accordingly dismissed. SWP No. 862/2002 so far as it relates petitioner Ritu Salathia, the same shall stand allowed.

Rajouri District;

SWP No. 187/2002; SWP No. 1177/2002; SWP No. 82/2003; SWP No. 199/2002; SWP No. 186/2002; SWP No. 184/2002; SWP No. 417/2002; SWP No. 185/2002; SWP No. 188/2002: SWP 66/2002; SWP 910/2002;SWP 2821/2002; SWP 471/2002; SWP No. 420/2002; SWP NO. 425/2002; SWP 439/2002; SWP No. 95/2002; SWP No. 254/2002; SWP 138/2002; SWP 183/2002; SWP ,309-A/2002; SWP No. 310/2002; SWP 733/2002.

26. The writ petitioners in all these writ petitions competed for the posts of teachers advertised for Rajouri District. The case of the petitioners is that their better merit has been ignored, whereas the candidates with lesser merit have been appointed.

After going through the record of the selection I do not find any merit in the case of the petitioners. The petitioners have obtained the following merits:

No.	Name of the Petitioner.	Qualification obtained on the basis of qualification.	Total points obtained in Viva Voce.	Points obtained in qualification.	Grand Total
187/2002	Krishna Devi	B.A. B.Ed	33.73	09.33	43.06
1177/02	Nirmal Kumar	B.A. B.Ed	33.40	05.33	38.73
	Saroj Bala	B.A. B.Ed	37.40	08.33	05.66
	Parveen Kumari	M.A. B.Ed	45.77	05.66	42.90
	Kulvinder VKour	B.A. B.Ed	29.40	11.33	40.73
	Raj Kumari	B.Sc. B.Ed	31.40	12.33	43.73
	Romesh Chander	B.A. B.Ed	29.10	10.33	39.73
	Swarna Kumari	B.A. B.Ed	32.90	11.00	43.90
	Kamlesh Gupta	B.A. B.Ed	32.25	13.00	45.25
	Manorma Sharma	B.Sc. B.Ed	34.13	09.33	43.46
	Ram Pal	B.Sc. B.Ed	32.80	06.66	39.46
	Narincler Pal Singh	B.Sc.	29.00	11.66	40.66
	Ritu Rani	B.Sc. B.Ed	35.93	07.66	43.59
	Shagufta Naz	B.A B.Ed	35.53	10.33	45.86

	Ramesh	BSc. B.Ed	36.20	08.66	44.86		Chander			
	Neelam Kumari	B.A. B.Ed	34.07	05.33	39.40					
	Bindu Rani	M.Com	26.11	08.33	34.44					
	Manju Sharma	B.A. B.Ed	35.20	07.00	42.20					
	Rayaz Ahmed	B.A. B.Ed	32.67	12.33	45.00					
	Mohd Zulf	B.Sc. B.Ed	31.90	11.33	43.23					
	Abdul Qayoom	B.A	21.40	09.00	30.40		(ST)			
	Parvez Ahmed	B.Sc	29.33	17.33	46.66		(RBA)			
	Tariq Ghani	B.Sc	24.27	06.66	30.93		(RBA)			
	Mohd	B.Sc	21.40	07.66	29.06		Bashir(RBA)			
	Zaffer	B.Sc	19.00	10.00	29.00		Ahmed(RBA)			
	Naien	B.A	20.40	10.66	31.06		Akhtar(RBA)			
	Naseem	B.A	21.53	10.33	31.86		Ullah(RBA)			
	Mohd Amin	10+2	17.33	03.66	20.99		(RBA)			
A/02	Jyoti Parkash	M.A	35.83	10.00	45.83					
	Rakesh Kumar	B.Sc. B.Ed	35.53	10.66	46.19					

Baljit Kour	B.A. B.Ed	33.30	12.33	45.63	
Devinder	B.A. B.Ed	34.13	08.33	42.46 || |Kumar(ALC)			
Manjeet Kour,| M.A	23.56	09.66	33.22 || |(ALC)			
Inderjeet	B.Sc. B.Ed	32.40	09.00	41.40 || |(ALC)			
Swarn Kanta	B.Sc. B.Ed	29.70	09.00	38.70	
Sham Lal	B.Sc. B.Ed	33.60	08.33	41.97 || |Jamwal			
Dali Kumari	B.Sc. B.Ed	33.09	09.00	42.09	
Indereet	M.A. B.Ed	36.87	04.66	41.53 || |Sharma			
Surjeet Kumar	M.A B.Ed	34.29	08.33	42.62	
Tushkar Kumar	B.A. B.Ed	31.02	06.66	37.68	
Rajinder	B.A. B.Ed	32.25	09.00	41.25 || |Kumar Raina			
Suresh Kumar	B.Sc. B.Ed	29.90	10.33	40.23	
Jolly	B.A. B.Ed	30.40	06.33	36.73	
Asha Kiran	B.A. B.Ed	31.70	10.00	41.70	
Sarita Kumari	B.A B.Ed	34.62	09.33	43.95	
Manesh Kumar	B.Sc	27.67	04.00	31.67 || |(SC)			
Satish Kumar	B.A.	19.67	09.33	29.00 || |(SC)			

||_________|_____________|______________|______________|_____________|_____
|Suman Kumari | Bsc. B.Ed | 32.47 | 08.66 | 41.13
||_________|_____________|______________|______________|_____________|_____
|Sareeta | M.Sc | 35.87 | 09.66 | 45.53 || |Sharma | | | |
||_________|_____________|______________|______________|_____________|_____
|Avtar Krishan| B.Sc | 23.09 | 11.00 | 34.09 || |(ALC) | | | |
||_________|_____________|______________|______________|_____________|_____
|Dhani Ram | B.A. B.Ed | 22.40 | 02.66 | 25.06 || |(RBA) | | | |
||_________|_____________|______________|______________|_____________|_____
|Fayaz Ahmed | B.Sc | 26.07 | Absent | 26.07 || |(Rajouri) | | | |
||_________|_____________|______________|______________|_____________|_____
|Shahid Rasool| B.A | 24.20 | 04.00 | 28.20 || |(Rajouri) | | | |
||_________|_____________|______________|______________|_____________|_____

Whereas the last selected candidates, namely, Waheeda Rehman, Sultana Kounser, Shabir Ahmed, Anju Tandon, and Monika Sharma obtained 47.06, 33.53, 34.93, 31.67, 42.80, points in Open Category, RBA Category, ST Category, SC Category and ALC Category respectively.

27. Mrs. Surinder Kour, learned Counsel for the petitioner in SWPs No. 733/2002 (titled Dhani Ram v. State and Ors.) and SWP No. 66/2006 (titled Narinder Pal Singh v. State and Ors.) submits that while evaluating the merit of the petitioners, the petitioners were not given the benefit of B.Ed. From the record, it appears that no weightage on account of B.Ed. has been given to the petitioner, but this is because the petitioners were not declared successful before the cut off date in B.Ed examination. It is the admitted case of both these petitioners that B. Ed result was declared on 8-3-1999 in which they were declared un-successful. However, they applied for re-evaluation and result of re-evaluation was declared on 18-5-1999 and 24-5-1999 i.e. after the expiry of the cut off date.

28. In view of this fact that on the cut off date the petitioners Dhani Ram and Narinder Pal Singh were not possessing B.Ed qualification, they were not entitled to the benefit of subsequent declaration of the result for the purpose of selection. Only that qualification which a candidate possesses before the cut off date is to be

taken into consideration. Therefore, there is no merit in the contention raised by the learned Counsel for the petitioners Dhani Ram and Narinder Pal Singh.

The merit of the petitioners being less than the last selected candidate, they were not entitled to be selected. Therefore, there is no merit in the case of the petitioners.

29. Mrs, Surinder kour, learned Counsel for Shagufta Naz, petitioner in SWP No. 2821/2002, submits that since the case of the petitioner has been kept in waiting list and some posts are available on which the selected candidates have not joined. Therefore, the petitioner be considered for appointment against the said post. Mrs. Goswami submits that in case some posts are found to have remained vacant due to non-joining of the selected candidates the cases of the petitioners shall be considered for appointment as per the order of merit in the wait list.

30. In SWP No. 416 of 2002, the petitioners applied under ALC category for the posts available in Rajouri District, but have not been selected/appointed. Their case is that their better merit has been ignored while candidates with lesser merit have been selected and appointed. From the record, it transpires that they have obtained 41.33 & 37.03 points whereas the merit of last selected candidate in ALC category was 42.80. This being the merit position, there is no merit in their writ petition, it as such is dismissed.

31. For the afore-said reasons, the writ petitions deserve to be dismissed, and shall stand dismissed.

Jammu District:

SWP 452/2002; SWP 244/2002; SWP 451/2002; SWP No. 362/2002; SWP No. 1086/2001; 301/2002; SWP 734/2002; SWP No. 735/2002; SWP No. 916/2002; SWP NO. 808/2002.

32. The writ petitioners in all these writ petitions competed for the posts of teachers advertised for Jammu District. The case of the petitioners is that their better merit has been ignored, whereas the candidates with lesser merit have been appointed. After going through the record of the selection I do not find any

merit in the case of the petitioners. The petitioners have obtained the following merit:

SWP No.	Name of the Petitioner.	Quali-fication	Total points obtained on the basis of quali-fication	Viva Voce	Grand Total	
Swaran Lat	M.Sc, M.Phil	45.38	13.66	59.04		
Sangeeta Arora	B.Sc, B.Ed	44.43	15.66	60.09		
Abha Sambya	M.Sc, B.Ed	46.21	07.33	53.54		
Rajni Sambyal	M.A. B.Ed	40.60	16.33	56.93		
Suman Sharma	Dropped in short listing.	301/02				
Mohindro Devi	B.A. B.Ed	30.43	09.33	39.76		
Jasmeet Kour Raina	M.A, B.Ed	41.00	13.00	54.00		
Neelu Bakshi	B.Sc. B.Ed	44.20	11.33	55.53		
Charanjit Kour	M.A. B.Ed	40.80	11.00	50.80		
Sandeep Kour	P.GD, B.Ed	43.06	15.00	58.06		
Amarjeet Kour	B.Sc	29.20	11.33	40.53		
Veenu Sharma	B.Sc, M.Ed	43.33	12.33	55.66		

33. As against this, the last selected candidate, namely, Ganesh Dass,, Reitu Dogra, Subash Chander, Urfan Ali, Bindu Bala, in open category; SC Category,

RBA Category, ST Category, OBC Category obtained 61.47 points; 53.33 points 24.33 points, 27.06 points 54.93 points respectively. Petitioner Suman Sharma in SWP No. 1082/2001 was dropped in short listing and was not called for interview.

34. Thus the merit of the petitioners being less than the last selected candidate, they were not entitled to be selected. Therefore, there is no merit in these writ petitions.

Udhampur District:

SWP No. 126/2002: SWP 497/2002: SWP 125/2002: SWP No. 732/2002; SWP No. 362/2002; SWP No. 495/2002; SWP No. 496/2002; SWP No. 516/2002; SWP No. 1567/2002; SWP No. 139/2002; SWP No. 137/2002; SWP No. 46/2002.

35. The petitioners in these writ petitions competed for the posts of teachers advertised for Udhampur District. The case of the petitioners is that their better merit has been ignored, whereas the candidates with lesser merit have been appointed. After going through the record of the selection, I do not find any merit in the case of the petitioners. The petitioners have obtained the following merit:

SWP No.	Name of the Petitioner.	Qualification obtained on the basis of qualification.	Total points obtained in Viva Voce.	Points	Grand Total.	
126/2002	Kailash Kumari	B.A. B.Ed, M.Ed	44.07	06.66	50.73	
	Suman Thakur	M.A. B.Ed	39.85	08.33	48.18	
	Rajesh Kumar	B.Sc. B.Ed	35.80	08.00	43.80	
	Rachna Sharma	B.Sc. B.Ed	33.73	11.66	45.39	
	Siddheshwar Sadotra	B.Sc. B.Ed	31.70	15.33	47.03	

Usha	B.Sc. B.Ed	36.80	11.33	48.13			Sharma			
Charanjit	B.Sc. B.Ed	39.53	03.66	43.19			Singh			
Pawan	B.A. B.Ed	34.50	12.66	47.16			Kumar			
Surveyashwar	B.Sc. B.Ed	35.13	13.00	48.13					
Suniti	M.A	36.13	09.66	45.79			Pandoh			
Raghunath	B.A. B.Ed	33.00	09.00	42.00			Prasad			
Renu Bala	B.Sc. B.Ed	35.30	15.66	50.96					
Sudha	B.Sc. B.Ed	37.40	05.33	42.73			Sharma			
Ram Paul	B.A. B.Ed	31.47	04.00	35.47					
Nusrat Bano	M.A	27.20	13.33	40.53			(OBC)			
Manju	B.A. B.Ed	33.27	14.33	47.60			Kumari			
Rajni Gupta	B.Sc. B.Ed	34.20	08.33	42.53					
Seema	B.Sc. B.Ed	43.60	06.66	50.26					
Saguna	B.Sc. B.Ed	35.87	15.00	50.87			Khajuria			
Anuradha	B.A. B.Ed	35.67	10.66	46.33					
Yash Pal	B.Sc	26.00	05.66	31.66					
Rajinder	B.A. B.Ed	32.30	10.00	42.30			Parsad			

Sagar Suith	B.Sc. B.Ed	36.13	03.33	39.46		(OBC)					
Pritam Kumar	B.A. B.Ed	32.87	12.66	45.53							
Rajinder Kumar	B. B.Ed	32.47	10.33	12.80							
Anu Gandotra	B.Sc. B.Ed	32.87	15.33	48.20							
Manohar Lal	B.Sc	27.33	03.33	30.66		(Udhampur)					
Jeshwant Singh	B.A	21.27	10.33	31.60		(Udhampur)					
Suresh Kumar	B.Sc	24.20	02.66	26.86		Gupta					

As against this, the last selected candidate, namely, Anita Sharma, Rakesh Kumar, Shahi Jahan, Darshan Kumar, Lalita Kumari, in open category; SC Category RBA Category, ST Category, OBC Category obtained 51.74 points; 39.86 points 36.66 points, 27.87 points 43.37 points respectively.

36. In writ petitions SWP No. 147/2002 and 1701/2002 the writ petitioners competed for ST Category posts in District Udhampur and Rajouri Districts respectively. It is their case that they were meritorious so could not be denied selection and appointment. From the selection record, it is manifest that they obtained 23.53 and 34.26 points, whereas the last selected candidates in that category had obtained 27.87 points and 34.93 points in District cadre selection in Udhampur and Rajouri Districts respectively. The petitioners being lower in merit were rightly not selected. The writ petitions are without merit, and are therefore, dismissed.

37. Thus the merit of the petitioners being less than the last selected candidate, they were not entitled to be selected. Therefore, there is no merit in these writ petitions.

38. For the afore-said reasons, the writ petitions deserve to be dismissed. Same are accordingly dismissed.

SWP No.	Name of the Petitioner.	Quali- fication	Total points obtained on the basis of	Viva Voce	Grand Total. qualification
Ashok Kumar Bhat	B.Sc, B.Ed	46.18	0.50	46.68	

39. Petitioner Ashok Kumar Bhat, who competed for the post from Anantnag District obtained 46.68 points in open category, whereas the last selected candidate obtained 50.39 points in that category.

Thus the merit of the petitioner being less than the last selected candidate, he was not entitled to be selected. Therefore, there is no merit in this writ petition.

For the afore-said reasons, the writ petition deserve to be dismissed. Same are accordingly dismissed.

Doda District;

SWP No. 903/2002; SWP No. 316/2002; SWP No. 557/2002; SWP No. 236/2002; SWP 1618/2002;

The petitioners in these writ petitions competed for the posts of teachers advertised for Doda District. The case of the petitioners is that their better merit has been ignored, whereas the candidates with lesser merit have been appointed. After going through the record of the selection, I do not find any merit in the case of the petitioners. The petitioners have obtained the following merit

SWP No.	Name of the Petitioner.	Qualification	Total points obtained on the basis of	V. Voce	Grand Total qualification
Rajinder Singh	B.A	23.70	07.33	31.03	Kotwal (RBA)

||_____|_____
|_____|_____|_____|_____||316/02
|Kuldeep Singh | B.Sc | 25.10 | 06.66 | 31.76 || |(RBA) | | | |
||_____|_____
|_____|_____|_____|_____||557/02
|Shakila Bano | B.Sc. B.Ed | 33.53 | 10.33 | 43.86. ||_____|_____
|_____|_____|_____|_____|| |Fareed Hussain | B.Sc. B.Ed | 3.46 | 10.66 | 44.12 ||_____|_____
|_____|_____|_____|_____|| |Surinder Singh | M.Sc | 30.98 | 12.66 | 43.64 ||_____|_____
|_____|_____|_____|_____|| |Suresh Kumar | M.Sc | 31.20 | 10.66 | 41.86 ||_____|_____
|_____|_____|_____|_____|| |Sahila Begum | B.Sc B.Ed | | | ||_____|_____
|_____|_____|_____|_____|| |Rift Nabi (RBA)| B.Sc | 30.40 | 10.00 | 40.40
||_____|_____|_____|_____|_____|_____
|Iftikhar Nabi | B.Sc | 29.33 | 11.66 | 40.99 || |(RBA) | | | |
||_____|_____|_____|_____|_____|_____
|Anil Kumar | B.A. B.Ed | 30.30 | 11.00 | 41.30 || |Sharma | | | |
||_____|_____|_____|_____|_____|_____
|Sanjay Kumar | B.Sc. B.Ed | 35.60 | 09.66 | 45.26
||_____|_____|_____|_____|_____|_____
|Umtul Basat | B.Sc. B.Ed | 37.73 | 08.33 | 46.06
||_____|_____|_____|_____|_____|_____
|Unis Ahnat | B.Sc. B.Ed | 34.53 | 09.33 | 43.86 || |Parray | | | |
||_____|_____|_____|_____|_____|_____
|Dhiraj Raina | B.Sc. B.Ed | 30.40 | 13.00 | 43.40
||_____|_____|_____|_____|_____|_____

41. As against this, the last selected candidate, namely, Nialla Rashid, Anupama Kotwal, Dhantar Singh, Chering Teshi, Pervez Ahmed, in open category; RBA Category, SC Category ST Category, OBC Category obtained 46.45 points; 42.21 points 33.66 points, 24.72 points 33.72 points respectively;. Thus the merit of the

petitioners being less than the last selected candidate, they were not entitled to be selected. Therefore, there is no merit in these writ petitions.

42. Similarly, the petitioner Tehmina Akhtar in SWP No. 175/2002 competed in open category for the post of teachers advertised for Doda District. The case of the petitioner is that her better merit has been ignored, whereas the candidates with lesser merit have been appointed. After going through the record of the selection, I do not find any merit in the case of the petitioner. The petitioner Tehmina Akhtar obtained 42.25 points in the selection, whereas the last selected candidate has, obtained 46.45 points in open category. The merit of the petitioner being less than the last selected candidate, she was not entitled to be selected. Therefore, there is no merit in the writ petition. In this view of the matter, the writ petition filed by the petitioner Tehmina Akhtar deserves to be dismissed and is dismissed accordingly.

43. For the afore-said reasons, the above mentioned writ petitions deserve to be dismissed. Same are accordingly dismissed.

SWP NO. 630/2002;SWP No. 917/2002; SWP No. 963/2002; SWP No. 884/2002; SWP No. 644/2002; SWP No. 1333/2002; SWP No. 1172/2002; SWP No. 973/2002; SWP No. 94/2002; SWP No. 113/2002; SWP No. 122/2002; SWP No. 597/2002; SWP No. 624/2002; SWP No. 1713/2002; SWP No. 629/2002; SWP No. 1633/2002; SWP No. 1749/2002: SWP No. 1760/2002:

44. In these petitions, the writ petitioners besides questioning the selection criteria have also questioned the individual selection of some of private respondents. In some of the writ petitions on account of failure of the petitioners to take necessary steps for their service their names have already been deleted, whereas in some of the petitions the writ petitioners have failed to take necessary steps for service of private respondents despite various opportunities and therefore, names of the private respondents shall also stand deleted in those petitions as well. Now the question arises whether in the absence of private respondents, writ petitioners can be permitted to assail their individual selections.

The contention of learned Counsel for the writ petitioners is that even in the absence of the private respondents writ petitions are maintainable in view of the law laid down by the Hon'ble Supreme Court in case Rajesh Kumar Gupta v. State of U.P. 2005 AIR SCW 2731. The reliance made by the learned Counsel for the petitioners is misplaced. In that case challenge was to the entire selection and not to the individual cases. As already said contention of the learned Counsel for petitioners for challenging the entire selection on the basis of selection criteria has been found without any merit, therefore, the writ petitioners cannot be permitted to challenge individual selections of the candidates who are not before the Court. This apart merit of the writ petitioner is less than the last selected candidates. Merit position of the petitioners qua the last selected candidates in the respective categories and districts is as follows:

No.	Name of the Petitioner.	Quali-fication	Total points obtained on the basis of qualification.	Points obtained in Viva Voce.	Grand Total.		
Gurvinder	M.A. BEd	39.86	17.00	56.86	Kour (Jammu Distt)		
Rita Gupta	M.A. B.Ed	36.80	06.00	42.80	(Udhampur)		
Neetu Rani	B.Sc. B.Ed	42.90	03.66	46.56	(Kathua)		
Ramesh Nath	B.Sc. Ed	32.51	14.66	47.17	(Udhampur)		
Ashok Kumar	B.A. B.Ed	29.85	13.33	43.18	(Rajouri)		
Surinder Kour	B.A. B.Ed	44.00	15.66	59.66	(Jammu)		
Madhu Sharma.	B.A. M.Ed	42.73	12.33	55.06	(Jammu)		
Santosh Sharma	B.Sc. B.Ed	33.53	06.66	40.19	(Rajouri)		

Rajesh Kumar	B.Sc. Ed	49.06	11.00	60.86			(Jammu)			
Yashpal Sharma.	B.Sc. B.Ed	40.20	15.33	55.53			(Jammu)			
Jugal Kishore	B.Sc. M.Ed	46.18	07.33	53.51			(Jammu)			
Usha Bharti	B.Sc. M.Ed	46.13	12.66	58.79			(Jammu)			
Sarabjeet Singh |B.Sc. B.Ed| 36.27	15.00	51.27 || |(Udhampur)				|| |RBA		
Gopal Krishan |B.A	23.07	08.33	31.40 || |(Udhampur)				|| |(RBA)			
Raghbir Gandotra	B.Sc. B.Ed	37.20	12.33	49.53			(Udhampur)			
Sushma Devi	B.A. B.Ed	39.33	07.33	46.66			(Udhampur)			
Shashi Kiran	B.A. B.Ed	32.07	04.33	36.40			(Udhampur)			
Sushma Rani	B.A. B.Ed	30.80	08.00	38.80			(Udhampur) RBA			
Vijay Kumar	B.Com.B.Ed	37.82	06.33	44.15			(Udhampur)			
Bhanu Gupta	B.Sc. B.d	35.13	14.33	49.46			(Udhampur)			
Om Parkash	B.Sc. B.Ed	33.20	08.00	41.20			(Udhampur)			
Sunil Singh	B.Sc. B.Ed	31.40	10.00	41.40			(Doda) RBA			
Vinod Kumar Sharma	10+2	16.80	04.00	2080			(Rajouri) HC			
Rakesh Kumar	B.Sc	24.87	03.00	27.87			(Rajouri) HC			

Sonika Gupta	B.Sc. B.Ed	44.00	05.33	49.33		_____	_____	_____	_____	_____	_____
Manju Sharma |B.A. B.Ed	41.01	17.33	58.34 || |(Jammu)				||_____|_____|_____|_____|_____|_____
Bharti Sharma |B.Sc.Agr	43.27	09.66	52.93 || |(Kathua)				||_____|_____|_____|_____|_____|_____
Shunil Singh. |B.Sc. B.Ed| 31.40	10.00	41.40 || |(Doda) RBA				||_____|_____|_____|_____|_____|_____
Shahin Akhtar |M.A	23.05	10.66	33.71 || |(Doda) RBA				|_____|_____|_____|_____|_____|_____

45. The petitioners are low in merit as such were not entitled to be selected. Writ petitions filed by they are therefore, liable to be dismissed and are dismissed accordingly.

SWP NO. 842/2002:

46. In writ petition SWP No. 842/2002 the writ petitioner Kuldip Raj competed under Handicapped category but has not been selected in District Rajouri. As per the stand taken by the respondents, which is supported by the selection record, the petitioner secured 31.20 points as against the last selected candidate in that category, who has obtained 34.53 points. Therefore, in view of his lesser merit, the petitioner has not been selected.

The case of the petitioner is that dis-ability suffered by the petitioner was more than the candidate selected, therefore, the petitioner possessed a better right for selection. I am not in agreement with the learned Counsel.

47. Section 22 of the Jammu and Kashmir Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1998 reads as follows:

22. Reservation of posts:

The Government shall appoint in every establishment such percentage of vacancies not has than three percent, for persons or class of persons with

disabilities of which one percent, each shall be reserved for persons suffering from:

(i) blindness or low vision:

(ii) hearing impairment:

(iii) locomotor disability or cerebral palsy, in the posts identified for each disabilities:Provided that the Government may, having regard to the type of work carried on in any department or establishment by notification, subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this Section.

48. Under the above section the persons suffering from the specified dis-abilities are to be appointed on the reserved posts. There is no provision in the Act which envisages preference on account of degree of the dis-ability. The dis-ability' means 'dis-ability' irrespective of its degree, for the purposes of giving appointment on the reserved posts. The merit of the petitioner in the dis-ability category being less than the last selected candidate, he was not entitled to be legally preferred over the meritorious candidate simply for the reason that his dis-ability is more than that of the selected candidate. Therefore, there is no merit in this writ petition, which is as such dismissed.

49. Before parting with the case I would observe that experience shows that lot of litigation is generated because of the non-publication of the merit petition sic (position) of the unsuccessful candidates by the selection agencies. If the selection agencies publish the merit position of all the competing candidates quite possibly many of them may not choose to litigate which on one hand would save the precious time of the Court while on the other save the precious money of the litigants from being wasted. I am sure the selection agencies would certainly bestow some thought to the suggestion.

50. Connected CMPs shall stand disposed of. Original selection record is returned to Mr. S.K. Shukla, Advocate in open Court.

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